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Wednesday
July 17, 1985

Selected Subjects

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Selected Subjects

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

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 50, No. 137
Wednesday, July 17, 1985

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1201

Practices and Procedures

AGENCY: Merit Systems Protection Board.

ACTION: Final rule.

SUMMARY: On August 10, 1984, (49 FR 32072), the Board published proposed regulations to amplify and clarify the procedures governing the filing of petitions for review of initial decisions issued by presiding officials. The purposes of the proposed revisions were to deal more comprehensively with pleadings related to petitions for review, to change service requirements, and to explain more fully procedures regarding timeliness. Comments on those proposed regulations have now been received and considered and the Board adopts the following as the new § 1201.114 of Title 5, Code of Federal Regulations.

EFFECTIVE DATE: August 1, 1985.

ADDRESS: Send written inquiries to Joseph Ellis, Deputy Clerk of the Board, Merit Systems Protection Board, 1120 Vermont Avenue NW., Washington, D.C. 20419.

FOR FURTHER INFORMATION CONTACT: Joseph Ellis, Deputy Clerk of the Board, Merit Systems Protection Board, (202) 653-7262.

SUPPLEMENTARY INFORMATION: A small number of comments were received on the Board's proposed regulations. Most commenters expressed agreement with the proposal, and particularly with the provision for the filing of cross petitions for review. Most of the comments received addressed the issues of extensions of time and late filed petitions, as well as intervention and service requirements. Analysis of the specific comments received is set forth in the following paragraph by paragraph analysis of comments and changes.

1. Section 1201.114(a) *Who May File.* No comments were received on this paragraph in which changes had been proposed to clarify (1) that the Special Counsel may file a petition for review independently of a party or the Director of OPM, by changing the conjunction "and" to "or", and (2) that pleadings must contain an original signature. No further changes have been made.

2. Section 1201.114(b) *Cross Petitions For Review.* A number of comments were received agreeing with the proposal to specify that challenges to the initial decision must appear in either a timely petition or cross petition for review. No further changes have been made.

3. Section 1201.114(c) *Place for Filing.* The proposed change here made this paragraph compatible with proposed § 1201.114(b) with respect to cross petitions, adding clarifying language concerning related motions and pleadings, and clarified methods of service. No comments were received concerning these proposed changes. The only change made to the proposed regulation has been to reflect the Board reorganization redesignating the Office of Secretary as the Office of the Clerk of the Board.

4. Section 1201.114(d) *Time For Filing.* One commenter advocated that service of the initial decision and all subsequent pleadings and motions should be considered complete on the date of receipt, rather than date of issuance of the initial decision or service completion pursuant to § 1201.114(h). This suggestion was rejected as impractical in view of the difficulty of determining date of receipt in any contested circumstances. The proposal was changed in three respects. The first two changes were to reflect the designation of Clerk of the Board, and to insert "to a" prior to the phrase "cross petition for review", for purposes of clarity. The third change was the substitution of "must" for "may" in two places. This change does not make a petition or response obligatory. Rather, the intent is to clarify that submissions must be timely.

5. Section 1201.114(e) *Extensions of Time to File.* This paragraph sets out the procedure for obtaining an extension of time to file a pleading prior to its due date.

As originally proposed, this paragraph set out examples of types of circumstances that might be deemed to warrant extensions. Those examples have been deleted as unnecessary.

In their place, the following was inserted: "Such affidavit or declaration must make a specific and detailed showing of the circumstances alleged to constitute good cause and must be accompanied by documentation or other evidence to support the matters asserted."

One comment was received suggesting that it not be necessary to accompany the good cause showing with an affidavit. It was suggested instead that a signature should be adequate in light of the Federal False Statements Act. Pursuant to 28 U.S.C. 1746, an unsworn statement signed and dated by its author under penalty of perjury may be substituted for an affidavit. The Board agrees with the commenter that such a statement is sufficient and has amended the regulation accordingly.

6. Section 1201.114(f) *Late Filings.* This paragraph sets out circumstances under which late filings will be accepted. A number of comments were received. One suggestion was that response to the merits of a petition for review should be tolled pending a Board ruling on the request for leave to file late. The Board recognizes that in some cases, the proposed procedure puts an ultimately unnecessary obligation on one of the parties.

The Board's appellate practice is designed around a "one step" appellate consideration, in keeping with the Board's interpretation of its enabling legislation. The most expeditious procedure for the Board, and therefore the parties, is to consider most motions at the same time any merits determination is made. Moreover, at the petition for review level, most arguments are directly related to arguments previously made at the petition for appeal stage. Therefore, the Board believes that the advantages of the suggestion do not outweigh the advantage of the proposal, which remains unchanged.

Another commenter suggested that this paragraph appears internally inconsistent in requiring that late filings "must be accompanied by a motion for waiver and affidavit" but also providing for a Board determination of whether good cause exists in the absence of a motion for waiver and affidavit. No

change has been made in this respect because it is the Board's intention that the required submission "must" be made. However, the provision for Board consideration of a late filed petition in the absence of those submissions simply recognizes the existence of 5 CFR 1201.12, which provides that the Board may in an individual case, waive any of its regulations not required by statute.

A third suggestion on this paragraph was that there is no purpose to requiring a statement of the reasons a timely request for extension was not made. However, as the commenter recognized, such reasons are a factor for consideration in determining whether due diligence was exercised. Therefore, the Board believes that it is appropriate to adopt this requirement as proposed.

A final suggestion with respect to this paragraph was to clarify that the filing of a motion for waiver does not extend the time limit for filing a cross petition for review. This suggestion has been adopted and the change made.

The Board has also made two changes from the version originally proposed. A reference to examples of reasons for late filing set out in paragraph (e) was excluded for the reasons given in the comment to that paragraph. In addition, the eight day period for parties to respond to motions for waiver of late filings is eliminated, and the remaining language changed in order to clarify that the response to the motion for waiver may be included in the response to the late-filing pleading. This is consistent with current Board practice under which there is no separate preliminary determination on timeliness. Instead, the Board will issue only one order on a case, including disposition of the motion for waiver, and, if appropriate, the merits. As noted above, this means that a responding party should address its pleading to all the pending issues of a case because there will be no further opportunity for response.

Finally, the words "to file a cross petition for review or" were added to clarify that a response to the motion for waiver does not act to delay the filing of a cross petition, and the word "subsection" was changed to "paragraph . . . of this section."

7. Section 1201.114(g) *Intervention.* A comment was received which suggested that proposed paragraph (g)(3) will preclude permissive intervention at the petition for appeal level. The commenter argues that allowing permissive intervention at the petition for review level, but not at the petition for appeal level, would produce certain inequities. The comment misconstrues in the intent of the proposal, which was to clarify the Board's intent to have the same rights of permissive intervention at the Board level as at the regional level. The intent was not to limit or expand rights of intervention at the petition for review level. Accordingly, no change has been made to reflect the commenter's specific concerns because this represents only a statement in the regulations directly concerning petitions for review of the board's parallel practice at the petition for appeal stage, and not a change in that practice. The only change made was in the organization of the last sentence of this paragraph, in order to clarify its meaning.

The Director of PPM suggested that his brief on intervention become due 20 days after receipt of the file rather than 20 days after service of the response to the petition or the due date of the response. The Board feels that this is unnecessary for two reasons. First, it is unlikely that the issues raised in the response will be sufficiently different from the petition for review and the initial decision as to warrant further time. Second, the regulation contemplates that the Board may allow additional time for filing a brief, recognizing that there might be unusual circumstances to warrant an extension.

The Director further recommends that the proposal be amended to permit interventions, not only after the petition for review and response, but also after a cross petition or the response to a possible cross petition. The regulations contemplate that a cross petition for review be filed within the same 25-day period as the response to a petition for review. Therefore, the calculations of OPM intervention time with respect to cross petitions for review would normally be subsumed into the requirement that the intervention be made within 20 days of the response. However, because the filing of a response to a petition for review does not have to be done simultaneously with a possible cross petition, the regulation has been amended by insertion of the words "cross petition or" between "date of service of the" and "response to petition".

With respect to extending the time further for responses to cross petitions, the Board is of the view that the issues of a given case should be sufficiently apparent in the numerous pleadings or orders which predate the response to a cross petition, that a further opportunity to intervene would appear to be unnecessary.

The words "cross petition or" have been inserted in paragraph (g)(2) of this section prior to "response to the petition for review", in order to make it plain that the Special Counsel has the same right as OPM to file an intervention after a cross petition for review.

Finally, the word "section" was changed to "paragraph" in (g)(1) and (g)(2).

8. Section 1201.114(h) *Service.* Certain commenters suggested that this paragraph be amended to require service by the Clerk of the Board rather than by the parties, as had previously been the practice with respect to the first filing with the Board, *i.e.*, the petition for review. The Board believes that service by the parties, which is the practice as to responses to the petition for review and any subsequent submissions at the Board level, and throughout the proceedings at the regional office level after the filing of the initial petition for appeal, has proven both practicable and effective in almost all cases. Because initial decisions are issued with a certificate of service attached, the parties are made aware at that time of the names and addresses of the other parties. Should there be a change in the representative of one of the parties, that party would have the obligation of informing the Board and the other parties, as well as of assuring that the new representative acted in a timely manner in prosecuting or responding to the petition for review. This is consistent with present practices since the Board has long held both that an appellant is personally responsible for his/her own case, whether or not he or she is represented, and that an agency's internal delays in assuring that it acts in a timely manner when it changes representatives at the petition for review stage do not constitute good cause for waiving the regulatory time limit. Thus, the Board has made no change in its decision to require service by the parties.

Another suggestion as to this paragraph was to require service to be made by certified mail or personal delivery. When the Board originally adopted its filing requirement for petitions for appeal at 5 CFR 1201.22(c), service was required to be made in that manner. The Board believes that these still constitute the preferred methods of service, but that the parties should, as the more recent version of § 1201.22(c) allows, have the option of completing service by regular mail. Any party attempting to accomplish service in a manner other than through personal delivery or certified mail, of course, retains the burden of assuring and proving that timely service is made.

9. Section 1201.114(i) *Closing the Record.* None of the comments received on this paragraph of the regulations disagreed with its major thrust.

However, two comments did relate to its application. First, it was suggested that the Board allow the filing of a reply to the response to the petition for review within 15 days of its service. While this suggestion would comport with the Federal Rules of Appellate Procedure, the Board believes that the benefits to be derived would not compensate for the delays this procedure would engender since, under the Board's rules, a response to a petition for review may properly address only those matters which were already addressed in the petition. If a new issue is to be raised, it would likely be in the context of a cross petition for review. Any such cross petition would, of course, be a proper subject for response pursuant to the new § 1201.114(d); conversely, there would be no need to respond to a matter not properly raised to the Board. Thus, this suggestion has not been incorporated into the regulation.

The final comment received on this paragraph suggests that the Board allow the filing of material to update the petition for review, specifically the citation and discussion of authority issued subsequent to the filing of the petition.

The Board believes that there is no need to modify this paragraph further because as written it provides that where new and material evidence has become available, the record may be reopened for its consideration. If material such as that mentioned by this commenter were shown to be new and material, it would be accepted into the record under the present regulation.

Regulatory Flexibility Act

The Chairman, Merit Systems Protection Board, certifies that the Board is not required to prepare initial or final regulatory analysis of this rule, pursuant to section 603 or 604 of the Regulatory Flexibility Act, because of his determination that this rule would not have a significant economic impact on a substantial number of small entities, including small business, small organizational units and small governmental jurisdictions.

List of Subjects in 5 CFR Part 1201

Government employees; Administrative Practices and Procedures

Accordingly, the Merit Systems Protection Board revises 5 CFR 1201.114 as set forth below:

PART 1201—PRACTICES AND PROCEDURES

1. The authority for Part 1201 continues to read as follows:

Authority: 5 U.S.C. et seq., unless otherwise noted.

Subpart B—Hearing Procedures for Appellate Cases.

2. Section 1201.114 is revised to read as follows:

§ 1201.114 Filing of petition and cross petition for review.

(a) *Who may file.* Any party to the proceeding, the Director of OPM, or the Special Counsel may file a petition for review. The Director of OPM may request review only if he/she is of the opinion that the decision is erroneous and will have a substantial impact on any civil service law, rule, or regulation under the jurisdiction of the Office (5 U.S.C. 7701 (e)(2)). All submissions to the Board must contain an original signature of the appellant or the party's designated representative.

(b) *Cross petition for review.* If a timely petition for review is filed by a party, the Director of OPM or the Special Counsel, a cross petition for review may be filed by any other party, the Director of OPM or the Special Counsel within 25 days of the date of service of the petition for review. Issues not raised in the petition for review will not normally be considered by the Board unless raised in a timely filed cross petition for review.

(c) *Place for filing.* A petition for review, cross petition for review, responses thereto and all motions and pleadings associated therewith shall be filed with the Clerk of the Merit Systems Protection Board, Washington, D.C. 20419, either by personal delivery during normal business hours or by mail addressed to the Clerk of the Board.

(d) *Time for filing.* Any petition for review must be filed within 35 days of issuance of the initial decision. Any response to a petition for review or to a cross petition for review must be filed within 25 days after service of the petition or cross petition. The date of filing shall be determined by the date of mailing indicated by the postmark date. If no postmark date is evident on the mailing, it shall be presumed to have been mailed five days prior to receipt. If the filing is by personal delivery, it shall be considered filed on the date it is received by the Clerk of the Board.

(e) *Extension of time to file.* Motions for extensions of time to file a petition for review, cross petition or response shall be granted only upon a showing of good cause. Such motions must be filed in advance of the date on which the petition or other pleading is due. Motions for extension of time may be granted or denied without providing other parties the opportunity to comment, in the Board's discretion. Motions for extensions shall be accompanied by an affidavit showing good cause for the request, or shall be submitted pursuant to 28 U.S.C. 1746, which requires a signed and dated declaration or statement subscribed as true under penalty of perjury. Such affidavit or declaration must make a specific and detailed showing of the circumstances alleged to constitute good cause and must be accompanied by documentation or other evidence to support the matters asserted.

(f) *Late filings.* Unless an extension of time has been specifically granted by the Board pursuant to paragraph (e) of this section or is pending before the Board, any petition for review, cross petition for review, or response which is filed after time limits must be accompanied by a motion for waiver, and either an affidavit, or signed and dated declaration or statement subscribed as true under penalty of perjury, pursuant to 28 U.S.C. 1746 showing good cause for the untimely filing. Such showing must include:

(1) The reasons for failure to request an extension in advance of the filing date; and

(2) The reasons necessitating the late filing.

Any response filed to the motion for waiver may be included in the response to the petition for review, cross petition for review or response to the cross petition for review. Such response will not extend the period of time required by § 1201.114(d) to file a cross petition for review or to respond to the petition or cross petition. In the absence of a motion for waiver, the Board may, in its discretion, determine on the basis of the existing record whether there was good cause for the untimely filing or provide the proponent of the submission opportunity to show cause why it should not be dismissed or excluded as untimely.

(g) *Intervention.* (1) *By Director of OPM.* Pursuant to 5 U.S.C. 7701(d), the Director of OPM may intervene in a case before the Board under the standards set forth in that section, provided that right is exercised as early in the proceeding as practicable. For purposes of this paragraph, if the Director did not intervene in the case before the regional office, such intervention will be considered timely if it is filed within 20 days of the date of service of the cross petition or response to the petition for review, or if no response is filed, within 20 days of the date on which it is due. The Board may, in its discretion, at the Director's request, allow an additional period for the filing of the brief on intervention. A party may respond to the Director's brief within 15 days of the

date of service. The Director shall serve his notice of intervention and brief on all parties.

(2) *By Special Counsel.* Pursuant to 5 U.S.C. 1206(i), the Special Counsel may intervene as a matter of right. For purposes of this paragraph, if the Special Counsel did not intervene in the case before the regional office, such intervention will be considered timely if it is filed within 20 days of the date of service of the cross petition or response to the petition for review, or if no response is filed, within 20 days of the date on which it is due. The Board may, in its discretion, at the Special Counsel's request, allow an additional period for the filing of the brief on intervention. A party may respond to the Special Counsel's brief within 15 days of the date of service. The Special Counsel shall serve his notice of intervention and brief on all parties.

(3) *Permissive intervenors.* Any person may, by motion, request the Board to grant permission to intervene. The motion shall state in detail the reasons why the person should be permitted to intervene. A motion for permission to intervene will be granted where the requester, including any person alleged to have committed a prohibited personnel practice under 5 U.S.C. 2302(b), will be affected directly by the outcome of the proceeding.

(h) *Service.* Copies of the petition for review, cross petition for review, response, and all other motions and pleadings in connection therewith must be served by the party submitting the pleading upon all parties to the proceeding and their designated representatives. Service may be made by mailing or delivering personally a copy of the submission to each party and representative on the service list for the initial decision. The submission must be accompanied by a certificate specifying how and when such service was made. It is the duty of all parties and representatives to notify the Board and each other in writing of any changes in the names and addresses on the service list.

(i) *Closing the record.* The record shall close upon expiration of the period for filing the response to the petition for review, or to the cross petition for review, or to the brief on intervention, if any, or on such other date as set by the Board. Once the record is closed, no additional evidence or argument shall be considered except upon a showing that new and material evidence has become available which was not available prior to the closing of the record.

Dated: July 12, 1985.

For the Board.

Herbert E. Ellingwood,

Chairman.

[FR Doc. 85-16955 Filed 7-16-85; 8:45 am]

BILLING CODE 7400-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 352, Amdt. 1; Valencia Orange Reg. 353]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Amendment 1 of Regulation 352 increases the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period July 12–18, 1985. Regulation 353 establishes the quantity of such fruit that may be shipped to market during the period July 19–25, 1985. The amendment and regulation are needed to provide for orderly marketing of fresh Valencia oranges for the periods specified due to the marketing situation confronting the orange industry.

DATE: Regulation 352, Amendment 1 (§ 908.652) is effective for the period July 12–July 18, 1985. Regulation 353 (§ 908.653) is effective for the period July 19–25, 1985.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone: 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* These rules have been reviewed under USDA procedures and Executive Order 12291 and have been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that these actions will not have a significant economic impact on a substantial number of small entities.

The amendment and the regulation are issued under Marketing Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The actions are based upon the recommendation and information submitted by the Valencia Orange Administrative Committee (VOAC) and upon other available information. It is hereby found that these actions will tend to effectuate the declared policy of the act.

The amendment and the regulation are consistent with the marketing policy for 1984–85. The committee met publicly on July 9, 1985, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges for the specified weeks. The committee reports the demand for Valencia oranges has improved slightly.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because there is insufficient time between the date when information upon which these regulations are based became available and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the amendment and the regulation at an open meeting. To effectuate the declared policy of the act, it is necessary to make the regulatory provisions effective as specified, and handlers have been notified of the amendment and regulation and their effective dates.

List of Subjects in 7 CFR Part 908

Marketing Agreements and Orders, California, Arizona, Oranges (Valencia).

PART 908—[AMENDED]

1. The authority citation for 7 CFR Part 908 continues to read as follows:

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

2. Section 908.652 is added to read as follows:

§ 908.652 Valencia Orange Regulation 352.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period July 12, 1985, through July 18, 1985, are established as follows:

(a) District 1: 240,000 cartons;

(b) District 2: 360,000 cartons;

(c) District 3: Unlimited cartons.

3. Section 908.653 is added to read as follows:

§ 908.653 Valencia Orange Regulation 353.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period July 19, 1985, through July 25, 1985, are established as follows:

(a) District 1: 240,000 cartons;

(b) District 2: 360,000 cartons;
(c) District 3: Unlimited cartons.

Dated: July 12, 1985.

Thomas R. Clark,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 85-16981 Filed 7-16-85; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 85-066]

Brucellosis in Cattle; State and Area Classifications

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which amended the regulations governing the interstate movement of cattle because of brucellosis by changing the classification of the State of Georgia from Class B to Class A. This rule meets the standards for Class A status. The rule relieves certain restrictions on the interstate movement of cattle from the State of Georgia.

EFFECTIVE DATE: July 17, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas J. Holt, Cattle Diseases Staff, VS, APHIS, USDA, Room 817, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8711.

SUPPLEMENTARY INFORMATION:

Background

A document published in the Federal Register on April 5, 1985 (50 FR 13546-13547), amended the brucellosis regulations in 9 CFR Part 78 by changing the classification of the State of Georgia from Class B to Class A. The amendment, which was made effective April 5, 1985, relieves certain restrictions on the interstate movement of cattle from Georgia.

Comments were solicited for 60 days after publication of the amendment. No comments were received. The factual situation was set forth in the document of April 5, 1985, still provides a basis for the amendment.

Executive Order and Regulatory Flexibility Act

This rule has been reviewed in accordance with Executive Order 12291 and has been determined not to be a major rule. Based on information compiled by the Department, it has been determined that this rule will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have any significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Changing the status of the State of Georgia reduces certain testing and other requirements on the interstate movement of these cattle. Cattle from Certified Brucellosis-Free Herds moving interstate are not affected by the change in status. It has been determined that the change in brucellosis status made by this rule will not affect marketing patterns and will not have a significant economic impact on those persons affected by this document.

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

List of Subjects in 9 CFR Part 78

Animal diseases, Brucellosis, Cattle, Hogs, Quarantine, Transportation.

PART 78— BRUCELLOSIS

Accordingly, the interim rule amending 9 CFR Part 78 which was published at 50 FR 13546-13547 on April 5, 1985, is adopted as a final rule without change.

Authority: 21 U.S.C. 111-113, 114a-1, 115, 120, 121, 125, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C., this 11th day of July 1985.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 85-16928 Filed 7-16-85; 8:45 am]

BILLING CODE 3410-34-M

9 CFR Part 78

[Docket No. 85-067]

Brucellosis in Cattle; State and Area Classifications

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which amended the regulations governing the interstate movement of cattle because of brucellosis by changing the classification of the State of Tennessee from Class B to Class A. This rule is necessary because it has been determined that this State meets the standards for Class A status. The rule relieves certain restrictions on the interstate movement of cattle from the State of Tennessee.

EFFECTIVE DATE: July 17, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas J. Holt, Cattle Diseases Staff, VS, APHIS, USDA, Room 817, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8711.

SUPPLEMENTARY INFORMATION:

Background

A document published in the Federal Register on April 18, 1985 (50 FR 15410-15411), amended the brucellosis regulations in 9 CFR Part 78 by changing the classification of the State of Tennessee from Class B to Class A. The amendment, which was made effective April 18, 1985, relieves certain restrictions on the interstate movement of cattle from Tennessee.

Comments were solicited for 60 days after publication of the amendment. No comments were received. The factual situation which was set forth in the document of April 18, 1985, still provides a basis for the amendment.

Executive Order and Regulatory Flexibility Act

This rule has been reviewed in accordance with Executive Order 12291 and has been determined not to be a major rule. Based on information compiled by the Department, it has been determined that this rule will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have any significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

Cattle moved interstate are moved for slaughter, for use as breeding stock, or

for feeding. Changing the status of the State of Tennessee reduces certain testing and other requirements on the interstate movement of these cattle. Cattle from Certified Brucellosis-Free Herds moving interstate are not affected by the change in status. It has been determined that the change in brucellosis status made by this rule will not affect marketing patterns and will not have significant economic impact on those persons affected by this document.

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

List of Subjects in 9 CFR Part 78

Animal diseases, Brucellosis, Cattle, Hogs, Quarantine, Transportation.

PART 78—BRUCELLOSIS

Accordingly, the interim rule amending 9 CFR Part 78 which was published at 50 FR 15410–15411 on April 18, 1985, is adopted as a final rule without change.

Authority: 21 U.S.C. 111–113, 114a–1, 115, 120, 121, 125, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C., this 11th day of July 1985.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 85–16929 Filed 7–16–85; 8:45 am]

BILLING CODE 3410–34–M

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9 CFR Part 94

[Docket No. 85–063]

Change in Disease Status of Belgium Because of African Swine Fever

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which amended the regulations concerning the importation into the United States of pork and pork products by adding Belgium to the list of countries where African swine fever (ASF) exists or where there is reason to believe that ASF exists. The effect of the amendment is to add certain restrictions on the importation of pork and pork products from Belgium. This is necessary in order to help prevent the introduction of ASF into the United States.

EFFECTIVE DATE: July 17, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. Mark P. Dulin, Import-Export Animals and Products Staff, VS, APHIS, USDA, Room 843, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8499.

SUPPLEMENTARY INFORMATION:

Background

On March 18, 1985, an interim rule was published in the **Federal Register** (50 FR 10752–10753) which amended the regulations in 9 CFR Part 94 by adding Belgium to the list of countries where ASF exists or where there is reason to believe ASF exists. The interim rule became effective on the date it was signed, March 12, 1985. Comments were solicited for 60 days following publication. No comments were received. The factual situation which was set forth in the interim rule still provides a basis for the amendment.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in accordance with Executive Order 12291 and has been determined to be not a "major rule." The Department has determined that this rule will not have a significant annual effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will have no significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The amount of swine, pork, or pork products imported into the United States from Belgium prior to the effective date of the interim rule was less than one percent of the amount of these items imported into the United States annually. Further, the importation of any of these items from Belgium was not the primary business activity of any business in the United States.

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

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

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock and livestock products, Meat and meat products, Milk, Poultry and poultry products, African Swine Fever, Foot-and-mouth disease, Fowl pest, Garbage, Hog cholera, Rinderpest, Swine Vesicular Disease.

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

Accordingly, the interim rule amending 9 CFR 94.8 which was published at 50 FR 10752–10753 on March 18, 1985, is adopted as a final rule.

Authority: 21 U.S.C. 111; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C., on this 11th day of July 1985.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 85–16927 Filed 7–16–85; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 85–AWP–12]

Alteration of Control Zone and Transition Area; Elko, NV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule will alter the control zone and 700' transition area at Elko, Nevada. The additional controlled airspace will accommodate aircraft executing the recently published LDA/DME Runway 23 instrument approach procedure to Elko Municipal-J.C. Harris Field. This action is necessary to ensure segregation of aircraft using approach procedures in instrument weather conditions and other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901 G.m.t., November 21, 1985.

FOR FURTHER INFORMATION CONTACT: Curtis Alms, Federal Aviation Administration, Air Traffic Division, Airspace and Procedures Branch, 15000 Aviation Boulevard, Hawthorne, California 90261; telephone number (213) 536–6649.

SUPPLEMENTARY INFORMATION:

History

On May 9, 1985, the Federal Aviation Administration proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the control zone and 700' transition area at Elko, Nevada. The additional controlled airspace will

accommodate aircraft executing the recently published LDA/DME Runway 23 instrument approach procedure to Elko Municipal-J.C. Harris Field. This action is necessary to ensure segregation of aircraft using approach procedures in instrument weather conditions and other aircraft operating in visual weather conditions. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. These amendments are the same as those proposed in the notice. Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were published in Handbook 7400.6A dated January 2, 1985.

The Rule

These amendments to § 71.171 and § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) will provide additional controlled airspace to accommodate aircraft executing the recently published LDA/DME Runway 23 instrument approach procedures to Elko Municipal-J.C. Harris Field.

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

List of Subjects in CFR Part 71

Control zones, Transition areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a) and 1354(a); 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69

2. Section 71.171 is amended as follows:

Elko, Nevada, Control Zone—[Revised]

Within a 5-mile radius of the Elko Municipal Airport (40°49'20.5" N./115°47'38.1" W.); and within 2 miles each side to the 247° bearing from the Elko Airport extending from the 5-mile radius area to 6 miles southwest of the airport; and within 1.5 miles each side of the 075° bearing from the Elko Airport extending from the 5-mile radius area to 9.5 miles northwest of the airport.

3. Section 71.181 is amended as follows:

Elko, Nevada, Transitions Areas—[Revised]

That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of Elko Municipal Airport (lat. 40°49'20.5" N., long. 115°47'38.1" W.) and within 4.5 miles east and 9 miles west of the 161° bearing from the Elko Municipal Airport, extending from the 9.5-mile radius area to 25 miles south of Elko Municipal Airport, and within 5 miles each side of the 075° bearing from the Elko Municipal Airport, extending from the 9.5-miles radius to 20.5 miles northeast of the airport; and that airspace extending upward from 1,200 feet above the surface within a 21.5-mile radius of Elko Municipal Airport.

Issued in Los Angeles, California on July 5, 1985.

H.C. McClure,

Director, Western-Pacific Region.

[FR Doc 85-16890 Filed 7-16-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-ANE-17]

Establishment of Control Zone at Quonset State Airport, North Kingstown, RI; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: This action corrects **Federal Register** Document 85-11648 published on May 15, 1985 (50 FR 20200) that established a new control zone at Quonset State Airport, North Kingstown, Rhode Island. The control zone will provide controlled airspace protection for aircraft operating at the airport. This correction provides that the control zone will be effective during the specific dates and times established in advance by a Notice to Airmen.

EFFECTIVE DATE: 0901 G.m.t., July 17, 1985.

FOR FURTHER INFORMATION CONTACT: Stanley E. Matthews, Manager, Operations, Procedures and Airspace Branch, ANE-530, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803. Telephone (617) 273-7139.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 85-11458 was published on May 15, 1985 (50 FR 20200) that established a new control zone at Quonset State Airport, North Kingstown, Rhode Island. The control zone will provide controlled airspace protection for aircraft operating at the airport. The correction provides that this control zone will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time thereafter will be continuously published in the Airport/Facility Directory.

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

List of Subjects in 14 CFR Part 71

Aviation Safety, Control zones.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, the **Federal Register**, Document 85-11648, as published in the **Federal Register** on May 15, 1985 (50 FR 20200) is corrected as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510 Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); [14 CFR 11.69].

2. By amending § 71.171 as follows:

Quonset State Airport, North Kingstown, Rhode Island—[New]

Within a 5 mile radius of the center, Lat. 41°35'45"N., Long. 71°24'35"W., of the Quonest State Airport, North Kingstown, Rhode Island; within 2 miles each side of the Providence, Rhode Island VORTAC 171°T(185°M), extending from the 5 mile radius zone to 15.5 miles south of the VORTAC excluding that airspace within the Providence, Rhode Island Control Zone. This control zone will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective

date and time thereafter will be continuously published in the Airport/Facility Directory.

Issued in Burlington, Massachusetts, on July 8, 1985.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 85-16891 Filed 7-16-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 85-ANE-05]

Chester, CT, 700 Foot Transition Area; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: This action corrects **Federal Register** Document 85-13708 published on June 7, 1985, (50 FR 23941) that amended the description of the Chester, Connecticut 700 Foot Transition Area so as to provide airspace for aircraft executing a new RNAV Standard Instrument Approach Procedure (SIAP) to Runway 17 at the Chester Airport, Chester, Connecticut. The latitude shown in that amended description is incorrect and is being corrected to reflect the correct latitude.

EFFECTIVE DATE: 0901 G.m.t., July 17, 1985.

FOR FURTHER INFORMATION CONTACT: Stanley E. Matthews, Manager, Operations, Procedures and Airspace Branch, ANE-530, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803. Telephone (617) 273-7139.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 85-13708 was published on June 7, 1985, (50 FR 23941) that amended the description of the Chester, Connecticut 700 Foot Transition Area so as to provide airspace for aircraft executing a new RNAV Standard Instrument Approach Procedure (SIAP) to Runway 17 at the Chester Airport, Chester, Connecticut. The latitude as shown in the amended description is incorrect. This correction will make the appropriate change in the latitude.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, the **Federal Register** Document 85-13708, as published in the **Federal Register** on June 7, 1985 (50 FR 23941) is corrected as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510 Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); (14 CFR 11.69).

2. By amending § 71.181 as follows:

Chester, Connecticut Transition Area—[Amended]

After "VOR" line five insert:

"; and within that airspace bounded by a line to the northwest beginning at Lat. 41°25'30" N, Long. 72°35'10" W; to Lat. 41°27'20" N, Long. 72°38'30" W; and a line to the northeast beginning at Lat. 41°26'25" N, Long. 72°26'35" W; to Lat. 41°32'50" N, Long. 72°26'45" W."

Issued in Burlington, Massachusetts, on July 8, 1985.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 85-16892 Filed 7-16-85; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9184]

Tristate Household Goods Tariff Conference, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Dismissal Order.

SUMMARY: The Federal Trade Commission has dismissed the complaint in this matter since the collective ratemaking activities of respondent are immunized by the state action doctrine. The Commission has found that "further prosecution of this matter does not appear to be in the public interest."

DATES: Complaint issued Sept. 18, 1984. Order Dismissing Complaint issued July 5, 1985.*

FOR FURTHER INFORMATION CONTACT: Barry E. Barnes, Boston Regional Office, Federal Trade Commission, 150 Causeway St., Room 1301, Boston, MA 02114, (617) 223-6621.

SUPPLEMENTARY INFORMATION: In the Matter of Tristate Household Goods Tariff Conference, Inc., a corporation.

List of Subjects in 16 CFR Part 13

Intrastate carriers, Collective ratemaking, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

[Docket No. 9184]

Order Dismissing Complaint

The Commission has considered this matter on complaint counsel's unopposed motion that the complaint be withdrawn.

In this case respondent has argued that its collective ratemaking activities are immunized by the state action doctrine. Complaint counsel now represents that all the elements of a state action defense as articulated by the Supreme Court in *Southern Motor Carriers Rate Conference* v. *United States*, 105 S. Ct. 1721 (1985), are available to the respondent. Accordingly, further prosecution of this matter does not appear to be in the public interest. The complaint is therefore dismissed.

By direction of the Commission.

Issued: July 5, 1985.

Emily H. Rock,

Secretary.

[FR Doc. 85-16898 Filed 7-16-85; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Docket No. 9157]

The Echlin Manufacturing Co. et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Dismissal Order.

SUMMARY: The Federal Trade Commission has dismissed its antitrust challenge to the Echlin Mfg. Co.'s acquisition of Borg-Warner Corp.'s automotive-aftermarket operations. The Commission ruled that since there are no barriers to entry into the market for

*Copies of the Complaint are filed with the original document.

the assembly and sale of carburetor kits, "there can be no anticompetitive effect from the acquisition, and no violation of the antitrust laws."

DATES: Complaint issued July 23, 1981. Final Order issued June 28, 1985.*

FOR FURTHER INFORMATION CONTACT: Ann B. Malester, FTC/L-501, Washington, D.C. 20580. (202) 254-8644.

SUPPLEMENTARY INFORMATION: In the Matter of The Echlin Manufacturing Company, a corporation, and Borg-Warner Corporation, a corporation.

List of Subjects in 16 CFR Part 13

Automotive parts, Corporate acquisitions, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

[Docket No. 9157]

Final Order

This matter has been heard by the Commission upon the appeals of complaint counsel and respondent The Echlin Manufacturing Company from the initial decision and upon briefs and oral argument in support of and in opposition to the appeals. For the reasons stated in the accompanying Opinion, the Commission has determined to affirm the initial decision. Accordingly,

It is Ordered that the complaint is dismissed.

By the Commission, Commissioner Bailey dissenting.

Issued: June 28, 1985.

Emily H. Rock,
Secretary.

Dissenting Opinion of Commissioner Patricia P. Bailey

Echlin Manufacturing Co., Docket No. 9157, June 28, 1985

This is a merger between competing firms with 36% and 10% of a small and declining market so highly concentrated that six firms account for 95% of sales. The Herfindahl-Hirschman index as a result of this acquisition rises by over 750 points to just under 3000. These figures would suggest that this market is susceptible to collusion. There are few sellers in the market for assembly and sale of carburetor kits, and their market shares have remained stable over the past 15 years. There are large numbers of buyers most of which make relatively small purchases, limiting the ability of buyers to disrupt collusion. Because of the similarity of these buyers' businesses in reselling what are fairly standardized, noncustomized products, there are relatively few issues over which sellers need collude. Substitute products (new and rebuilt carburetors) are considerably more expensive, and demand is alleged to be inelastic, since car repairs create necessity. Industry members use price lists, which facilitates price policing, and discounts off these lists are uncommon. There has been relatively little price competition, according to the ALJ, although he found that non-price competition did exist. There is evidence that the largest respondent exercised price leadership. The question of supracompetitive profits is disputed (the ALJ considered the evidence "fragmentary" and the Commission rejects it without discussion), but industry leaders testified that their operations were profitable.

Under the 1984 Justice Department Merger Guidelines—the most recent government pronouncement on merger analysis—a merger that looks like this one is so likely to be anticompetitive and therefore unlawful that only the "extraordinary" case will avoid legal sanction. The Commission has dismissed this case on the sole ground that it finds no barriers to entry into the market, holding that this conclusion renders the otherwise strong structural case for illegality irrelevant.[1]

I have three primary concerns about the Commission's decision and its implications for future FTC merger policy. First, I believe the Commission has embraced a particularly narrow definition of barriers to entry that may be ill-suited to merger analysis, and which is, moreover, a source of much dispute among industrial economists. Second, I disagree with the conclusion drawn by the Commission, that entry into this market is "extraordinarily easy and can be quite rapid." Finally, as matter of legal policy, I am concerned over the Commission's single-minded focus on the hotly disputed barriers to entry issue as dispositive of legal liability in a horizontal merger case where the prima facie case for antitrust concern about collusion is as strong as it is here.

I

Barriers to entry are clearly of increasing importance to antitrust analysis. From a conceptional point of view, this is not hard to understand. Former Director of the FTC's Bureau of Economics, F.M. Scherer, has stated that "significant entry barriers are the *sine qua non* of monopoly and oligopoly, for . . . sellers have little or no enduring power over price when entry barriers are nonexistent." [2] The Commission has recognized the role of barriers as a supplement to consideration of quantitative factors such as market shares and concentration. "The issue of entry barriers is perhaps the most important qualitative factor, for if entry barriers are very low it is unlikely that market power, whether individually or collectively exercised will persist for long." [3] The Department of Justice has gone even further in stating, "If entry into a market is so easy that existing competitors could not succeed in raising price for any significant period of time, the Department is unlikely to challenge mergers in that market." [4] Two recent federal court decisions have hoisted the Justice Department on its own petard by denying government merger challenges on the basis of low barriers to entry.[5]

But to say that barriers to entry are important in antitrust thinking does not lead me to the necessary conclusion that barriers analysis has yet reached the point where it should resolve antitrust disputes as easily as it is being used to do in this and in possible future cases.[6] For one, there is such lack of clear consensus about the nature or effect of barriers to entry [7] that some suggest this issue is elusive, and can confound the resolution of complex antitrust questions.[8] One scholar has observed that barriers to entry is "the single most misunderstood topic in the analysis of competition and monopoly," exceeding

*Copies of the Complaint, Initial Decision and Option of the Commission are filed with the original document.

[1] In fact, acknowledgment of complaint counsel's prima facie case is relegated to a footnote in the majority opinion.

[2] Scherer, Industrial Market Structure and Economic Performance 11 (2d ed. 1980).

[3] Statement of Federal Trade Commission Concerning Horizontal Mergers, section III A(1), p. 5 (1982) (hereafter, "FTC Merger Statement").

[4] U.S. Department of Justice Merger Guidelines, Section 3.3 (1984) (hereafter, "DOJ Guides").

[5] U.S. v. Waste Management, Inc., 743 F.2d 976 (2d Cir. 1984); U.S. v. Calmar, 1985-1 Trade Cas. (CCH) ¶ 66,588 (D.N.J. 1985).

[6] No matter how appropriate it may be to take entry barriers into account in determining whether or not it is worthwhile to bring divestiture actions against dominant firms in concentrated industries, the case for moderating presumptive merger rules where entry barriers are low is much more tenuous IV Areeda and Turner, Antitrust Law ¶ 917(b) at 88 (1980).

[7] Demsetz, "Barriers to Entry" 72 Am. Econ. Rev. 47 (1982).

[8] "Determining the existence, 'height,' and effects of entry barriers is beset with some theoretical difficulties and with empirical problems of seemingly formidable proportions." IV Areeda and Turner, supra, ¶ 917(b) at 87. *See also:* Rowe, "The Decline of Antitrust and the Delusions of Models: The Faustian Pact of Law and Economics," 72 Geo. L. J. 1511 (1984). (Barriers to entry an "elusive" concept.) "Wherever the market, some enterprising rivals, unless kept out by legal fiat, can in time climb in. So, barriers to entry stand only as high as time waxes long and rivals grow tall." *Id.* at 1543.

even the issue of market definition in this regard.[9]

The majority cements its agreement with respondent's definition of entry barriers ("additional long run costs that may be incurred by an entrant relative to the long-run costs faced by incumbent firms"), by a citation to Professor George Stigler, among others. The majority declares this position is "now widely accepted in the legal and economic communities." Stigler's formulation (1968) defines barriers to entry "as a cost of producing (at some or every rate of output) which must be borne by a firm which seeks to enter an industry but is not borne by firms already in the industry." [10] This view, as carried forward in the majority's analysis, is that entry barriers block new competition from the market; access to the market is closed to outsiders on account of the barrier. Examples of such barriers given by the majority are governmental entry restrictions and patents. Other examples might be control of scarce resources, such as essential raw materials, or unique management or labor resources. Conversely, under a "Stiglerian" approach, if some factor simply imposes risks and costs on new entrants resulting in possible delay or deferral of entry, that factor is not really a barrier to entry, because access to the market imposes or has already imposed the same costs or risks on all firms, at one time or another. All firms have equal access to the market, even given the need to undertake certain prescribed steps to accomplish entry.

Perhaps at the other end of the scale from Stigler's view is the "neo-classical" view of Joe S. Bain (1956), which would measure the prospect of entry by the "extent to which, in the long run, established firms can elevate their selling prices above the minimal average costs of production and distribution (those costs associated with operation at optimal scales) without inducing potential entrants to enter the industry." [11] The condition of entry is thus defined "as the 'disadvantage' of potential entrant firms as compared to established firms or conversely, the 'advantage' of established over potential entrant firms." [12] In essence, an entry barrier is whatever allows incumbent firms to charge supra-competitive prices yet not attract new entry. The Bain view, while subject to almost thirty years of criticism by its opponents and revisionism by its friends, remains an alternative approach which provides a different perspective on entry questions.

The Commission distinguishes between "absolute" barriers to entry—which are barriers touched by the Commission's Stiglerian Philosopher's Stone—and mere "impediments" to entry, evidence of which are taken up by the record in this case. (Some of these resemble Bain's barriers to entry sent to the back of the classroom). The Commission finds no absolute barriers to entry in this case at all, but it insists on an extended treatment of the subject, perhaps to accomplish the result of fixing in the caselaw its particular entry barrier definition. As to entry-delaying "impediments," the Commission rules that none of these would permit any exercise of market power by incumbent firms because of the ease with which the impediments could be kicked aside.

The Commission, then, in this opinion embraces the current "Chicago School" economic "State Religion" approach to barriers to entry, a view which simply is *not* generally "accepted [13] in the legal and economic communities." In both communities, though this view has gained some ground recently in a few cases,[14] the battle rages fiercely, and is as empirically unresolved as ever.[15]

II

But is this point important, or do I belabor an all-too technical issue? It seems to me the point is important if barriers to entry, so particularly defined, become the easy way to resolve complex antitrust cases. Section 7 of the Clayton Act makes illegal mergers that have the probability of substantially lessening competition. The statute does not add the word "forever". A merger can lessen competition and therefore violate the statute, in my view, if market conditions, structural features, or behavioral patterns make entry an unattractive investment risk for a significant period of time. If such a situation exists so as to permit supracompetitive pricing within an industry and yet prevent for a substantial period new entry or the expansion of marginal fringe competitors, then it is possible that a barrier to entry exists. The defect in the Stiglerian alternative is that it does not account for the time, scale and cost necessary for a successful entry that is a meaningful threat to incumbent firms.

This situation, as I understand it, is essentially what complaint counsel is arguing. They do not claim that there are any of Stigler's barriers to entry into this market, but rather they assert that entry is unlikely due to the fundamental unattractiveness of the market. New entrants are deterred from making investments in entry because they cannot expect to make acceptable profits. At the very minimum, the argument seems to be, entry would be delayed for a significant period of time during which there would be injury to competition, constituting a violation of section 7.

The majority admits complaint counsel's pragmatic point about conditions that delay or impede entry. The Commission states: "There may be little practical difference between an absolute barrier to entry and conditions of entry that delay the restoration of competitive prices for decades." Delayed entry "for decades" fits an almost-Stiglerian scenario of an industry where potential entrants must await the expiration of patents or overcome similar dramatic entry problems. However, decade-long delays should not be and are not, the only circumstance of concern under the antitrust law.[16] Most temporal measures of new entry speak of difficulty of entry in terms of two to five years.

In the end, the majority concludes that where entry is not blocked (by its analysis), it is easy and can also be rapid—with citation to the entry over the past ten years of about five firms at the fringe of the market. The majority assumes that any of these firms could expand its operations virtually at will.

Complaint counsel buttress their statistical case by descriptions of market conditions that permit the exercise of market power without resulting in the expansion of fringe entrants or the entry of new competitors. They view the market as conducive to collusion and highly

[9] Fisher, "Diagnosing Monopoly," Q. Rev. Econ. & Bus. 23 (Summer, 1979).

[10] Stigler, The Organization of Industry 67 (1968).

[11] Bain, Industrial Organization 252 (2d ed. 1968).

[12] *Id.*

[13] The Commission uses the term "widely accepted." Alas, that may be so, depending however on the circles in which one travels.

[14] Those cases include the Commission's decision in General Foods Corp., 103 FTC 204, 354 n. 54 (1984), where I expressly disassociated myself from the Commission's notational embrace of this Stiglerian view. (103 FTC at 372).

[15] See for example, Demsetz, supra.; Waterson, "On the Definition and Meaning of Barriers to Entry," 26 Antitrust Bulletin 521 (1981), and Wentz, "Mobility Factors in Antitrust Cases: Assessing Market Power in Light of Conditions Affecting Entry and Fringe Expansion," 80 Mich. L. Rev. 1545 (1982).

[16] FTC Merger Statement section III(A)(1) (1982). ("To be sure, merger analysis properly focuses primarily on long-term competitive implications, but short term effects should not be ignored, particularly if they are substantial.")

profitable, but shielded by barriers that deter entry at a significant scale.

The murky issue of profits cannot be finally resolved on this record. While complaint counsel argue that this market enjoys supracompetitive profits and therefore is attractive to entrants, neither the ALJ nor the Commission accepted this analysis.[17] The Commission considers it possible that the industry may be unattractive to entrants because prices are competitive or simply because the market is declining.[18] It is noteworthy that the ALJ, while finding some non-price competition, concluded that "the record as a whole does not reflect vigorous price competition."[19] And, if the declining market simply does not interest outsiders in and of itself, there would seem to be at least modest room for collusion, which this merger might facilitate.

Accepting for the moment that the market is at least somewhat attractive for entry from the initial profitability assessment standpoint, there are alleged to be four factors that complaint counsel say mitigate against entry, but which the Commission rejects even as "impediments."

First, complaint counsel assert there are sunk costs associated with entry that cannot be recovered if a firm decides to exit the market. These sunk costs are not large in terms of dollars, but they are large relative to the expected return in this small ($53 million) and declining market, thereby increasing the risk and decreasing the likelihood of entry given alternative investment opportunities.

Second, complaint counsel contend that entry is deterred by the need to achieve an economy of scale that is quite high. Like the arguments surrounding supracompetitive profits in this record, arguments about economies of scale are a subject of bitter dispute. Complaint counsel's expert witness, using exhibits prepared by respondents, estimated that about 10% of the market represented minimum efficient scale.[20] The ALJ rejected the 10% calculation; he agreed that there were some scale economies in this industry but considered them insignificant. However, if new entrants were faced with economies of scale of 10%, achievement of this reduction of unit costs would give a decided cost advantage to the larger incumbent firms, and saddle entrants with a major competitive burden to attain these same advantages without prospect of doing so simply from capture of any market growth. Incumbent firms capable of output at these scales could also deliberately flood the market to deter entry with lower prices. Because potential entrants perceive this to be the case, the need to achieve scale economies deters entry.

Third and fourth, complaint counsel also argue that the recent record of new entrants is especially poor in this industry, and that the record shows at least one case of targeted market retaliation by the market leader against a new firm.

Areeda and Turner endorse a shorthand test for barriers to entry by assessing the historical record of entry over the past few years in the market.[21] The 1984 DOJ Guidelines propose a two-year period in which to assess new entry in response to a "small but significant non-transitory increase in price" (about 5% lasting one year).[22] The 1982 FTC statement emphasizes the importance of the historical record on entry.[23] So does the body of traditional caselaw. I believe that judging the historical record on entry has always been, and remains today, the simplest and most practical way to deal with most barrier to entry analysis situations.

While these historical tests emphasize the importance of the traditional study of the simple record of entry, they also emphasize the importance of the size and scope of such entry. The 1984 DOJ Guides would take into account the "magnitude" of entry.[24] The 1982 FTC Statement declares: "Evidence of *substantial* expansion by firms already in an industry, especially non-dominant firms, may persuasively indicate that barriers to larger scale are not high. Conversely, evidence of frequent entry by fringe firms on a small scale *without significant expansion*, may also suggest the existence of barriers to larger scale".[25] (Emphasis added).

The record in this case shows that over more than a decade only fringe competitors have entered and only to the extent of a total *combined* market share of about 2%. Moreover, expansion or increased profitability has not occurred over a ten-year period for some of these firms, and three years or more for others. The majority conclusion that expansion is "easy and rapid," is not supported by the historical record.[26]

There are serious questions in my mind that these struggling fringe competitors represent any disciplining threat on the prices of the market

[17] The administrative law judge found that the evidence on profitability was fragmentary and hypothetical, since no actual long run profitability data on carburetor kits was available for individual firms. In addition to testimony by witnesses for four of the leading members of this industry that their companies were profitable, and planning documents of respondent stating its operations are profitable, complaint counsel made use of two *in camera* exhibits prepared by respondents' employees and economic expert. These exhibits are based on data from Echlin's own books and records, originally prepared to establish an economic model of relative costs of production at three different hypothetical levels of output. Complaint counsel, over the vigorous objection of respondents, asserted that this model enabled complaint counsel to establish the profitability of a firm that operated at about 10% of the market, or sales of 1.5 million kits. Comparing these data with 1978–1982 Census Bureau Quarterly Financial Reports (QFR) five-year averages for 1) return on assets for all manufacturing, 2) average return on stockholder's equity, and even 3) return on assets for wholesaling, complaint counsel argues that all of these QFR "benchmarks" are very substantially exceeded by the profit data derived from respondents' economic exhibits. The degree to which these calculated "profits" exceeded the benchmarks (50%) was well above the level agreed by both sides' economic experts to indicate supracompetitive profitability. (Complaint counsel's profit calculations yielded "accounting" rates of return. Such accounting profits are potentially unreliable because they do not take into account certain of a firm's costs; however, complaint counsel explain that in this industry, accounting rates of return closely approximate economic rates of return, considered more reliable evidence of profitability by some economists). In addition, although inferences to be drawn are limited, there is evidence that respondent was able to retaliate against one new market entrant by offering discounts on selected kits ranging from 5–30%. The Commission expressly rules that these sales were not below variable cost. There is the suggestion that respondents' usual prices are normally above a competitive level.

[18] I should note here that the DOJ guides and caselaw do not provide for *per se* legality for mergers in declining industries.

[19] I.D.F. 286, p. 61.

[20] To assess the level of scale economies, complaint counsel again relied on CX 543 and 544, an analysis of the market at three hypothetical levels of output, prepared by respondent's employees from respondents' books and records. These *in camera* exhibits explain certain characteristics of three different sized firms—a firm that produces 1.5 million carburetor kits annually, representing just over 10% of the market, a firm producing 300,000 kits annually or about 2% of the market, and a firm with about 1% of the market, or about 100,000 kits. The data showed, according to complaint counsel, substantially different unit costs associated with each size of output. The larger the "firm" the more decided the cost advantage. There is additional evidence that this upper range of output may approximate the optimum in the business expansion plans of another competitor (Holley), allowing it the cost benefits of automated packaging. Respondent is scornful of the economies of scale argument on methodological grounds, on the grounds that the numbers are purely hypothetical, on the fact that only two of the six market incumbents would meet the 10% criteria (although the smaller firms have the existing capability to expand production to 10%, according to complaint counsel's industry expert), and on the fact that the numerous smaller firms appear to be profitable.

[21] IV Areeda and Turner, *supra*, ¶917c, at 88 (1980).

[22] DOJ Merger Guides, section 3.3 (1984).

[23] FTC Merger Statement section IIIA (1) (1982).

[24] DOJ Merger Guides section 3.3 (1984).

[25] FTC Merger Statement section III A(1) (1982).

[26] In contrast, in the recent Calmar case, the judge found numerous entrants, some of which had amassed substantial market shares. U.S. v. Calmar, supra, at 65,927–28 (D.N.J. 1985).

leaders, and unless they do, their entry is not "significant," quite apart from the question of their size. The ALJ acknowledged only one firm, Sherman, to be a "significant" competitive entry. The record shows that Sherman's 1981 efforts at assembly and sale of a line of 120 kits at low prices continued for two years with little success. Sherman's survival, with about one-third of one percent of the market may be owed mostly to an agreement to supply kits to another firm for resale, after that firm (Carter) gave up on the assembly and sale of kits on its own (for corporate reasons apparently not related to the kit market). Sherman obtained this account in 1983 by underbidding Borg-Warner's carburetor kits subsidiary. About the time that the Carter/Sherman agreement was implemented, respondent targeted Sherman with special and unusal discounts on 19 lines of fast-moving kits. The Commission's observation about the targeted response to Sherman's entry and Sherman's capture of the lifesaving Carter business after two years of struggle, is that "A price war is evidence of competition, not the absence of competition." That is, Sherman's presence tempered the market leader's prices overall. This is simply not consistent with the selectivity of the response, or the fact that two years passed before it even began. A prospective entrant might take the following view: that a recent entrant, Sherman, was targeted for selective price cuts by a leading firm that almost certainly possessed a cost advantage in calculating the degree of its retaliatory discounting (5–30% off list price, according to the record).[28] How might such a prospect affect the next firm's decision to enter the market? To me, this is a relevant question bearing on the likelihood of any further new entry, even at the margin. Of course, it can be said that Borg-Warner's superior efficiency (scale economies) is the risk worth taking in terms of anticipated post-entry return?

The most obvious pool of potential new entrants are the numerous firms that are private label resellers of kits assembled by the few firms that populate the assembly market. Some of these were formerly assemblers, and all prosses some access to distribution systems and the advantage of some name recognition and familiarity with customers. However, the same factors that operate to discourage new entrants, or expansion by fringe entrants, operate to deter resellers, particularly since resellers may be even more knowledgeable and alert than others about the dismal record of entry in this market. Most kit resellers handle small percentages of kit resales, and all but one (Ford) have 3% of such resales or less. Therefore, even firms with established distribution will be forced to capture "changeover" customers if they are to achieve scale economies. But the most significant factor about potential reseller entry is that no reseller has ever successfully entered into kit assembly. The market is clearly unattractive to the new entrants best poised to make the effort, and some factor must account for this fact.

In these circumstances one could predict that further entry is likely to be judged very risky indeed, and given the unlikelihood of any market growth, doomed. With such a poor record on *significant* new entry, the presumption of market power that attends high market shares, high concentration and Herfindahl levels should remain standing, somewhat battered to be sure, but unbowed. If expansion is not occurring, the Commission opines, it simply must be attributable to some factor other than incumbent firm's market power—power normally inferred from the enormous "numbers" in complaint counsel's prima facie case. To suggest that the failure to expand can be based on the invisible evidence of some invisible hand is such a spectral conclusion that it is less credible to me than the anticompetitive inferences to be drawn from the traditional market tests so recently confirmed in the 1982 FTC and 1982 *and* 1984 Justice Department merger frameworks. There are no additional arguments to add to this balance, since there are no credible arguments that this merger enhances efficiency, or that it is likely to promote competition in some other fashion.[29]

In summary, the likelihood of any firm entering this market does not depend simply on the existence or absence of Stigler's entry barriers. The presence of supracompetitive prices may normally be an inducement to entry, but, depending on the record on entry, it may also suggest the historical lesson that entry is risky, and therefore deterred.[30] A firm's decision to take the investment risk depends on its anticipated post-entry rate of return. Initially, a small market that is stable or declining and promises no new growth for an entrant to capture may not be attractive for entry.[31] It might, however, be the sort of market conducive to collusion. Unrecoverable sunk costs are not lightly to be regarded when the ten-year record of entry shows five firms holding two percent, and two of the three largest firms recently merged into a single firm with almost half the market. The few incumbent firms may have the scale economy advantage of lower unit costs, which may permit selective retaliatory pricing that is not, strictly speaking, predatory, but is, generally speaking, entry deterring. And, if there is excess capacity, as there is alleged to be in the two or three incumbent firms that operate at 5–7% of the market, expansion of product "runs" on individual lines of kits could deter entry by easily increasing supply and flooding the market with cheaper kits.[32] Finally, assessing once again the historical record of entry, the potential entrant/expander may well be aware that it faces no Stiglerian barriers, and no necessarily enormous capital investment costs in getting a toehold in the market, yet it may anticipate a post entry rate of return that does justify the effort, given other investment alternatives.[33]

III

Unlike the majority I regard this as a close case, and, on balance, I come out the other way. The major weaknesses arguing against this outcome are the absence of stronger evidence as to

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[28] That fact that the Commission found none of these retaliatory discounts to be predatory suggests that pre-entry price levels were higher than in a competitive environment.

[29] A claim that social costs of a merger would be small is a much weaker defense than a claim, as in an economies defense, that a merger would yield social gains. The social interest in attempting to isolate and immunize the former is plainly less than the social interest in protecting the latter. It may be sensible to absolve the low-loss cases, but whether it is or not depends heavily on the facility with which they can be identified. IV Areeda and Turner, *supra*, ¶917b at 87.

[30] Stonebreaker, "Corporate Profits and the Risk of Entry," 58 Rev. of Econ. and Stats. 33, 39 (1976). (High profit rates associated with high risks of entry, deter entry, and enable established firms to earn supranormal profits. Records of small firms at the edge of the market an important factor in assessing risk).

[31] DOJ Merger Guides, section 3.3 n. 21 (1984); Webbink, Entry, Price-Cost Margins and Barriers to Entry in 280 4-Digit Industries, 1967–1972, Federal Trade Commission Bureau of Economics Working Paper No. 19, 5, 14 (1979).

[32] Spence, "Entry, Capacity, Investment and Oligopolistic Pricing," 8 Bell J. Econ. 534 (1978); Dixit, "A Model of Duopoly Suggesting a Theory of Entry Barriers," 10 Bell J. Econ. 20, 21 (1979) ("The threat of a large enough post-entry output will make entry seem unprofitable, and then it need never be implemented"); Wenders, "Excess Capacity as a Barrier to Entry," 20 J. of Ind. Econ. 14 (1971).

[33] The entrant should ignore preentry price and profit levels, but attempt to infer the postentry equilibrium price and profit levels. If the entrant's expected profits are negative, he is deterred; the no-entry profits accrue to the already established firm rather than the equally efficient entrant. Even a more efficient entrant may be deterrred by an established firm who has sunk sufficient costs to make his own exit uneconomical, and hence, entry mutually destructive. Salop, "Strategic Entry Deterrence," 69 Am. Econ. Rev. 335 (1979).

supracompetitive profits of incumbent firms, and on economies of scale that may operate to create disadvantages. But it is precisely because of the typical—perhaps inherent—difficulty and potential ambiguity of such evidence in merger cases that the history of merger law shows a struggle to find simplifying assumptions that can proxy for economic proof positive. Examples of these assumptions to which I am willing to give credence, based on my reading of the law, the 1982 and 1984 DOJ Guides, and the 1982 FTC Statement on Horizontal Mergers, are that high market shares and Herfindahls indicate the prospect for collusion and that a long record of failed or marginal entry raises an inference of high entry barriers.

The sun has probably set on the rule of presumptive illegality in horizontal merger cases, such as outlined in *U.S.* v. *Philadelphia National Bank*, 374 U.S. 321, 364–66 (1963).[34] Yet have we not gone all the way in the other direction if we say that the *only* relevant question is whether particularly defined barriers to entry are high or low, irrespective of the traditional indicia of antitrust concerns about enhanced potential for collusion? I seriously question, based on the facts of this case, whether any true advance in our knowledge of how this market really works is promoted by a rigid economic theory of "absolute" barriers to entry, or a notion of "delayed" entry in terms of decades. Certainly such an economic theory is outcome determinative, just as was the old rule of presumptive illegality. The analysis contained in this opinion of the Commission denies us the latitude to consider whether market structure, performance or conduct in a given case leads rational potential entrants to walk away, on the basis of their assessment of risks they face and the sorry record of the firms the Commission here would call "new entrants." One wonders why the FTC and the Department of Justice have spilled so much ink over how to analyze mergers, if it is all as easy as this. The clear implication of the writing and then rewriting of the DOJ Guides was that merger analysis was complicated stuff, and that fair enforcers should take into account relatively sophisticated analysis of all aspects of the market. I suggest that the majority has turned the old section 7 "numbers" game on its head in favor of a "quick look" approach for Stigler's barriers to entry, the new *primus inter pares* of merger law. One result of such an approach would be to sanction any and all mergers in this market, right up to the point where a pure monopoly results. If there are no barriers to entry, after all, what would be wrong with that?[35] The entry barriers "quick look" test leads to a rule of *per se* legality for many mergers.

It is, of course, always possible that the distinguished and expert majority is dead right with their election of the economic theory to drive the result in this case. But my own brief assessment of the literature on this issue shows it long on words and short on empirical findings. There is no surfeit of discussions of the issues, but no agreement on them, either.

What is emerging in Commission merger decisions is by and large the rule that, according to the "new" economic learning, a merger is almost always legal. The Commission has charted a new course away from the great body of the traditional caselaw, and indeed abandoned the assumptions that have attended merger enforcement policy of both old and recent vintage, substituting a well-nigh theological—and surely theoretical—economic *deus ex machina*.

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[34] However, Judge Winter in Waste Management observed that the Supreme Court has never expressly stated that ease of entry is one of the circumstances that fits the Court's approving assessment of market conditions to supplement the statistical market share and concentration data of the prima facie case, such as occurred in U.S. v. General Dynamics Corp., 415 U.S. 486 (1974), 743 F. 2d at 962 (1984).

[35] Or, as the Commission opinion puts it, "In the absence of barriers to entry, incumbent firms cannot exercise market power, regardless of the concentration in the nominal 'market,' and even if that 'market' has been 'monopolized' by a single firm."

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 3

Adoption of Revised Registration Forms

AGENCY: Commodity Futures Trading Commission.

ACTION: Adoption of revised registration forms.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has revised its Form 8–R, the application for registration as an associated person or floor broker and supplement to application on Form 7–R. In connection therewith, the Commission has also made certain revisions to the Form 8–S, special registration for certain associated persons, and the Form 8–T, notice of termination. These revisions, which are essentially technical and non-substantive in nature, have been adopted to assist the National Futures Association ("NFA") in the performance of the registration functions which the Commission has authorized NFA to perform and in the implementation and operation of NFA's program to register and regulate directly the associated persons sponsored by members of NFA.

EFFECTIVE DATE: August 1, 1985.

FOR MORE INFORMATION CONTACT: Robert P. Shiner, Assistant Director, and Linda Kurjan, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Telephone: (202) 254–9703 and (202) 254–8955, respectively.

SUPPLEMENTARY INFORMATION: Section 17 of the Commodity Exchange Act ("Act"), 7 U.S.C. 21 (1982), sets forth the requirements for registration of, and the authority which may be exercised by, a registered futures association. In this connection, section 17(b)(4) of the Act specifically requires the rules of such association to provide that:

> no person shall become a member and no natural person shall become a person associated with a member unless such person is qualified to become a member or a person associated with a member in conformity with specified and appropriate standards with respect to the training, experience and such other qualifications of such person as the association finds necessary or desirable * * *.

Elsewhere, section 17(b)(8) of the Act requires that "the rules of the association provide that its members and persons associated with its members shall be appropriately disciplined, by explusion, suspension, fine, censure or being suspended or barred from being associated with all members, or any other fitting penalty, for any violation of its rules" and section 17(p)(3) requires that the association "establish minimum standards governing the sales practices of its members and persons associated therewith for transactions subject to the provisions of the Act."

Thus, section 17 of the Act clearly requires a registered futures association to register and regulate directly individuals associated with a member of the association as well as the member itself. To effect its obligations under the Act with respect to "persons associated with a member," NFA, the only futures association registered by the Commission, has adopted bylaw 301(b), which provides:

> No person may be associated with a Member of NFA unless the person is

registered with NFA as an Associate or is an NFA Member. As used in these bylaws, the term "associated with a Member" means any person who is associated with a Member of NFA within the meaning of the term "associated person" as used in Section 4k of the Act and who is required to be registered as such with the Commission. Registration with NFA as an Associate is not registration as an associated person under the Act.

To date, NFA has not implemented this bylaw in order to focus its resources on matters which NFA, with the concurrence of the Commission, has considered more important in its development as a self-regulatory organization. By letter dated July 3, 1985, however, NFA has advised the Commission that, effective August 1, 1985, NFA will implement and enforce bylaw 301(b). Thus, all individuals required to be registered with the Commission as an associated person who are sponsored by a registrant which is a member of NFA will, in turn, be required to be registered with NFA as an Associate.

The Commission has previously authorized NFA to process and, where appropriate, grant applications for registration as an associated person. In order to reduce the burden on NFA members and their associated persons, NFA has requested the Commission to approve certain revisions to the Form 8–R, application for registration as an associated person or floor broker and supplement to application on Form 7–R, which, when adopted, will permit the same form to be used to apply for registration both as an associated person with the Commission and as an Associate with NFA.[1] Conforming amendments to the Form 8–S, special registration for certain associated persons, and the Form 8–T, notice of termination, have also been proposed.

NFA has also advised the Commission that the Chicago Board of Trade, the Chicago Mercantile Exchange, the New York Futures Exchange and the Minneapolis Grain Exchange, the four designated contract markets which have rules requiring any associated person sponsored by a member of such contract market to be registered with that contract market as a registered commodity representative, have agreed to authorize NFA to process the applications for such registration. Thus, the revisions requested by NFA will permit these forms to be used to register with the appropriate contract market as a registered commodity representative as well, and the number of applications which a significant number of associated person applicants would otherwise be required to complete and file will be reduced from six to one.

The Commission has carefully considered the revisions requested by NFA and has concluded that they are essentially technical and non-sustantive in nature and, as such, they will impose no additional burden on Commission registrants. To the contrary, as noted above, adoption of these revisions will relieve such registrants, both associated persons and their sponsors, of a substantial administrative burden by reducing from six to one the potential number of applications an applicant must file. Therefore, the Commission has determined to adopt these revised forms effective August 1, 1985.

The most significant changes in the forms have been made to the Form 8–R. In addition to changes in the instructions to reflect the transfer of registration processing from the Commission to NFA and changes in format, the following three questions have been added to the disciplinary history section of the form, Section G:

Has a bonding or surety company denied, paid out on, or revoked coverage for you?

Do you have any unsatisfied judgments or liens against you?

Were you discharged or permitted to resign from any employment due to a complaint or legal proceeding by a customer, an investigation or any disciplinary action?

Similar questions are presently found in the applications of the Chicago Board of Trade and Chicago Mercantile Exchange for registration as a registered commodity representative and NFA has concluded that the responses to these questions are relevant in determining fitness for registration as an Associate. To the extent those questions are not already set forth in the Form 8–S and the Form 8–T, those forms have been revised accordingly.

The second addition to the Form 8–R is the Applicant Agreement, which follows the applicant's certification of the accuracy of the responses in the application. Pursuant to the Applicant Agreement, the applicant applies for registration as an Associate with NFA and agrees to be bound by all NFA requirements. In addition, if the applicant's sponsor or, in the event the applicant's sponsor is a guaranteed introducing broker under Commission rule 1.10(j), the guarantor of the applicant's sponsor, is a member of a contract market which has rules applicable to associated persons of members, the applicant agrees to abide by those rules as well.

Finally, the Form 8–R has been revised to permit its use to obtain immediate registration in the event of a transfer from one sponsor to another or in the event an associated person of a commodity pool operator or commodity trading advisor wants to become associated concurrently with an introducing broker or a futures commission merchant. Under the Commission's registration rules, an individual who terminates his association with one sponsor may become registered immediately with another sponsor if, within sixty days of the date of such termination, the new sponsor mails to NFA or the Commission, as appropriate, certain required certifications followed within sixty days thereafter by a Form 8–R and the fingerprint card of such person.[2] The Commission's Form 8–S is currently used to make these required certifications. Similarly, the Form 8–S is used when an associated person of a commodity pool operator and commodity trading advisor applies for concurrent registration with an introducing broker or futures commission merchant.

In order to improve the efficiency of registration processing, NFA has requested that the Form 8–R be revised to permit it to be used alone in such circumstances, without requiring the use of the intervening Form 8–S.[3] The necessary revisions include the addition of a section on the first page of the application, wherein the applicant may indicate that he qualifies for special registration, and the addition of the special certifications required under the rules.

The Commission adopted these latter revisions because it believes they have merit beyond simple efficiency. In particular, the Commission notes that by using the Form 8–R only, the new sponsor will have available the answers to each of the disciplinary history questions and will have completed the sponsor's certification at the time the associated person first becomes associated with the sponsor, rather than sixty days thereafter. The Commission understands that many sponsors already require the Form 8–R and the sponsor's certification to be completed as a matter of good business practice, and the Commission believes it should encourage more registrants to adopt this practice. At the same time, however, the Commission must emphasize that sponsors are free to continue to use the Form 8–S procedure if they so choose.

[1] Of course, this same Form 8–R will continue to be used by applicants for registration as a floor broker or as an associated person of a leverage transaction merchant.

[2] See Commission rules 3.12(d), 3.16(d) and 3.18. 17 CFR 3.12(d), 3.16(d) and 3.18(d) (1984).

[3] Commission regulations do not require the use of the Form 8–R, *per se*.

The Commission adopted the Form 8–S procedure essentially to afford a new sponsor sufficient time to verify the past employment and educational history of the associated person without interfering with that person's ability to work. In this connection, NFA has asked the Commission whether, in these circumstances, a new sponsor may certify the past employment and educational history of an associated person by contacting the person's previous sponsoring employer rather than separately confirming the associated person's history. The Commission has never prescribed the manner in which a sponsor must verify an applicant's employment and educational history. Therefore, the Commission does not object if a sponsor wishes to verify these matters through the previous employer. The Commission must emphasize, however, that is the obligation of each sponsor to verify the employment and educational history of its associated persons, and the sponsor cannot avoid this obligation by relying upon the previous sponsor.

Related Matters

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35 (1982), the Commission previously submitted these forms to the Office of Management and Budget. The control number provided for these forms is 3038–0023.

Effective Date

The Form 8–R, Form 8–S and Form 8–T, as revised, shall be effective August 1, 1985. As the Commission has noted the amendments to the forms are predominantly technical and non-substantive in nature. Moreover, these amendments relieve burdens on the affected public by combining and, thus, eliminating repetitive questions. The Commission, therefore, finds that the notice and public comment procedures of 5 U.S.C. 553 are not required.

Issued by the Commission on July 9, 1985, in Washington, D.C.

Jean A. Webb,

Secretary of the Commission.

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COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION

FORM 8-R

APPLICATION FOR REGISTRATION AS ASSOCIATED PERSON AND NFA ASSOCIATE OR FLOOR BROKER
AND
SUPPLEMENT TO APPLICATION ON FORM 7-R
AND
SPECIAL REGISTRATION FOR CERTAIN ASSOCIATED PERSONS

FORM 8-T

NOTICE OF TERMINATION

FORM 3-R

SUPPLEMENTAL STATEMENT TO APPLICATION FOR REGISTRATION
AND
REPORTING BY ADDITIONAL SPONSORING FIRM OF MULTIPLE ASSOCIATIONS OF AP's OF CTA's AND CPO's (FORM 3-R - PART II)

FORM 8-S

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Previous Editions Obsolete

COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION

OMB No. 3038-0023

FORM 8-R

APPLICATION FOR REGISTRATION AS ASSOCIATED PERSON AND NFA ASSOCIATE OR FLOOR BROKER AND BIOGRAPHICAL SUPPLEMENT TO APPLICATION ON CFTC FORM 7-R AND SPECIAL REGISTRATION FOR CERTAIN ASSOCIATED PERSONS

WHO MUST FILE FORM 8-R

(See definitions on page 7 of Form 8-R)

Associated Persons

Generally each time you apply for registration as an associated person ("AP") your sponsor must submit a Form 8-R for you. To be registered, you must be associated with a futures commission merchant ("FCM"), introducing broker ("IB"), commodity trading advisor ("CTA"), commodity pool operator ("CPO") or leverage transaction merchant ("LTM").

Principals

Any **Initial Application** for registration as an FCM, IB, CTA, CPO or LTM must be accompanied by a Form 8-R for each principal except for principals who are already individually a registrant or a principal of a registrant. An individual seeking to become a principal of an existing registrant should consult CFTC Rule 3.32 to determine whether the filing of a Form 8-R for such individual is required. (A Branch Manager or Designated Supervisor must be registered as an AP.)

Special Registration (Transfers and Multiple Associations)

If you have either left your prior employment as an AP within the last 60 days or you want to be registered as an AP of an FCM or IB while currently registered as an AP of a CPO or CTA, you are eligible to use the Form 8-R to obtain immediate registration (effective on filing the properly completed Form 8-R.) You may also use Form 8-S to obtain immediate registration in these circumstances. If filing Form 8-S, a Form 8-R must be filed within 60 days of mailing the Form 8-S.

Floor Brokers

If you are applying for registration as a floor broker you must file Form 8-R. If you are applying for renewal of registration as a floor broker you must file Form 8-R but may answer "No Change" to any question which asks for information that has previously been furnished to the Commission on a Form 8-R or supplement thereto if such information remains accurate and unchanged. If the information has not changed but additional information is needed as an update, you may insert the words "Information Since Previous Filing" and then give the new information.

You must have been granted trading privileges by a board of trade which has been designated as a contract market by the Commission in order to be registered as a floor broker or to have your registration as a floor broker renewed.

WHAT TO FILE

Associated Persons

To apply for a temporary license and for registration as an AP your sponsor must file all of the following for you at the same time:

1. The appropriate fee;
2. A Form 8-R completed in accordance with the instructions thereto;
3. Your fingerprints on a fingerprint card provided by NFA, or if you are an AP of an LTM, on a fingerprint card provided by the Commission[1], and
4. Satisfactory evidence that you passed the National Commodity Futures Examination ("NCFE" or "Series 3".) (Does not apply to APs of LTMs.)

Applications should be assembled in the order listed above.

Principals

Principals must file all of the following at the same time:

1. A Form 8-R completed in accordance with the instructions thereto;
2. Your fingerprints on a fingerprint card provided by NFA, or if you are a principal of an LTM, on a fingerprint card provided by the Commission[1]. (You need not file a fingerprint card if you have a current Form 8-R or Form 94 on file or you are exempt under Section 3.32 of the Commission's regulations);
3. Satisfactory evidence of passage of the National Commodity Futures Examination ("NCFE" or "Series 3") if you are acting in the capacity of an associated person, or supervise, or have the authority to supervise (generally includes Chief Executive Officers, Chief Operating Officers, Presidents and General Partners as well as others) a person acting as an associated person.

Applications should be assembled in the order listed above.

Special Registration (Transfers and Multiple Associations)

To obtain immediate registration as an AP your sponsor must file the following for you:

1. The appropriate fee;
2. A Form 8-R completed in accordance with the instructions thereto;

Within 60 days:

3. Your fingerprints on a fingerprint card provided by NFA, or if you are applying for special registration as an AP of an LTM, on a fingerprint card provided by the Commission.

OR

1. A Form 8-S completed in accordance with the instructions thereto;

Within 60 days:

2. The appropriate fee;
3. A Form 8-R completed in accordance with the instructions thereto;
4. Your fingerprints on a fingerprint card provided by NFA, or if you are applying for special registration as an AP of an LTM, on a fingerprint card provided by the Commission.

Floor Brokers

To apply for registration as a floor broker you must file all of the following at the same time:

1. The appropriate fee;
2. A Form 8-R completed in accordance with the instructions thereto;
3. Your fingerprints on a fingerprint card provided by the Commission[1]. (You need not file a fingerprint card if you have a current Form 8-R or Form 94 on file.)

Applications should be assembled in the order listed above.

WHERE TO FILE

All Applicants

Send all registration applications to National Futures Association, Office of the Secretary, P.O. Box 98383, Chicago, Illinois 60693, **except** those for APs and principals of LTMs as well as floor broker applications which should be sent with separate remittance to the Commodity Futures Trading Commission, P.O. Box 70685, Chicago, Illinois 60673.

If you must file a Form 8-R, a fingerprint card or other document with both the Commission and NFA, you may submit the original Form 8-R, fingerprint card or other document to either the Commission or NFA and simultaneously submit a legible, accurate and complete photocopy of the Form 8-R, fingerprint card or document with an original signature and date in each place where required on the original form, card or document, to NFA or the Commission. All photocopies should note at the bottom of the copy that "Original was sent to NFA" or "Original was sent to the CFTC" as appropriate.

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[1]Fingerprint Cards — In lieu of a fingerprint card you may submit (1) a legible, accurate and complete photocopy of a fingerprint card which has been submitted to the FBI for processing and identification if such processing was completed satisfactorily by the FBI not more than 90 days prior to the filing with the Commission or NFA of the photocopy. (You must include any report, record or notation made available by the FBI with respect to the fingerprint card.) Photocopies must be validated on the reverse side with the signature of an officer, a general partner or the sole proprietor. Floor broker applicants using this alternative must sign for themselves; or (2) a statement that your application for initial registration in any capacity was granted within the preceding 90 days, PROVIDED that you were required to file a fingerprint card in connection with such application for initial registration.

Form 8-R (7/85)
Previous Editions Obsolete

COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION

OMB No 3038-0023

FORM 8-R

REGISTRATION FEES

All fees must be remitted by money order, bank draft or check. Registration fees are nonrefundable.

APs of FCMs, IBs, CTAs and CPOs
Each Form 8-R filed to obtain registration or special registration as an AP of an FCM, IB, CPO or CTA must be accompanied by a fee of $30 payable to National Futures Association.

APs of LTMs
Each Form 8-R filed to obtain registration or special registration as an AP of an LTM must be accompanied by a fee of $35 payable to the Commodity Futures Trading Commission.

Floor Brokers
Each application for registration or for renewal of registration as a floor broker must be accompanied by a fee of $25 payable to the Commodity Futures Trading Commission.

TESTING REQUIREMENTS

(Not applicable to Floor Brokers and APs of LTMs)

All individuals applying for registration as a sole proprietor FCM, IB, CPO, CTA or as an AP of any of the foregoing must provide proof of passage of the National Commodity Futures Examination ("NCFE" or "Series 3".) A copy of the testing application can be found in this booklet.

No exemptions or waivers of the testing requirement will be granted. However, certain individuals may not be required to take the NCFE (Series 3) because they meet conditions established by NFA. These are:

If Applicant is applying as:	Then NCFE not required if:
AP of FCM, CPO or CTA, or sole proprietor FCM, CPO or CTA	Applicant has been continuously registered or pending as an FCM, IB, CPO, CTA or AP or principal of any of the foregoing, since on or before March 1, 1984, without a lapse in registration.
AP of an IB, or sole proprietor IB	Applicant has been continuously registered or pending as an FCM, IB, CPO, CTA, or AP or principal of any of the foregoing, since on or before August 1, 1983, without a lapse in registration.
Any of the above, and is currently registered as a floor broker	Floor Broker registration is current (pending or inactive floor brokers not applicable.)
Any of the above, and is registered with NASD as General Securities Representative and limits futures activities to soliciting or accepting orders for stock index products or supervision of persons whose activities are so limited, and passed the NYFE Registered Commodity Representative (Series 20) exam before December 31, 1984	Applicant continues to limit futures activities to soliciting or accepting orders for stock index products or supervising persons whose activities are so limited.
Any of the above, and is registered with NASD as General Securities Representative and limits futures activities to solicitation of commodity pool participants or supervision of persons whose activities are so limited.	Applicant submits Alternate Testing Certification (Certification available from NFA) and proof of NASD registration.

TEMPORARY LICENSES

If the Form 8-R is being filed in connection with an initial application for registration as an AP, you may receive a temporary license pending completion of your fitness check and prior to being granted registration. If you receive a temporary license, you may act in the capacity of an AP as if such registration had been granted. In that case, you will be subject to all of the obligations and liabilities imposed on a registrant under the Commodity Exchange Act and the rules, regulations and orders thereunder. In particular you will be subject to reparation and arbitration proceedings. A temporary license, however, does not confer any right to registration at a later date.

An applicant will **not** qualify for a temporary license if he answers "Yes" to any questions in items 14-18 of the Disciplinary History section.

While acting pursuant to a temporary license, an applicant for registration as an AP may not be sponsored by any registrant other than that registrant which filed the sponsor's certification.

If you receive a temporary license, it will terminate immediately: (1) upon notice that you are subject to a statutory disqualification under Section 8a(2) through Section 8a(4) of the Act, (2) upon termination of your association with the sponsoring registrant; or (3) at the end of six months. Unless action is taken to deny your application for registration within six months of the date the license is granted, the license will convert automatically to a registration.

ASSOCIATE MEMBERSHIP IN NFA

If your sponsor is a Member of NFA you will be granted Associate membership in NFA for the duration of the temporary license, and you will become an Associate if and when you are granted registration as an AP.

DURATION OF REGISTRATION AS AN AP

The duration of your registration as an AP will be until (1) you cease association with your sponsor for whatever reason or (2) you or your sponsor's registration lapses or is revoked, suspended, or withdrawn.

TERMINATIONS AND FAILURES TO BECOME ASSOCIATED

An FCM, IB, CPO or CTA **must** file a properly completed Notice of Termination (Form 8-T) with NFA within twenty days after the occurence of any of the following: (1) the failure of an individual to become associated with the sponsoring registrant after the filing of a Form 8-R on his behalf, or (2) the termination of the association of an individual with the sponsoring registrant, or (3) the termination of the affiliation of a principal with the firm. Form 8-T's for LTM personnel should be filed with the Commission.

Notice of termination as described above may be given on a Uniform Termination Notice for Securities Industry Registration (Form U-5) in lieu of a Form 8-T.

Form 8-R (7/85)
Previous Editions Obsolete

COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION

OMB No. 3038-0023

FORM 8-R

GENERAL INSTRUCTIONS FOR PREPARING FORM 8-R

1. All information must be typed or neatly printed in black ink.
2. All required signatures must be original; mechanical reproduction of signatures will not be accepted.
3. All questions on Form 8-R must be answered unless specifically directed otherwise. If you are not required to answer a question, enter "Not Applicable."
4. You must use all space provided on Form 8-R before using a supplemental sheet. Be certain that the name of the applicant, the appropriate signatory and the number corresponding to the number on the Form 8-R appear on every attachment sheet.
5. Each AP, Floor Broker or principal of a registrant must keep accurate and current the information supplied on the Form 8-R or any supplements thereto. A change of any such information must be promptly reported on a Form 3-R. A Form 3-R is provided in this booklet. Tear it out and keep it for future use.
6. If you have an inquiry or question about a pending application and you are filing as an associated person or principal, you should contact the sponsor with which you are going to be affiliated.
7. You should retain a copy of all applications and test results for your files.
8. If an application is incomplete or otherwise improperly submitted its processing will be delayed. If an application is seriously deficient it may be returned. Filing fees are not refundable.
9. Acceptance of any form does not constitute a finding that the information contained therein is accurate, current or complete or that it has otherwise been filed as required.

Form 8-R (7/85)
Previous Editions Obsolete

COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION

OMB No 3038-0023

FORM 8-R

APPLICATION FOR REGISTRATION AS ASSOCIATED PERSON AND NFA ASSOCIATE OR FLOOR BROKER AND SUPPLEMENT TO APPLICATION ON CFTC FORM 7-R AND SPECIAL REGISTRATION FOR CERTAIN ASSOCIATED PERSONS

BE CERTAIN TO ANSWER ALL QUESTIONS AS DIRECTED

A. REGISTRATION INFORMATION

1. THIS FORM IS BEING FILED TO REGISTER AS THE FOLLOWING (Staple Application Fee to Left Side of This Page)

(FILE WITH NFA)
- ☐ Associated Person of FCM ($30)
- ☐ Associated Person of IB ($30)
- ☐ Associated Person of CTA ($30)
- ☐ Associated Person of CPO ($30)

(FILE WITH CFTC)
- ☐ Associated Person of LTM ($35)
- ☐ Floor Broker ($25)

1A. THIS FORM IS BEING FILED AS A BIOGRAPHICAL SUPPLEMENT TO APPLICATION FOR REGISTRATION (No Additional Fee Required.) A principal who is also registering as an AP must check the appropriate boxes (LTM's File with CFTC, All others file with NFA)

- ☐ Principal
- ☐ Branch Office Manager or Designated Supervisor

2. **SPECIAL REGISTRATION.** If you meet the requirements of 2A or B below you are eligible to apply for Special Registration. If you are using this form to apply for special registration do **NOT** file Form 8-S.

NOTE: If the new sponsoring firm is a CTA or CPO and the Applicant continues to be registered as an AP of another CTA or CPO or as an AP of an FCM or IB, the new sponsoring CTA or CPO must file Form 3-R (Part II) instead of this form. (Check applicable boxes and complete as indicated.)

The New Sponsoring Firm is:

A. An ☐ FCM ☐ IB ☐ CTA ☐ CPO ☐ LTM Applicant's prior AP registration has expired within the preceeding 60 days.

Name of Prior Firm		
Firm NFA ID No	Firm CFTC ID No	Date AP Terminated

B. An ☐ FCM or ☐ IB and the Applicant continues to be registered as an AP of a CTA and/or CPO firm

Name of CTA and/or CPO Firm continuing to Sponsor AP		
Firm NFA ID No	Firm CFTC ID No	Check Categories
		☐ CTA ☐ CPO

Effective Date of Special Registration is date this Form 8-R is mailed. Date mailed: _____ Mo/Day/Yr

B. PERSONAL HISTORY

3. NAME (Last, First, Middle, Suffix)*

	PERSONAL ID No. (If Assigned)	
	4a. NFA ID	4b. CFTC ID

5. HAVE YOU EVER BEEN KNOWN BY ANY OTHER NAME(S) (Including Maiden Name)?*
☐ YES If "yes," give name(s) ☐ No

6. RESIDENCE ADDRESS (Street, City, State, Zip Code, Post Office Box No. Not Acceptable)* *

7. DATE OF BIRTH (Mo/Day/Yr)*	8. PLACE OF BIRTH (City and State)*	9. SOC. SEC. NO.* *

C. EMPLOYMENT HISTORY. Present and past employment for the past 10 years starting with the sponsoring firm and working back. (All time must be accounted for, including self-employment, part-time employment, unemployment and military service. Attach a continuation sheet if necessary.) IF IN SCHOOL — PLEASE INDICATE.

START WITH THE FIRM THAT IS SUBMITTING THIS APPLICATION ON YOUR BEHALF. IF YOU ARE ONLY APPLYING AS A FLOOR BROKER, LEAVE FIRST BOX BLANK.

FROM Mo/Yr	TO Mo/Yr	10. NAME AND COMPLETE ADDRESS OF **SPONSOR** (Street, City, State, Zip Code)	11a. NFA ID	11b. CFTC ID	POSITION HELD

(Continued on reverse side)

* If answers to items 3, 5 and 6 should change in the future, update on Form 3-R.
* Responses to items 6, 7, 8 and 9 may be submitted on a supplemental sheet.
* Voluntary submission. Inclusion assists in proper identification and expedites processing.

FOR STAFF USE ONLY

TEST _____ SIG _____ SDDI _____ OTHER _____

REG. CHECK _____ EMP/HIST/INFO _____ VER _____ _____

FBI _____ RES _____ CERT _____ _____

EDUC _____ _____

Form 8-R (7/85)
Previous Editions Obsolete

COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION

OMB No. 3038-0023

FORM 8-R

(Continued from previous page)

FROM Mo/Yr	TO Mo/Yr	ADDITIONAL EMPLOYERS (Floor Brokers start here) NAME AND COMPLETE ADDRESS OF EMPLOYER (Street, City, State, Zip Code)	POSITION HELD	REASON FOR LEAVING
		NAME Address		
		NAME Address		
		NAME Address		

(Attach a Continuation Sheet if Necessary)

D. RESIDENTIAL HISTORY: List all home addresses for the past 10 years. Start with your current residence and work back. Attach a continuation sheet if necessary.

FROM Mo/Yr	TO Mo/Yr	COMPLETE ADDRESS (Post Office Box No. Not Acceptable) Street	City	State	Zip Code

E. EDUCATIONAL HISTORY: List each college or university attended. If none, list last high school attended.

FROM Mo/Yr	TO Mo/Yr	NAME AND COMPLETE ADDRESS OF INSTITUTION (Street, City, State and Zip Code)	MAJOR	DEGREE E
		NAME Address		
		NAME Address		
		NAME Address		

TEST: Have you passed the National Commodity Futures Examination (Series 3)? Yes ☐ No ☐ **IF YES, SUBMIT A COPY OF THE TEST RESULTS WITH THIS APPLICATION.** (Proof of passage of the NCFE is necessary if a temporary license is to be issued or if you are to be registered.)

F. BUSINESS INFORMATION — TO BE COMPLETED BY FLOOR BROKERS ONLY

12. BUSINESS ADDRESS: (Street, City, State, Zip Code. Post Office Box No. Not Acceptable)*

13. Check all U.S. commodity exchanges on which you have been granted membership or trading privileges or have an application pending.*

Granted	Pending		Granted	Pending		Granted	Pending	
☐	☐	ACC	☐	☐	CE!	☐	☐	NYFE
☐	☐	CBOT	☐	☐	KCBT	☐	☐	NYME
☐	☐	CME	☐	☐	MACE	☐	☐	PBOT
☐	☐	CRCE	☐	☐	MGE	☐	☐	Other _____
☐	☐	CSCE	☐	☐	NYCE & A			

* If answers to items 12 and 13 should change in the future, update on Form 3-R.

Form 8-R (7/85)
Previous Editions Obsolete

COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION

OMB No. 3038-0023

FORM 8-R

G. DISCIPLINARY HISTORY

INSTRUCTIONS: Carefully read the following instructions before you answer items 14 through 21.

A. For each question answered "YES," supply the following information:

1. What the circumstances were, in your own words.
2. Who was involved (e.g. the parties to any proceeding);
3. When the event or conduct requiring a "YES" answer happened.
4. What the final determination was, if any, and the date on which that determination was made.
5. A certified copy of any applicable documents, such as any complaint, plea, order, agreement of settlement, verdict or other findings made, and sanctions or sentences imposed. (Court orders should be certified.) If documents are not attached, an explanation stating why documents are not obtainable must be furnished.

B. With respect to item 14B and item 15, a "YES" answer is required regardless of whether: the record was expunged, set aside or sealed; there was a conditional discharge or post-conviction dismissal; a state certificate or relief from disabilities or similar document was issued which relieves the holder of forfeitures, disabilities or bars that result from a conviction; or a pardon was granted. You must also include information as to the foregoing matters. You may, however, answer "NO" if the case was adjudicated in a juvenile court or under a youth offender law.

Note: If you answer "YES" to more than one question and the details and documents you must supply with respect to each are identical, you need only supply such information once. Be sure, however, to indicate for which questions such information is being supplied. No details or documents need be furnished if the details have been reported in writing to the Commission or NFA on a previous registration application or supplemental statement or if the action was brought by the Commission or NFA or was a reparations proceeding. **You must, however, write the words "previous filing," if applicable, give the name and docket or case number of the action or proceeding next to your "YES" response and indicate the year of the action or proceeding.**

C. You are deemed to control a firm, corporation or other organization if you:

1. Have the right to vote, or are the beneficial owner of, ten percent or more of the voting securities;
2. Are entitled to receive ten percent or more of the net profits;
3. Have contributed ten percent or more of the capital;
4. Are the chief executive officer;
5. Are a director;
6. Are a sole proprietor, if organized as a sole proprietorship, or
7. Are a general partner, if organized as a partnership.

14. Have you or any firm, corporation or other organization which you control or have controlled **ever:**

A. Been subject to an expulsion, bar, fine or civil monetary penalty, censure, denial (including withdrawal of an application for cause), suspension or revocation of membership or registration, permanent or temporary injunction, cease and desist order, denial of trading privileges or other sanction or disciplinary action through an adverse determination, voluntary settlement or otherwise in an action or proceeding brought by or before:

(i) The Commodity Futures Trading Commission, the Securities and Exchange Commission or the attorney general, securities commissioner or a similar regulatory authority of any state, territory, possession, the District of Columbia or foreign country:

☐ YES ☐ NO

(ii) Any commodity, option or securities exchange, clearing organization, contract market, National Futures Association or other association registered with the Commission under section 17 of the Commodity Exchange Act, or the National Association of Securities Dealers, Inc.; or

☐ YES ☐ NO

(iii) A professional association in any of the following fields: accounting, banking, commodities, finance, insurance, law, real estate or securities?

☐ YES ☐ NO

B. Been charged with, been convicted or found guilty of, or pleaded guilty or nolo contendere to, any felony in a federal, state or foreign court?

☐ YES ☐ NO

C. Been found by any court or by the Commission or any federal or state agency or other governmental body, or by agreement of settlement to which the Commission or any federal or state agency or other governmental body is a party:

(i) To have violated any provision of the Commodity Exchange Act, the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Securities Investor Protection Act of 1970, the Foreign Corrupt Practices Act of 1977, or any similar statute of a state or foreign jurisdiction, or any rule, regulation or order under any such statute, or the rules of the Municipal Securities Rulemaking Board:

☐ YES ☐ NO

(ii) To have violated any statute or any rule, regulation or order thereunder which involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery or gambling; or

☐ YES ☐ NO

(iii) To have willfully aided, abetted, counseled, commanded, induced or procured such violation by any other person?

☐ YES ☐ NO

D. Been debarred by any agency of the United States from contracting with the United States?

☐ YES ☐ NO

Form 8-R (7-85)
Previous Editions Obsolete

COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION

OMB No. 3038-0023

FORM 8-R

15. Within the last ten years, have you or any firm, corporation or other organization which you control or have controlled, been convicted or found guilty of, or pleaded guilty or nolo contendere to, a misdemeanor which:

(i) Involves any transaction or advice concerning any contract of sale of a commodity for future delivery or any activity subject to Commission regulation under section 4c (options) or 19 (leverage transactions) of the Commodity Exchange Act or concerning a security;

☐ YES ☐ NO

(ii) Arises out of the conduct of the business of a futures commission merchant, introducing broker, floor broker, commodity trading advisor, commodity pool operator, leverage transaction merchant, associated person of any registrant under the Commodity Exchange Act, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or an affiliated person or employee of any of the foregoing;

☐ YES ☐ NO

(iii) Involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery or gambling; or

☐ YES ☐ NO

(iv) Involves the violation of section 152 (concealment of assets, making of false oaths or claims, or bribery in connection with a bankruptcy), 1341, 1342, or 1343 (mail fraud) or chapter 25 (counterfeiting and forgery), 47 (fraud or false statements in a matter within the jurisdiction of a United States department or agency), 95 (racketeering) or 96 (racketeering activity) of title 18 of the United States Code?

☐ YES ☐ NO

16. Are you or any firm, corporation or other organization which you control or have controlled, a party to any action, or is there any charge pending, or have you been informed of any action or charge, the resolution of which could result in a "YES" answer to any of the above questions (items 14 and 15)?

☐ YES ☐ NO

17. Within the past ten years, has any firm, corporation or other organization which you control or have controlled been adjudicated bankrupt under any bankruptcy code or act, had a trustee appointed pursuant to the Securities Investor Protection Act of 1970 or been in federal or state receivership?

☐ YES ☐ NO

18. Have you ever:

A. Made or caused to be made any statement which was found to be at the time and in light of the circumstances under which it was made, false or misleading with respect to any material fact, or omitted to state any material fact, which was required to be stated:

(i) In any application for registration with, or for membership, associate membership or participation in;

☐ YES ☐ NO

(ii) In any report required to be filed with; or

☐ YES ☐ NO

(iii) In any proceeding before;

any self-regulatory organization described in item 14A(ii) above, the Commission or the Securities and Exchange Commission?

☐ YES ☐ NO

B. Been discharged, or requested or permitted to resign for cause as a result of allegations or charges of embezzlement, theft, fraud, fraudulent conversion, misappropriation of funds, securities or property, or failure to supervise another person in the conduct of such person's activities as a registrant of the Commission, Securities and Exchange Commission, National Futures Association, National Association of Securities Dealers, Inc. or other self-regulatory organization?

☐ YES ☐ NO

19. Has a bonding or surety company ever denied, paid out on, or revoked coverage for you?

☐ YES ☐ NO

20. Do you now have any unsatisfied judgments or liens against you?

☐ YES ☐ NO

21. Were you discharged or permitted to resign from any employment due to a complaint or legal proceeding by a customer, an investigation, or any disciplinary action?

☐ YES ☐ NO

NOTE: IF ANSWERS TO ITEMS 14-21 SHOULD CHANGE IN THE FUTURE, UPDATE ON FORM 3-R.

Form 8-R (7/85)
Previous Editions Obsolete

COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION

OMB No 3038-0023

FORM 8-R

H. **Applicant's Certification** (The following should be read very carefully and signed by the applicant, registrant, branch office manager or other principals.)

I understand that I am subject to the imposition of criminal penalties under section 9(b) of the Commodity Exchange Act and 18 U.S.C. 1001 for any false statements or omissions made in this application. I further certify that I will at all times keep accurate and current the answers to the items required to be updated by filing written notice of changes with National Futures Association, 200 W. Madison Street, Chicago, Illinois 60606, or, in the case of an associated person or principal of a leverage transaction merchant or floor broker, with the Commission's Registration Unit, 233 South Wacker Drive, Suite 4600, Chicago, Illinois 60606.

I certify that my answers and statements in this Form 8-R are true and that in light of the circumstances under which I have given them, my answers and statements in this Form 8-R are not misleading in any material respect. If I am applying for Special Registration, I further certify that my registration as an associated person is not suspended or revoked and if I have answered "Yes" to item 14 or item 16 the sponsor listed in item C-10 has been given a copy of the complaint or notice issued by the CFTC or NFA.

I understand that my address as submitted on Form 8-R may be deemed to be the address for delivery to me of any communications from the Commission and National Futures Association, including any notice of intent to deny, revoke or otherwise affect my registration, any summons, complaint, reparation claim, arbitration claim, order, subpoena, request for information, or any other written communication, unless I specify another address for this purpose. I further understand that I must keep current the address on this Form 8-R.

I understand that I am not registered and may not act as an associated person or floor broker until a notice has been issued that registration has been granted unless (1) I am applying for and am eligible to receive Special Registration as an associated person; (2) this Form 8-R has been timely filed as an application for renewal of registration as a floor broker, or (3) a temporary license has been issued.

APPLICANT AGREEMENT. Does not apply to floor brokers and AP's of LTM's. If I am submitting this application to obtain registration as an associated person, I hereby also apply for registration with NFA as an Associate if my sponsor is or becomes a member of NFA and I understand that under NFA Bylaw (301)(f), execution and delivery of this application shall constitute (A) a representation that the information supplied in the application is complete and accurate, and (B) an express agreement by me that, if registered as an Associate, I shall become and remain bound by all NFA requirements as then and thereafter in effect. I also understand that if I am submitting this application in order to obtain registration as an associated person or as a supplement to my application for registration individually in another capacity (other than as a floor broker) that I may be subject to proficiency testing requirements under NFA rules, satisfaction of which is a prerequisite to obtaining a temporary license or such registration. I agree that the decision of NFA as to the results of any examinations that I may be required to pass under such rules will be accepted by me as final.

In consideration of NFA receiving and considering this application (if submitted to obtain registration as an Associate), I also submit to the jurisdiction of any contract market, of which my sponsor or any current or future guarantor (under CFTC Rule 1.10(j)) of my sponsor is or may become a member, which has or may adopt rules which apply to me as an associated person and I further agree to abide by all such rules and to comply with, be subject to, and abide by all requirements, rulings, orders, directives and decisions of and any penalties, prohibitions and limitations imposed by any such contract market.

I hereby authorize NFA and any contract market of which my sponsor or any current or future guarantor (under CFTC Rule 1.10(j)) of my sponsor is or may become a member ("self-regulatory organizations") to conduct investigations to determine my fitness for registration as an Associate and for association with my sponsor as an associated person and I agree to cooperate promptly and fully in such investigation, including submitting such documents and information to any self-regulatory organization which such self-regulatory organization, in its discretion, may require in connection with determining such fitness. I hereby authorize and request any person having such information to furnish it to any self-regulatory organization (or any agent acting on its behalf) upon its request and any person furnishing information to a self-regulatory organization in connection with the investigation authorized hereby, and any self-regulatory organization (or any agent acting in its behalf) hereby is released from any and all liability of whatever nature by reason of furnishing such information to a self-regulatory organization (or its agent) or by reason of conducting such investigation.

SIGNATURE _____ DATE _____

WILLFUL FALSIFICATION, MISREPRESENTATION OR OMISSION OF ANY MATERIAL FACT REQUIRED TO BE STATED ON THIS FORM CONSTITUTES CAUSE FOR DENIAL, SUSPENSION, OR REVOCATION OF REGISTRATION AND PROSECUTION UNDER CRIMINAL STATUTES OF THE INDIVIDUAL AND FIRM MAKING THE ABOVE CERTIFICATION.

Form 8-R (7/85)
Previous Editions Obsolete

COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION

OMB No 3038-0023

FORM 8-R

SPONSOR'S CERTIFICATION

(To be completed by Sponsor for Associated Person Registration Only)

APPLICANT'S NAME (Last, First, Middle, Suffix)	NFA ID No	CFTC ID No

I. VERIFICATION OF EMPLOYMENT AND EDUCATION (Periods of unemployment must be verified)

Sponsor must verify applicant's education and employment history during the preceding five years by contacting the relevant sources. If applicant left a previous employment as an AP within the last 60 days, the sponsor may indicate verification by noting below that it has contacted the applicant's last previous employer. The sponsor remains responsible in all cases for verification of the applicant's employment and education history for the past five years.

EMPLOYED OR ATTENDED (Mo Yr)		EMPLOYER OR SCHOOL	NAME OF PERSON CONTACTED	POSITION OF PERSON CONTACTED	HOW CONTACTED		
From	To				Tel	Ltr	Intv

J. SPONSOR'S CERTIFICATION STATEMENT

I hereby certify that the information supplied by the applicant in response to questions contained in Form 8-R which relate to the applicant's employment and education history for the past five years has been verified. I certify that this application is accurate and complete to the best of my knowledge, information and belief. I further certify: 1) that the applicant has been hired or is employed by the sponsoring firm; OR 2) it is the intention of the sponsor to hire or otherwise employ the applicant as an associated person within thirty days after receipt of notification that the applicant has received a temporary license or has been so registered (contingent upon the sponsor hiring or otherwise employing the applicant as an associated person within thirty days), and that further, the applicant will not be permitted to act as an associated person until the applicant has received a temporary license or has been registered as such pursuant to this application.

I understand it is the duty and obligation of the firm not to employ a person with a statutory disqualification under section 8a(2) of the Act, to notify the Commission when any person associated with the firm is subject to a statutory disqualification under section 8a(2) of the Act and to supervise the sponsored person named herein, once he or she is employed, with a view toward preventing him or her from committing violations of the Commodity Exchange Act and the rules, regulations, and orders thereunder. I further certify that if the applicant answered "Yes" to item 14 or 16 the firm has received a copy of the complaint or letter issued by the Commission.

I understand that information contained in the Form 8-R has been supplied to this firm for the sole purpose of allowing it to verify the information contained in Form 8-R in connection with the registration of the person named herein as an associated person. I further represent that I have taken, and will take, such measures as are necessary to prevent the unwarranted dissemination of any of the information contained in Form 8-R and the records and documents retained in support of Form 8-R.

WILLFUL FALSIFICATION, MISREPRESENTATION, OR OMISSION OF ANY MATERIAL FACT REQUIRED TO BE STATED ON THIS FORM CONSTITUTES CAUSE FOR DENIAL, SUSPENSION, OR REVOCATION OF REGISTRATION AND PROSECUTION UNDER CRIMINAL STATUTES OF THE INDIVIDUAL AND FIRM MAKING THE ABOVE CERTIFICATION.

PRINT NAME OF SPONSOR	FIRM ID No. (If Assigned)	
	NFA ID	CFTC ID

PRINT NAME AND TITLE OF APPROPRIATE SIGNATORY _____
(Must be signed by an officer, a general partner, or sole proprietor) SIGNATURE DATE

Form 8-R (7/85)
Previous Editions Obsolete

COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION

OMB No. 3038-0023

FORM 8-R

DEFINITIONS

1. **Associated Persons**
This term means any natural person who is associated in any of the following capacities with:

(1) A futures commission merchant or introducing broker as a partner, officer or employee (or any natural person occupying a similar status or performing similar functions), in any capacity which involves: (i) the solicitation or acceptance of customers' or option customers' orders (other than in a clerical capacity) or (ii) the supervision of any person or persons so engaged.

(2) A commodity pool operator as a partner, officer, employee, consultant or agent (or any natural person occupying a similar status or performing similar functions), in any capacity which involves: (i) the solicitation of funds, securities or property for participation in a commodity pool or (ii) the supervision of any person or persons so engaged.

(3) A commodity trading advisor as a partner, officer, employee, consultant or agent (or any natural person occupying a similar status or performing similar functions), in any capacity which involves: (i) the solicitation of a client's or prospective client's discretionary account or (ii) the supervision of any person or persons so engaged, or

(4) A leverage transaction merchant as a partner, officer, employee, consultant or agent (or any natural person occupying a similar status or performing similar functions), in any capacity which involves: (i) the solicitation or acceptance of leverage customers' orders (other than in a clerical capacity) for leverage transactions as defined in Section 31.4(x) of the Commission's regulations or (ii) the supervision of any person or persons so engaged.

2. **Floor Brokers**
This term means any person who, in or surrounding any pit, ring, post or other place provided by a contract market for the meeting of persons similarly engaged, purchases or sells for any person any commodity for future delivery on or subject to the rules of any contract market and includes any person required to register as a floor broker by the Commission's regulations relating to commodity options. An applicant for registration as a floor broker (or for renewal thereof) must have been granted membership or trading privileges by a commodity exchange which has been designated by the Commission as a contract market.

An exchange member who executes only his own trades by being personally present in a pit or place for futures trading is a floor trader, and, as such, is not required to be registered.

3. **Principals**
This term means, with respect to an applicant for registration, a registrant or a person required to be registered under the Commodity Exchange Act or regulations thereunder: (1) any person, including but not limited to, a sole proprietor, general partner, officer, director, branch office manager or designated supervisor, or person occupying a similar status or performing similar functions, having the power, directly or indirectly, through agreement or otherwise, to exercise a controlling influence over the activities of that person which are subject to regulation by the Commission; (2) any holder or beneficial owner of ten percent or more of the outstanding shares of any class of stock; or (3) any person who has contributed ten percent or more of the capital.

Note: Any principal who acts in the capacity of an associated person must be registered as such with the Commission.

4. **National Futures Association Associate**
This term means a person who is associated with a Member of NFA within the meaning of the term "associated person" as used in Section 4k of the Commodity Exchange Act and who is required to be registered as an "associated person" with the Commodity Futures Trading Commission.

ABBREVIATIONS

Exchanges

ACC	Amex Commodities Corporation
CBOT	Chicago Board of Trade
CME	Chicago Mercantile Exchange
CRCE	Chicago Rice & Cotton Exchange
CSCE	Coffee, Sugar & Cocoa Exchange
CEI	Commodity Exchange, Inc.
KCBT	Kansas City Board of Trade
MACE	MidAmerica Commodity Exchange
MGE	Minneapolis Grain Exchange
NYCE & A	New York Cotton Exchange & Associates
NYFE	New York Futures Exchange
NYME	New York Mercantile Exchange
PBOT	Philadelphia Board of Trade

REQUEST FOR QUALIFICATION EXAMINATIONS

U-10
1/85

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.
1735 K Street, N.W., Washington, D.C. 20006

(For use by broker-dealers not members of the NASD and/or NASD members requesting examinations administered but not required by the NASD).

1. Applicant's Name _____
Last First Middle (if none, so specify)

2. ☐☐☐
Social Security Number

3.* ☐☐☐☐☐☐
Firm ID

*CRD Number _____

*Completion of the NASD Firm "ID" and the "CRD Number" will expedite the processing of your application. If you do not know these numbers, please leave these spaces blank.

Firm Name _____

4. Firm Address _____
Street City and State Zip

— NOTE —

A PASSING GRADE ON ANY EXAMINATION DOES NOT CONSTITUTE REGISTRATION WITH THE NASD OR ANY OTHER SELF-REGULATORY ORGANIZATION.

REQUIREMENTS FOR STATE REGISTRATION VARY AMONG JURISDICTIONS. CANDIDATES ARE RESPONSIBLE FOR CONSULTING WITH THE APPLICABLE STATE JURISDICTION TO DETERMINE THE EXAMINATION REQUIREMENTS FOR THE LICENSE THEY SEEK TO OBTAIN.

THE NASD CANNOT ASSUME RESPONSIBILITY FOR A CANDIDATE'S CHOICE OF EXAMINATION.

5. Please place a checkmark in the box beside each examination requested. More than one box may be checked. Be sure to enclose $40.00 for each examination desired. (The fee for the Series 8 Examination is $80.00.)

- ☐ General Securities Representative (Non-Member) (Series 2)
- ☐ National Commodity Futures (Series 3)
- ☐ Registered Options Principal (Series 4)
- ☐ Interest Rate Options (Series 5)
- ☐ Investment Company and Variable Contracts Products Representative (Series 6)
- ☐ General Securities Sales Supervisor (Series 8)
- ☐ Foreign Currency Options (Series 15)
- ☐ Direct Participation Programs Representative (Series 22)
- ☐ General Securities Principal (Series 24)
- ☐ Investment Company and Variable Contracts Products Principal (Series 26)
- ☐ Financial and Operations Principal (Series 27)
- ☐ Direct Participation Programs Principal (Series 39)
- ☐ Municipal Securities Representative (Series 52)
- ☐ Municipal Securities Principal (Series 53)
- ☐ Municipal Securities Financial and Operations Principal (Series 54)
- ☐ Uniform Securities Agent State Law Examination (Series 63)
- ☐ Other (please specify) _____
- ☐ Other (please specify) _____
- ☐ Other (please specify) _____

6. Examination results should be reported to the following:
Self-regulatory organizations

- ☐ (ASE) American Stock Exchange
- ☐ (BSE) Boston Stock Exchange
- ☐ (C-A) California — Advisors
- ☐ (CBO) Chicago Board of Options Exchange
- ☐ (CBT) Chicago Board of Trade
- ☐ (CME) Chicago Mercantile Exchange
- ☐ (CMX) Commodity Exchange, Inc.
- ☐ (COC) Comptroller of the Currency
- ☐ (CSC) New York Coffee, Sugar & Cocoa Exchange
- ☐ (CSDA) Canadian Securities Dealers Association
- ☐ (CSE) Cincinnati Stock Exchange
- ☐ (CTN) New York Cotton Exchange
- ☐ (FDIC) Federal Deposit Insurance Corporation
- ☐ (FRB) Federal Reserve Board
- ☐ (KCB) Kansas City Board of Trade
- ☐ (MCE) MidAmerica Commodity Exchange
- ☐ (MSE) Midwest Stock Exchange
- ☐ (NFA) National Futures Association
- ☐ (NOCE) New Orleans Commodity Exchange
- ☐ (NYFE) New York Futures Exchange
- ☐ (NYM) New York Mercantile Exchange
- ☐ (NYSE) New York Stock Exchange
- ☐ (PHLX) Philadelphia Stock Exchange
- ☐ (PSE) Pacific Stock Exchange
- ☐ Other (please specify) _____
- ☐ Other (please specify) _____

DO NOT DETACH

NASD QUALIFICATION EXAMINATIONS

U-10

Applicant's Name _____

Firm Name _____

Firm Address _____

Indicate amount of payment enclosed $_____

(Instructions on Reverse Side)

INSTRUCTIONS

1. Send completed form and $40.00 ($80.00 for Series 8) for each examination requested to:
   The National Association of Securities Dealers, Inc.
   1735 K Street, N.W.
   Washington, D.C. 20006
2. Examination fees are NOT REFUNDABLE.
3. Re-examination: Resubmit this form and the appropriate examination fee.
4. The certificate of admission is valid for 90 calendar days only.
5. Expired certificate of admission: Resubmit this form and the appropriate examination fee.
6. A cancellation fee will be charged if a candidate fails to appear for an appointment, if a scheduled appointment for a PLATO examination is not cancelled by noon of the second business day preceding an appointment or if the candidate arrives at the PLATO center after the appointment time.

PLATO TEST CENTER LOCATIONS

BIRMINGHAM, ALABAMA
PHOENIX, ARIZONA
EL CAJON, CALIFORNIA
IRVINE, CALIFORNIA
LOS ANGELES, CALIFORNIA
SACRAMENTO, CALIFORNIA
SAN FRANCISCO, CALIFORNIA
SUNNYVALE, CALIFORNIA
DENVER, COLORADO
FARMINGTON, CONNECTICUT
WASHINGTON, D.C.
CLEARWATER, FLORIDA
CORAL GABLES, FLORIDA
ORLANDO, FLORIDA
ATLANTA, GEORGIA
BENSONVILLE, ILLINOIS
CHICAGO, ILLINOIS
INDIANAPOLIS, INDIANA
KANSAS CITY, KANSAS
LOUISVILLE, KENTUCKY
NEW ORLEANS, LOUISIANA
BALTIMORE, MARYLAND
BOSTON, MASSACHUSETTS
SOUTHFIELD, MICHIGAN
EDINA, MINNESOTA
MINNEAPOLIS, MINNESOTA
ST. PAUL, MINNESOTA
JACKSON, MISSISSIPPI
ST. LOUIS, MISSOURI
LINCOLN, NEBRASKA
OMAHA, NEBRASKA
WEST ORANGE, NEW JERSEY
ALBUQUERQUE, NEW MEXICO
BUFFALO, NEW YORK
GARDEN CITY, NEW YORK
NEW YORK, NEW YORK
ROCHESTER, NEW YORK
CHARLOTTE, NORTH CAROLINA
CINCINNATI, OHIO
INDEPENDENCE, OHIO
COLUMBUS, OHIO
DAYTON, OHIO
TOLEDO, OHIO
OKLAHOMA CITY, OKLAHOMA
PORTLAND, OREGON
PHILADELPHIA, PENNSYLVANIA
PITTSBURGH, PENNSYLVANIA
CHARLESTON, SOUTH CAROLINA
MEMPHIS, TENNESSEE
NASHVILLE, TENNESSEE
DALLAS, TEXAS
HOUSTON, TEXAS
SAN ANTONIO, TEXAS
SALT LAKE CITY, UTAH
RICHMOND, VIRGINIA
SEATTLE, WASHINGTON
CHARLESTON, WEST VIRGINIA
MILWAUKEE, WISCONSIN

WRITTEN EXAMINATIONS — A candidate who is required to take a PLATO administered examination and wishes to do so in a location serviced by a Control Data learning center must sit for the examination on the PLATO System. The NASD will make printed examinations available at its traditional test centers which are located in the following cities not serviced by Control Data learning centers:

ANCHORAGE, ALASKA
LITTLE ROCK, ARKANSAS
HONOLULU, HAWAII
BOISE, IDAHO
DES MOINES, IOWA
GREAT FALLS, MONTANA
LAS VEGAS, NEVADA
LOUDONVILLE, NEW YORK
BISMARCK, NORTH DAKOTA
RIO PIEDRAS, PUERTO RICO
SIOUX FALLS, SOUTH DAKOTA
AMARILLO, TEXAS
EL PASO, TEXAS
SPOKANE, WASHINGTON
CASPER, WYOMING

All examinations at the above locations will be given on the first (1st) Saturday of the month. Appointments for these locations are necessary and must be made by telephoning the NASD Qualification/Examination Department in Washington, D.C. (202) 728-8800 at least eight (8) full business days prior to the examination session desired.

Form 8-T (7-85)
Previous Editions Obsolete

COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION
FORM 8-T
NOTICE OF TERMINATION

OMB No 3038-0023

(To be Completed By Futures Commission Merchant, Introducing Broker, Commodity Trading Advisor, Commodity Pool Operator, or Leverage Transaction Merchant For Associated Person, NFA Associate, Branch Officer Manager, Designated Supervisor or Other Principal)

Instructions: A sponsoring registrant must file this Form (or the Form U-5, Uniform Termination Notice for Securities Industry Registration) within **twenty days** after the occurrence of any of the following: (1) the failure of an individual to become associated with the sponsoring registrant after the filing of a Form 8-R on his behalf; (2) the termination of the association of an individual with the sponsoring registrant; or (3) the termination of the affiliation of a principal with the firm. Send all 8-T's to National Futures Association, Office of the Secretary, P.O. Box 98383, Chicago, Illinois 60693, **except** those for LTM personnel which should be sent to the Commodity Futures Trading Commission, P.O. Box 70685, Chicago, Illinois 60673.

1 NAME (Last, First, Middle, Suffix)	PERSONAL ID No	
	2a NFA ID	2b CFTC ID

3 DATE OF BIRTH (Mo/Day/Yr)*	4 PLACE OF BIRTH (City & State)*	5 SOCIAL SECURITY NUMBER*

* Provide responses to questions 3, 4 and 5 on a supplemental sheet if the registrant, branch office manager or principal originally provided such information on a supplemental attachment to Form 8-R. While submission of Social Security Number is voluntary, inclusion assists in proper identification and expedites processing.

6 FIRM NAME	FIRM ID No	
	7a NFA ID	7b CFTC ID

INSTRUCTIONS: Answer each question below by placing a check in the appropriate box. Furnish full details on supplemental sheet for boxes marked by a double asterisk (**).

8 DATE TERMINATED / /	9 REASON FOR TERMINATION (Check One)
8A Terminated As ☐ AP ☐ PRINCIPAL ☐ BRANCH MANAGER ☐ NFA ASSOCIATE	☐ VOLUNTARY ☐ DECEASED ☐ PERMITTED TO RESIGN** ☐ DISCHARGED** ☐ OTHER** _____

10. While employed by or associated or affiliated with your firm, was the individual the subject of:

(a) Any investigation or proceeding conducted by any governmental agency or self-regulatory body which has jurisdiction over the banking, commodities, insurance, real estate, or securities industry? ☐ YES** ☐ NO

(b) A refusal of registration, censure, suspension, expulsion, fine or any disciplinary action by any governmental agency or self-regulatory body, having jurisdiction over the banking, commodities, insurance, real estate or securities industry? ☐ YES** ☐ NO

(c) Any material complaint or any legal proceeding by a customer or any internal investigation or disciplinary proceeding? ☐ YES** ☐ NO

(d) Any conviction of a felony? ☐ YES** ☐ NO

(e) Any conviction of a misdemeanor involving any transaction subject to regulation under the Commodity Exchange Act or the securities act or arising out of the individual's misconduct as a registrant with the Commission, National Futures Association or National Association of Securities Dealers Inc.? ☐ YES** ☐ NO

(f) A denial or revocation of coverage provided by a bonding or surety company or a payout by a bonding or surety company? ☐ YES** ☐ NO

(g) Any unsatisfied judgments or liens? ☐ YES** ☐ NO

11. Is there any reason to believe that the individual while employed by or associated with your firm, may have violated any provision of any commodities or securities law or regulation or any agreement with or rule of any governmental agency or self-regulatory body or engaged in conduct which may be inconsistent with just and equitable principles of trade under the rules or regulations of any governmental or self-regulatory body? ☐ YES** ☐ NO

PRINT NAME AND TITLE
OF APPROPRIATE SIGNATORY
(Corporate Officer, General Partner
or Sole Proprietor)

ORIGINAL SIGNATURE OF APPROPRIATE SIGNATORY DATE

WILLFUL FALSIFICATION, MISREPRESENTATION, OR OMISSION OF ANY MATERIAL FACT REQUIRED TO BE STATED ON THIS FORM CONSTITUTES CAUSE FOR DENIAL, SUSPENSION, OR REVOCATION OF REGISTRATION AND PROSECUTION UNDER CRIMINAL STATUTES OF THE INDIVIDUAL AND FIRM MAKING THE ABOVE CERTIFICATION.

OFFICE USE ONLY

Form 3-R (7-85)
Previous Editions Obsolete

COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION

OMB No. 3038-0023

FORM 3-R
SUPPLEMENTAL STATEMENT TO APPLICATION FOR REGISTRATION

INSTRUCTIONS

1. The prompt filing of Part I of this form is required by section 3.31 of the regulations under the Commodity Exchange Act if the information reported in any of the items specified in the instructions to Form 7-R or Form 8-R, or on any schedule or supplemental statement thereto, is found to be incorrect or incomplete or if changes occur which render that information no longer accurate and current. If you are reporting changes to disciplinary history, be sure to provide certified copies of applicable documents.

2. Whenever there is an addition of a natural person as a principal or branch office manager or designated supervisor in items 9 or 10 of Form 7-R, that person must complete a Form 8-R and a fingerprint card which should be attached to this form unless that individual is exempt from filing under the provisions of section 3.32 of the Commission's regulations. Section 3.32 also should be reviewed carefully to determine whether a new registration is required. In general, a new registration will be required whenever there is a change in the control or the form of organization of the registrant. The FCM, IB, CTA, CPO or LTM should note in Part I, item 4, the reason for not attaching a Form 8-R and fingerprint card for these individuals and, if the individual is a registered associated person, also furnish his or her CFTC or NFA ID number.

(CONTINUED ON REVERSE SIDE)

PART I — CHANGES AND CORRECTIONS IN REGISTRATION INFORMATION (Check where applicable)

1. ☐ Futures Commission Merchant ☐ Commodity Pool Operator ☐ Associated Person
☐ Introducing Broker ☐ Leverage Transaction Merchant ☐ Principal
☐ Commodity Trading Advisor ☐ Floor Broker ☐ Branch Office Manager or Designated Supervisor

2. NAME OF APPLICANT OR REGISTRANT	ID NUMBER (Or Date and Place of Birth)	
	3a. NFA ID	3b. CFTC ID

4. APPLICATION FORM AND SCHEDULE	ITEM NO	CHANGES AND CORRECTIONS OF INFORMATION CONTAINED IN APPLICATION FOR REGISTRATION OR SUPPLEMENTAL STATEMENT (Attach a continuation sheet if necessary)	EFFECTIVE DATE

5. CERTIFICATION

"I hereby certify that all changes and corrections contained or incorporated herein are true to the best of my knowledge and belief.

PRINT NAME AND TITLE OF APPROPRIATE SIGNATORY
(Must be signed by AP, FB or Corporate Officer, General Partner or Sole Proprietor)

SIGNATURE OF APPROPRIATE SIGNATORY DATE

WILLFUL FALSIFICATION, MISREPRESENTATION, OR OMISSION OF ANY MATERIAL FACT REQUIRED TO BE STATED ON THIS FORM CONSTITUTES CAUSE FOR DENIAL, SUSPENSION, OR REVOCATION OF REGISTRATION AND PROSECUTION UNDER CRIMINAL STATUTES OF THE INDIVIDUAL AND FIRM MAKING THE ABOVE CERTIFICATION.

Form 3-R (7-83)
Previous Editions Obsolete

COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION
FORM 3-R

OMB No. 3038-0023

PART II — REPORTING BY ADDITIONAL SPONSORING FIRM OF MULTIPLE ASSOCIATIONS OF APs OF CTAs AND CPOs

1. NAME OF AP. (Last, First, Middle, Suffix)		AP's ID No. (If None, Give Date and Place of Birth)	
		2a. NFA ID	2b. CFTC ID
3. NAME OF CURRENT SPONSOR (Must be registered as an FCM, IB, CTA, CPO or LTM)	Check Registration Categories ☐ FCM ☐ CTA ☐ LTM ☐ IB ☐ CPO	FIRM ID No. 4a. NFA ID	4b. CFTC ID
5. NAME OF ADDITIONAL SPONSOR (Must be registered as a CTA or CPO)	Check Registration Categories ☐ CTA ☐ CPO	FIRM ID No. 6a. NFA ID	6b. CFTC ID

7. SPONSOR'S CERTIFICATION

I hereby certify that: (a) the above individual registered as an AP has been hired by our firm which is the additional sponsor; (b) the current sponsor has been contacted and the individual's continued AP registration with the current sponsor has been confirmed; (c) the above individual registered as an AP is not subject to a statutory disqualification as set forth in section 8a(2) of the Commodity Exchange Act [7 U.S.C. §12a(2)]; and (d) in addition to its responsibility to supervise that AP, our firm, registered as a CTA and/or a CPO, acknowledges that it hereby is jointly and severally responsible for the conduct of the AP with respect to the solicitation of any client's or prospective client's discretionary account or the solicitation of funds, securities or property for participation in a commodity pool, with respect to any customers or option customers common to our firm and any other CTAs or CPOs with which the AP is associated.

PRINT NAME AND TITLE OF APPROPRIATE SIGNATORY (Corporate Officer, General Partner or Sole Proprietor) | SIGNATURE OF APPROPRIATE SIGNATORY | DATE

WILLFUL FALSIFICATION, MISREPRESENTATION, OR OMISSION OF ANY MATERIAL FACT REQUIRED TO BE STATED ON THIS FORM CONSTITUTES CAUSE FOR DENIAL, SUSPENSION, OR REVOCATION OF REGISTRATION AND PROSECUTION UNDER CRIMINAL STATUTES OF THE INDIVIDUAL AND FIRM MAKING THE ABOVE CERTIFICATION.

INSTRUCTIONS CONTINUED

3. Use Part I of this form to promptly amend an application from the time the application is filed, while the application is pending and after registration has been granted, unless instructed otherwise.
4. Where to file. Send all registration forms to National Futures Association, Office of the Secretary, P.O. Box 98383, Chicago, Illinois 60693, **except** those for associated persons and principals of leverage transaction merchants as well as floor broker forms, which should be sent with separate remittances to the Commodity Futures Trading Commission, P.O. Box 70685, Chicago, Illinois 60673. If you must file with both the Commission and NFA, you may submit the original to either the Commission or NFA and simultaneously submit a legible, accurate and complete photocopy (with an original signature and date where required) to NFA or the Commission. All photocopies should note at the bottom of the copy that "Original was sent to NFA" or "Original was sent to the CFTC" as appropriate.
5. Report terminations and failures to become associated on Form 8-T, Notice of Termination, or on Form U-5, Uniform Termination Notice for Securities Industry Registration.
6. Use Part II of this form to report the multiple association that occurs if your firm is registered as a CTA and/or CPO and employs any individual who is already registered as an AP of an FCM, IB, CTA, CPO or LTM.

NOTE: Use Form 8-R, fingerprint card and fee for a multiple association that occurs if your firm is registered as an FCM or IB and you are employing an individual who will continue to be registered as an AP of a CTA or CPO. Also use Form 8-R, fingerprint card and fee to add an AP who has recently terminated as an AP of an FCM, IB, CTA, CPO or LTM.

Form 8-S (7-85)
Previous Editions Obsolete

COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION

OMB No. 3038-0023

FORM 8-S
CERTIFICATE OF SPECIAL REGISTRATION FOR CERTAIN ASSOCIATED PERSONS

1. NAME OF AP (Last, First, Middle, Suffix)	PERSONAL ID No	
	2a. NFA ID	2b. CFTC ID
	3. SOC. SEC. No.*	

4. NAME OF SPONSORING NEW FIRM	FIRM ID No	
	5a. NFA ID	5b. CFTC ID

6. BASIS OF ELIGIBILITY FOR SPECIAL REGISTRATION. (Check applicable boxes and complete as indicated)

The New Sponsoring Firm is:

A. An ☐ FCM ☐ IB ☐ CTA ☐ CPO or ☐ LTM Applicant's prior AP registration has expired within the preceding 60 days.

Name of Prior Firm		
Firm NFA ID No	Firm CFTC ID No.	Date AP Terminated

B. An ☐ FCM or ☐ IB and the Applicant continues to be registered as an AP of a CTA and/or CPO Firm.*

Name of CTA and/or CPO Firm Continuing to Sponsor the AP		
Firm NFA ID No	Firm CFTC ID No.	Check Categories
		☐ CTA ☐ CPO

*NOTE: If the new sponsoring firm is a CTA or CPO and the applicant continues to be registered as an AP of another CTA or CPO, or as an AP of an FCM or IB, the new sponsoring CTA or CPO must file Form 3-R instead of this Form 8-S.

7A. CFTC PROCEEDINGS (Check applicable box)

Is there a proceeding pending to deny, suspend or revoke your registration in any capacity with the Commodity Futures Trading Commission or has the Commodity Futures Trading Commisssion within the past twelve months given you a denial or withdrawal notice under its regulations? ☐ YES ☐ NO

7B. Were you discharged or permitted to resign from any employer due to a complaint or legal proceeding by a customer, investigation, or any disciplinary action? If yes, furnish full details on supplemental sheet. ☐ YES ☐ NO

8. APPLICANT'S CERTIFICATION

I hereby certify that my registration as an associated person is not suspended or revoked and that the answers and statements in this Form 8-S are accurate and complete. I further certify that if I have answered item 7A "YES," the sponsor listed in item 4 has been given a copy of the complaint or notice issued by the Commodity Futures Trading Commission.

SIGNATURE DATE

9. SPONSOR'S CERTIFICATION

EFFECTIVE DATE OF REGISTRATION IS DATE THIS FORM 8-S IS MAILED.

DATE CFTC FORM MAILED (Mo/Day/Yr)

I hereby certify that the above individual has been hired or otherwise employed by the sponsoring firm of which I am an officer, general partner or sole proprietor. I further certify that if that individual has answered "YES" to item 7A, the sponsor has received a copy of the complaint or letter issued by the CFTC.

PRINT NAME AND TITLE OF APPROPRIATE SIGNATORY (Corporate Officer, General Partner or Sole Proprietor) SIGNATURE OF APPROPRIATE SIGNATORY DATE

* Voluntary Submission. Inclusion assists in proper identification and expedites processing. May be submitted on a separate sheet.

WILLFUL FALSIFICATION, MISREPRESENTATION, OR OMISSION OF ANY MATERIAL FACT REQUIRED TO BE STATED ON THIS FORM CONSTITUTES CAUSE FOR DENIAL, SUSPENSION, OR REVOCATION OF REGISTRATION AND PROSECUTION UNDER CRIMINAL STATUTES OF THE INDIVIDUAL AND FIRM MAKING THE ABOVE CERTIFICATION.

Form 8-S (7/85)
Previous Editions Obsolete

COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION

OMB No. 3038-0023

FORM 8-S

INSTRUCTIONS FOR FORM 8-S

WHEN TO USE FORM 8-S: Form 8-S may be used to obtain immediate AP registration as of the date the Form 8-S is mailed when the individual meets either of the criteria in item 6.

Item 6A— Use when the AP leaves the prior firm **and** goes to the new sponsoring firm within 60 days. The new sponsoring firm may be an FCM, IB, CTA, CPO or LTM; however, an AP or an FCM or IB may not be simultaneously associated with a CTA or CPO which clears or introduces its trades through the FCM or IB.

Item 6B— Use when the AP stays with the prior firm (which is registered as a CTA and/or CPO) **and** adds a new sponsoring FCM or IB. (See Note below if the new sponsoring firm is a CTA and/or CPO.)

NOTE: Form 3-R, Part II (Reporting by Additional Sponsoring Firm of Multiple Association of APs of CTAs and CPOs) should be used when the AP stays with the prior firm (which is registered as an FCM, IB, CTA, or CPO) **and** adds a new sponsoring firm which is registered as a CTA or CPO.

WHAT TO FILE: If the AP meets the eligibility requirements specified in Item 6:

(a) The AP and sponsoring firm must complete and sign Form 8-S. The AP is registered as of the date Form 8-S is mailed. See item 9.

(b) Within 60 days, the AP and sponsoring firm then must file a Form 8-R with the Sponsor's Certification, a legible fingerprint card and the registration fee. NOTE: Do not send the registration fee with the Form 8-S.

WHERE TO FILE:

Send all Form 8-S's to National Futures Association, Office of the Secretary, P.O. Box 98383, Chicago, Illinois 60693 except those for LTM personnel which should be sent to the Commodity Futures Trading Commission, P.O. Box 70685, Chicago, Illinois 60673.

If you must file with both the Commission and NFA, you may submit the original to either the Commission or NFA and simultaneously submit a legible, accurate and complete photocopy (with an original signature and date where required) to NFA or the Commission. All photocopies should note at the bottom that "Original was sent to NFA" or "Original was sent to the CFTC" as appropriate.

Form 8-R (7/85)
Previous Editions Obsolete

COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION

OMB No. 3038-0023

PRIVACY ACT NOTICE

This information in CFTC Forms 8-R, 8-S, 8-T and on the fingerprint card is being collected pursuant to authority granted in sections 4f, 4k, 4n, 8a and 19 of the Commodity Exchange Act [7 U.S.C. 6f, 6k, 6n, 12a and 23].

The information requested in Form 8-R and on the fingerprint card will be used by the Commodity Futures Trading Commission or National Futures Association, as appropriate, as a basis for initiating an inquiry into the individual's fitness to be an associated person or floor broker or to be a principal of a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator or leverage transaction merchant. The information requested in Form 8-S and portions of the information requested in Form 8-R will be used by the Commission and, in appropriate cases, by National Futures Association, to confirm the registration of certain associated persons. The information requested in Form 8-T will be used by the Commission, and, in appropriate cases, by National Futures Association, to record the registration status of the individual and, in appropriate cases, as a basis for a further inquiry into the individual's fitness to remain in business subject to the Commission's jurisdiction.

With the exception of the social security number, all information in Forms 8-R, 8-S and 8-T must be furnished before the forms will be processed. The furnishing of a social security number, however, assists the Commission and NFA in identifying individuals and therefore expedites the processing of those forms.

Failure by an applicant, registrant or principal to timely file or cause to be filed a properly completed Form 8-R, 8-S, 8-T or a fingerprint card may result in the lapse, denial, suspension, or revocation of registration or other enforcement action by the Commission.

With the exception of the fingerprint card and any supplementary information contained in attachments to Items 6-9 and 14-21 on Form 8-R or in attachments to Item 3 on Form 8-S or Items 3-5 and 9-11 on Form 8-T, these forms are considered by the Commission to be public records and will be available for inspection by any person. Copies will be maintained by National Futures Association, Registration Department, Suite 1400, 200 W. Madison Street, Chicago, IL 60606 (except those for floor brokers and associated persons of leverage transaction merchants, which will be maintained at the Commission's Central Regional Office at Sears Tower, Suite 4600, 233 S. Wacker Drive, Chicago, IL 60606). Further, the Commission or National Futures Association may disclose the fingerprint card and any such supplementary information to third parties pursuant to routine uses which the Commission has published in the Federal Register or as otherwise authorized under the Privacy Act, 5 U.S.C. 552a, and the Commodity Exchange Act. Disclosure of such information may be made by the Commission as follows: (1) in connection with administrative proceedings or matters in litigation; (2) in connection with Commission investigations; (3) where the information is furnished to regulatory, self-regulatory and law enforcement or other governmental agencies to assist them in meeting responsibilities assigned to them by law; (4) where disclosure is required under the Freedom of Information Act [5 U.S.C. 552]; (5) in connection with an employer's hiring or retention of an employee, (6) in connection with the verification of information submitted for sponsorship purposes; (7) in other circumstances in which the withholding of such information appears unwarranted; and (8) in connection with legally required or authorized reports. Disclosure may be made by National Futures Association in accordance with rules approved by the Commission.

If an individual believes that the placing in the Commission's or National Futures Association's public files of any of the information contained in the attachments to Items 6-9 and 14-21 on Form 8-R, Item 3 on Form 8-S, or Items 3-5 and 9-11 on Form 8-T, or on the fingerprint card would constitute an unwarranted invasion of his personal privacy, the individual may petition the Commission, pursuant to 17 CFR 145.9, to treat such information as non-public in response to requests under the Freedom of Information Act.

This notice is provided in accordance with the requirements of the Privacy Act, 5 U.S.C. 552a(e) (3) and summarizes some of an individual's rights under the Privacy Act 5 U.S.C. 552a, and the Freedom of Information Act 5 U.S.C. 552. Individuals desiring further information should consult the Commission's regulations under the Privacy Act, 17 CFR Part 146, and under the Freedom of Information Act, 17 CFR Part 145, and the Commission's annual notice, published in the Federal Register, pursuant to the Privacy Act, of the existence and character of each system of records maintained by the Commission.

[FR Doc. 85-16684 Filed 7-16-85; 8:45 am]
BILLING CODE 6351-01-C

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[Release No. IC-14625; S7-35-84]

Separate Accounts Funding Flexible Premium Variable Life Insurance Contracts

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of rule amendments.

SUMMARY: The Commission is adopting amendments to two paragraphs of rule 6e-3(T) under the Investment Company Act of 1940. The amendments revise conditions under which insurance company separate accounts are permitted to offer flexible premium variable life insurance contracts ("flexible life") by permitting insurance companies to offer incidental insurance benefits and cover substandard underwriting risks in a manner consonant with the design of flexible life. The Commission is not at this time adopting a permanent rule.

EFFECTIVE DATE: The rule amendments will become effective July 17, 1985.

FOR FURTHER INFORMATION CONTACT: Brian M. Kaplowitz, Special Counsel, (202) 272-2061, or Robert E. Plaze, Attorney, (202) 272-2622, Office of Insurance Products and Legal Compliance, Division of Investment Management, Securities and Exchange Commission, 450 5th Street NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") today is adopting amendments to rule 6e-3(T) (17 CFR 270.6e-3(T)) under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) ("Act"). Rule 6e-3(T) provides extensive exemptive relief from various provisions of the Act for insurance company separate accounts offering flexible premium variable life insurance contracts ("flexible life" or "flexible contracts").[1] These amendments are designed to reconcile rule 6e-3(T) with the offering of certain "riders"[2] and the covering of certain risks in connection with flexible contracts. Specifically, the amendments grant additional exemptive relief to permit the deduction from cash values of (1) the cost of incidental insurance benefits ("incidental insurance charges")[3] and (2) charges imposed because the insured does not meet standard underwriting requirements ("substandard risk charges"). In addition, the amendments revise the definition of "payment" for the purpose of measuring compliance with various sales load limitation and refund provisions by including within the term "payment" amounts attributable to incidental insurance and substandard risk charges in flexible contracts in which these amounts are deducted from cash values.

Background and Discussion

On November 14, 1984, the Commission issued a release adopting on a temporary basis rule 6e-3(T) as a comprehensive exemptive rule for separate accounts proposing to offer flexible life. The adopting release also solicited comments on the rule.[4]

The Commission received thirteen letters of comment on rule 6e-3(T).[5] Six of these letters addressed the need to revise the rule in order that incidental insurance and substandard risk charges be treated under the Act's sales load provisions in a manner that would allow the charges for these items to be deducted from cash value.[6] While the Commission is not yet prepared to adopt the rule on a permanent basis, it believes that amendment of rule 6e-3(T) along the aforesaid lines should facilitate the life insurance industry designing flexible contracts which are consistent with the policies of the Act.[7]

A. Paragraph (b)(13)(iii)(E)—Deductions from Cash Value

Paragraph (b)(13)(iii)(E) provides relief from sections 27(c)(2) (15 U.S.C. 80a-27(c)(2)) and 26(a)(2) (15 U.S.C. 80a-26(a)(2)) to permit certain specified fees and charges to be deducted from account assets. However, that paragraph does not provide relief to deduct incidental insurance or substandard risk charges.

Flexible life is designed so that virtually all charges, including incidental insurance and substandard risk charges, may be collected by deductions from a flexible contract's cash value.[8] Moreover, deducting these charges from premium payments prior to allocation of the net premium to the separate account may not be feasible because the insured is not obligated, under flexible life, to make periodic payments.[9] In order to permit a flexible contract containing a rider for incidental benefits or covering substandard risks to operate as designed, the Commission has determined to revise paragraph (b)(13)(iii)(E).

B. Paragraph (c)(7)—Definition of Payment

The term "payment" is defined by paragraph (c)(7) in two ways depending on where it is used in the rule. Generally, "payment" means gross premiums paid. For purposes of calculating sales load and any refund of sales load, however, paragraph (c)(7) defines "payment" as the gross premium paid less certain charges for incidental insurance benefits or substandard risks. This bifurcated approach was intended to assure that the sales load and refund provisions apply only to the amount of sales load charged for the variable benefits.[10]

In this respect, paragraph (c)(7) is identical to paragraph (c)(7) of rule 6e-2, which regulates scheduled premium variable life insurance contracts ("scheduled life" or "scheduled contracts"). Scheduled contracts are characterized generally by the deduction of charges from each premium payment with the net premium then allocated to the separate account. When computing sales load and any required refund, these charges are simply subtracted from the annual scheduled premium payment and the relevant percentage limitations are applied to the remainder. However, in the case of

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[1] For a description of flexible life, *see* Investment Company Act Release 13632 (Nov. 23, 1983) (48 FR 54043 (Nov. 30, 1983); 29 SEC Docket 365 (Dec. 6, 1983)) and Investment Company Act Release 14234 (Nov. 14, 1984) (48 FR 47208 (Dec. 3, 1984); 31 SEC Docket 1113 (Nov. 27, 1984)).

[2] "Riders" to insurance contracts are supplements used to modify or add to coverages the contract otherwise provides.

[3] "Incidental Insurance Benefits" are defined in paragraph (c)(2) of Rule 6e-3(T).

[4] Investment Company Act Release 14234 ("Release 14234"). *See supra* note 1. Shortly thereafter the Commission proposed conforming amendments to rule 6e-2 under the Act (17 CFR 270.6e-2), a companion rule to rule 6e-3(T), that grants separate accounts offering scheduled premium variable life insurance contacts exemptive relief from the Act. Investment Company Act Release 14421 (March 15, 1985) (50 FR 11709 (March 25, 1985); 32 SEC Docket 1295 (April 2, 1985)).

[5] The comment letters included two extensive comments, one from an industry trade group, and the other from a law firm on behalf of an insurance company.

[6] One applicant has been granted exemptive relief in order to offer flexible contracts in the manner described above. *See* Investment Company Act Releases 14428 (Mar. 19, 1985) (notice), and 14475 (Apr. 17, 1985) (order). The modifications to rule 6e-3(T) the Commission is today adopting codify this relief insofar as it relates to paragraphs (b)(13)(iii)(E) and (c)(7) of the rule.

[7] This release should be considered the operative interpretive document insofar as it may conflict with the discussion of rule 6e-3(T) in sections II.B.12.c of II.C.7 of Release 14234.

[8] Some charges, such as sales load, certain administrative fees, and premium taxes, may be deducted from payments.

[9] *See* discussion *infra*.

[10] Release 14234 at section II.C.7.

flexible contracts, it is necessary to deduct incidental insurance and substandard risk charges from cash value because the need for charges to support them is constant while the timing and amount of payments are unpredictable.

The lack of relationship between premium payments and deductions of incidental insurance and substandard risk charges precludes application of a bifurcated sales load computation without use of a set of artificial assumptions. According to an industry commentator, there appears to be no practical means to attribute these charges to payments prospectively since it cannot be known in advance how the frequency or amount of payments will relate to these periodic deductions from cash value.

The inclusion of these charges within the definition of "payment" in one sense will result in a greater amount of permissible sales load because the base against which sales load is measured, *i.e.*, "payments" during a contract period, will expand to the extent a portion of a payment is attributable to incidental insurance or substandard risk charges. However, the deduction of incidental insurance and substandard risk charges periodically from cash value, rather than from payments, results in insureds having larger amounts of their premium payments allocated to the separate account and added to their cash values. Larger cash value benefits the insured by reducing the basic insurance charge and giving the insured the opportunity for greater investment return. Based on these considerations, the Commission has determined to amend paragraph (c)(7).

Paragraph (c)(7), as amended, excludes from the definition of "payment" incidental insurance and substandard risk charges only when those charges are deducted from premium payments in the same manner as scheduled contracts subject to rule 6e-2.[11] To the extent those charges are deducted from cash values, however, they are to be included within the definition of "payment."

List of Subjects in 17 CFR Part 270

Investment companies, Reporting and recordkeeping requirements, Securities.

[11] If either of those charges is deducted from premium payments before allocation of the net premium to the separate account, it must be excluded from the definition of "payment" for purposes of measuring sales load and refund rights, *i.e.*, each charge is treated independently.

Text of Amendments to Rule 6e-3(T)

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

PART 270—[AMENDED]

1. The authority citation of Part 270 continues to read in part as follows:

Authority: Sections 6(e) and 38(a) of the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-6(e) and 37(a). * * *

2. By revising paragraphs (b)(13)(iii)(E) and (c)(7) of § 270.6e-3(T) to read as follows:

§ 270.6e-3(T) Temporary exemptions for flexible premium variable life insurance separate accounts.

* * * * *

(b) * * *

(13) * * *

(iii) * * *

(E) The deduction of premium taxes imposed by any state or other governmental entity, the cost of insurance, charges assessed for incidental insurance benefits or if the insured does not meet standard underwriting requirements, and, if the separate account is organized as a management investment company, an investment advisory fee;

* * * * *

(c) * * *

(7) "Payment," as used in paragraphs (b)(13)(i), (b)(13)(ii), and (b)(13)(v)(A) of this Rule and in sections 27(a)(2) and 27(h)(2) solely with respect to flexible contracts, means for a contract period the gross premiums paid less any portion of such gross premiums deducted for the item specified in paragraph (c)(4)(viii) and, if deducted prior to the allocation of net premiums to the separate account, for the items specified in paragraphs (c)(4)(vi) and (c)(4)(vii) of this Rule. "Payment," as used in any other section of this Rule, means the gross premiums paid or payable for the flexible contract, *Except*, that "Payment" shall not include any amount deducted by the life insurer to recover excess sales loading previously applied to keep the contract in force pursuant to paragraph (b)(13)(iv)(B)(*2*) of this Rule.

* * * * *

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Chairman of the Commission previously certified that rule 6e-3(T) will not have a significant economic impact on a substantial number of small entities. No comments were received on that certification. The amendments do not alter the basis for this determination.

Paperwork Reduction Act

These amendments to rule 6e-3(T) are not subject to the Act because they do not impose an information collection requirement.

Administrative Procedure Act

Because this rulemaking is exemptive in nature, the Commission finds, pursuant to section 553(d)(1) of the Administrative Procedure Act (5 U.S.C. 553(d)(1)), that the 30 day delay in effectiveness is not required, and, accordingly, the rule amendments will become effective immediately upon publication in the **Federal Register**. The Commission has determined, pursuant to section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)), that there is no need to republish rule 6e-3(T) to obtain additional comment on its decision to amend this rule since the issues were raised by both Investment Company Act Releases 1362 (Nov. 23, 1983) (48 FR 54043 (Nov. 30, 1983); 29 SEC Docket 365 (Dec. 6, 1983)) and 14234 and in fact were commented upon.

By the Commission.

John Wheeler,

Secretary.

July 10, 1985.

[FR Doc. 85-16948 Filed 7-16-85; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for Feed Service Co., Inc., providing for the manufacture of 5- and 20-gram-per-pound tylosin premixes used to make complete feeds for swine, beef cattle, and chickens.

EFFECTIVE DATE: July 17, 1985.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1414.

SUPPLEMENTARY INFORMATION: Feed Service Co., Inc., 303 Lundin Blvd., P.O. Box 698, Mankato, MN 56001, is the sponsor of a supplement to NADA 111-637 submitted on its behalf by Elanco Products Co. The supplement provides

for the manufacture of 5- and 20-gram-per-pound tylosin premixes used to make complete feeds for swine, beef cattle, and chickens for use as in 21 CFR 558.625(f)(1)(i) through (vi). The supplement is approved and the regulations are amended to reflect the approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, RM. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has detemined under 21 CFR 25.24(d)(1)(i) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs; Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

2. Section 558.625 is amended by revising paragraph (b)(54) to read as follows:

§ 558.625 Tylosin

* * * * *

(b) * * *

(54) To 030841: 5, 10, 20, and 40 grams per pound, paragraph (f)(1)(i) through (vi) of this section.

* * * * *

Dated: July 11, 1985

Marvin A. Norcross,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 85-16896 Filed 7-16-85; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for Ag-Mark, Inc., providing for the manufacture of 5-, 10-, and 20-gram-per-pound tylosin premixes used to make complete feeds for swine, beef cattle, and chickens.

EFFECTIVE DATE: July 17, 1985.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1414.

SUPPLEMENTARY INFORMATION: Ag-Mark, Inc., P.O. Box 127, Teachey, NC 28464, is the sponsor of a supplement to NADA 121-147 submitted on its behalf by Elanco Products Co. The supplement provides for the manufacture of 5-, 10-, and 20-gram-per-pound tylosin premixes used to make complete feeds for swine, beef cattle, and chickens for use as in 21 CFR 558.625(f)(1)(i) through (vi). The supplement is approved and the regulations are amended to reflect the approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

2. Section 558.625 is amended by revising paragraph (b)(66) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(66) To 024174: 5, 10, 20, and 40 grams per pound, paragraph (f)(1)(i) through (vi) of this section.

* * * * *

Dated: July 11, 1985.

Marvin A. Norcross,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 85-16894 Filed 7-16-85; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 812

[Docket No. 76N-0324]

Investigational Device Exemptions; Conforming Amendments

Correction

In FR Doc. 85-15069, beginning on page 25908 in the issue of Monday, June 24, 1985, make the following corrections:

1. On page 25908, third column, seventh line from the bottom of the page, add "of" after "consideration".

2. In § 812.35(b), on page 25910, first column, sixth line, "will-being" should read "well-being".

BILLING CODE 1505-01-M

AFRICAN DEVELOPMENT FOUNDATION

22 CFR Part 1502

Availability of Records

AGENCY: African Development Foundation.

ACTION: Final rule.

SUMMARY: This action establishes the policies and procedures the African Development Foundation is adopting to permit the inspection and copying of documents of the Foundation in accordance with the requirements of the Freedom of Information Act. The regulations include procedures for

requesting documents and for processing such requests, and establishes the fees which shall be charged by the Foundation for costs associated with responding to requests.

EFFECTIVE DATE: August 17, 1985.

FOR FURTHER INFORMATION CONTACT: Paul Magid, General Counsel, Ann Richardson, Director, Administration and Finance, (202) 634–9853.

SUPPLEMENTARY INFORMATION: Proposed rulemaking was published on pages 18678–18680 of the **Federal Register** of May 2, 1985, and invited comments for 60 days ending July 1, 1985. No comments were received.

Executive Order 12291

The African Development Foundation has determined that this rule is not a major rule for the purpose of E.O. 12291 because it is not likely to result in an annual effect on the economy of $100 million or more.

Paperwork Reduction Act

This rule imposes no obligatory information requirements on the public.

Regulatory Flexibility Act of 1980

The President of the Foundation certifies that this rule will not have a significant impact on a substantial number of small entities.

List of Subjects in 22 CFR Part 1502

Administrative practice and procedures, Freedom of Information, Records.

Accordingly, Part 1502 is added to 22 CFR Chapter XV to read as follows:

PART 1502—AVAILABILITY OF RECORDS

Sec.

Authority: 5 U.S.C. 552, and 22 U.S.C. 290h–4.

§ 1502.1 Introduction.

(a) It is the policy of the African Development Foundation that information about its operations, procedures, and records be freely available to the public in accordance with the provisions of the Freedom of Information Act.

(b) The Foundation will make the fullest possible disclosure of its information and identifiable records consistent with the provisions of the Act and the regulations in this Part.

(c) The Director of Administration and Finance (A&F) shall be responsible for the Foundation's compliance with the processing requirements of the Freedom of Information Act.

§ 1502.2 Definitions.

As used in this Part, the following words have the meanings set forth below:

(a) "Act" means the act of June 5, 1967, sometimes referred to as the "Freedom of Information Act" or the Public Information Section of the Administrative Procedure Act, as amended, Pub. L. 90–23, 81 Stat. 54, codified at 5 U.S.C. 552.

(b) "Foundation" means the African Development Foundation.

(c) "President" means the President of the Foundation.

(d) "Record(s)" includes all books, papers, or other documentary materials made or received by the Foundation in connection with the transaction of its business which have been preserved or are appropriate for preservation by the Foundation as evidence of its organization, functions, policies, decisions, procedures, operations, or other activities, or because of the informational value of the data contained therein. Library or other material acquired and preserved solely for reference or exhibition purposes, and stocks of publications and other documents provided by the Foundation to the public in the normal course of doing business are not included within the definition of the word "records." The latter will continue to be made available to the public without charge.

§ 1502.3 Access to Foundation records.

Any person desiring to have access to Foundation records may call or apply in person between the hours of 10 a.m. and 4 p.m. on weekdays (holidays excluded) at the Foundation offices at 1724 Massachusetts Avenue, NW., Suite 200, Washington, D.C. 20036. Requests for access should be made to the Director of A&F, at the Foundation offices. If request is made for copies of any record, the Office of A&F will assist the person making such request in seeing that such copies are provided according to the rules in this Part.

§ 1502.4 Written requests.

In order to facilitate the processing of written requests, every petitioner should:

(a) Address his or her request to: Director, Administration and Finance Division, African Development Foundation, 1724 Massachusetts Avenue, NW., Suite 200, Washington, D.C. 20036.

Both the envelope and the request itself should be clearly marked: "Freedom of Information Act Request."

(b) Identify the desired record by name, title, author, a brief description, or number, and date, as applicable. The identification should be specific enough so that a record can be identified and found without unreasonably burdening or disrupting the operations of the Foundation. Blanket requests or requests for "the entire file of" or "all matters relating to" a specified subject will not be accepted. If the Foundation determines that a request does not reasonably describe the records sought, the requestor shall be advised what additional information is needed or informed why the request is insufficient.

(c) Include a check or money order to the order of the "African Development Foundation" covering the appropriate search and copying fees, or a request for determination of the fee and a promise to pay any amount over $3.00 in connection with the FOIA request.

§ 1502.5 Records available at the Foundation.

The Administration and Finance Division will make available for public inspection and copying, to the extent not authorized to be withheld, the following works or classes of information:

(a) A copy of Foundation regulations, including those published in Title 22 of the Code of Federal Regulations or of any other title of the Code.

(b) Statements of policy and interpretations which have been adopted by the Foundation and which are not published in the **Federal Register.**

(c) Administrative staff manuals and instructions to staff that affect a member of the public;

(d) Any indexes providing identifying information regarding any record described in paragraphs (b) and (c) of this section.

(e) Brochures and other printed materials describing the Foundation's activities.

§ 1502.6 Records of other Departments and Agencies.

Requests for records which have been originated by, or are primarily the concerns of, another U.S. Department or Agency will be forwarded to the particular Department or Agency involved, and the petitioner so notified. In response to requests for records or publications published by the Government Printing Office or other

Government printing activity, the Foundation will refer the petitioner to the appropriate sales office and refund any fee payments which accompanied the request.

§ 1502.7 Fees.

(a) *When charged.* Fees shall be charged in accordance with the schedules contained in paragraph (b) of this section for services rendered in responding to requests for Foundation records under this sub-part unless the Director of A&F determines that such charges, or a portion thereof, are not in the public interest because furnishing the information primarily benefits the general public. Fees shall also not be charged where they would amount, in the aggregate, for a request or series of related requests, to less than $3. Ordinarily, fees shall not be charged if the records requested are not found, or if located, are withheld as exempt.

(b) *Services charged for and amount charged.* For the services listed below expended in locating or making available records or copies thereof, the following charges shall be assessed:

(1) *Copies.* For copies $.10 per copy of each page.

(2) *Clerical searches.* For each one quarter hour spent by clerical personnel in excess of the first quarter hour in searching for and producing requested records, $2.30.

(3) *Non-routine, non-clerical searches.* Where the task of determining which records fall within a request and collecting them requires the time of professional or managerial personnel, and where the time required is substantial, for each one quarter hour spent in excess of the first quarter hour, $5.40. No charge shall be made for the time spent in resolving legal or policy issues affecting access to records of known contents.

(4) *Other charges.* When a response to a request requires services or materials other than those described in paragraphs (b)(1) through (b)(3) of this section, the direct cost of such services to the Foundation may be charged, providing the requestor has been given an estimate of such cost before it is incurred.

(c) *Revision of Schedule.* The fee schedule will be revised from time to time, without notice, to assure recovery of actual costs of rendering information services to any person. The revised schedule will be available without charge.

§ 1502.8 Exemptions

The following categories are examples of records which, if maintained by the Foundation, may be exempted from disclosure under 5 U.S.C. 552(b):

(a) Records specifically required by Executive Order to be exempt from disclosure in the interest of the national defense or foreign policy which properly classified pursuant to such Executive Order;

(b) Records related solely to the internal personnel rules and practices of the Foundation;

(c) Records specifically exempted from disclosure by statute (other than 5 U.S.C. 552b), providing that such statute (1) requires that the matter be withheld from the public in such a manner as to leave no discretion, or (2) establishes criteria for withholding or refers to particular types of matters to be withheld;

(d) Trade secrets and commercial or financial information obtained from any person which is privileged or confidential;

(e) Interagency or intra-agency memoranda or letters which would not be available by law to a private party in litigation with the Foundation;

(f) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(g) Investigatory files (including security investigation files and files concerning the conduct of employees) compiled for law enforcement purposes, except to the extent available by law to a private party.

The Foundation will not honor requests for exempt records or information.

§ 1502.9 Processing of requests.

(a) *Processing.* A person who has made a written request for records which meets the requirements of § 1502.4 shall be informed by the Director of A&F within ten working days of receipt of the Foundation's decision whether to deny or grant access to the records.

(b) *Denials.* If the Director of A&F, with the concurrence of the General Counsel, denies a request for records, the requestor will be informed of the name and title of the official responsible for the denial, the reasons for it, and the right to appeal the decision to the President of the Foundation within 15 working days of receipt of the denial. The President shall determine any appeal within 20 days of receipt and notify the requestor within the time period of the decision. If the decision is to uphold the denial, the requestor will be informed of the reasons for the decision and of the right to a judicial review of the decision in the federal courts.

(c) *Extension of time.* Where it is reasonably necessary to the proper processing of requests, the time required to respond to an FOIA request or an appeal may be extended for an additional 10 working days upon written notification to the requestor providing the reasons for the extension.

§ 1502.10 Judicial review.

On complaint, the district court of the United States in the district in which the complainant resides, or has his/her principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the Foundation from withholding Foundation records, and to order the production of any agency records improperly withheld from the complainant (5 U.S.C. 552(a)(4)(B)).

Dated: July 8, 1985.

Leonard H. Robinson, Jr.,

President, African Development Foundation.

[FR Doc. 85-16921 Filed 7-16-85; 8:45 am]

BILLING CODE 6117-01-M

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22 CFR Part 1504

Employee Responsibilities and Conduct

AGENCY: African Development Foundation.

ACTION: Final rule.

SUMMARY: This rule is intended to implement and interpret E.O. 1222 (3 CFR 1964–1965 Comp.; 5 CFR 735.104); Title 18, U.S.C. 203, 205, 207, 208, 209; and Title II of the Ethics in Government Act of 1978, as amended (5 U.S.C.). The African Development Foundation finds and determines that publication of these regulations in the Code of Federal Regulations is necessary for the effective discharge of its functions and activities.

EFFECTIVE DATE: August 17, 1985.

FOR FURTHER INFORMATION CONTACT: Paul Magid, General Counsel, (202) 634–9853.

SUPPLEMENTARY INFORMATION: Proposed rulemaking was published on pages 18878–18884 of the **Federal Register** of May 3, 1985, and invited comments for 60 days ending July 2, 1985. No comments were received.

Regulatory Flexibility Act of 1980

Generally, these regulations do not contain substantive new material. It is, therefore, certified that they will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

Executive Order 12291

The African Development Foundation has determined that this rule is not a major rule for purposes of E.O. 12291 because it is not likely to result in an annual effect on the economy of $100 million or more.

Paperwork Reduction Act

This rule imposes no obligatory information requirements on the general public.

List of Subjects in 22 CFR Part 1504

Conflicts of interest.

Accordingly, Part 1502 is added to 22 CFR Chapter XV to read as follows:

PART 1504—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Subpart A—General Provisions

Sec.

Subpart B—Standards of Conduct

Subpart C—Procedures

Authority: E.O. 11222, 3 CFR 1964–1965 Comp., 5 CFR 735.104.

Subpart A—General Provisions

§ 1504.101 Purpose.

The maintenance of the highest standards of honesty, integrity, impartiality, and conduct by Government employees and special Government employees is essential to assure the proper performance of the African Development Foundation's business and the maintenance of confidence by citizens in their Government. The avoidance of misconduct and conflicts of interests on the part of employees through informed judgment is indispensable to the maintenance of these standards. To accord with these concepts, this Part sets forth the Foundation's regulations prescribing standards of conduct and responsibilities for its employees, and requires statements reporting employment and financial interests.

§ 1504.102 Definitions.

As used in this Part:

(a) "Foundation" or "Agency" means the African Development Foundation.

(b) "Employee" includes anyone serving in the Foundation as:

(1) A person appointed by the President and confirmed by the Senate to a position in the Foundation;

(2) A person appointed by the Board of Directors;

(3) A person appointed by the President of the Foundation or by his/her designee to a position in the Foundation; or

(4) A special Government employee.

(c) "Regular office or employee" means an employee as defined in paragraph (b) (1), (2), or (3) of this section.

(d) "Special Government employee" means a person who is retained, designated, appointed, or employed to perform temporary duties for the Foundation, with or without compensation, for not to exceed 130 days during any period of 365 consecutive days, either on a full-time or intermittent basis.

(e) "Member of an employee's family" means a spouse, minor child, or other individual related to the employee by blood, marriage or adoption who are resident in the employee's household.

(f) "Counselor" means the Foundation's Counselor on Ethical Conduct and Conflicts of Interest. The Counselor for the Foundation will be the General Counsel of the Foundation. The Director of Administration and Finance will serve as Deputy Counselor.

(g) "Organization" as used herein includes profit and non-profit corporations, associations, partnerships, trusts, sole proprietorships, foundations, and foreign, State and local government units.

(h) "Potential Contractor" means any organization or individual that has submitted a proposal, application, or otherwise indicated in writing its intent to apply for or seek from the Foundation a specific contract or other agreement, including a grant, loan or loan guarantee.

(i) "is associated with" as used in §§ 1504.211 and 1504.212, means:

(1) Is a director of an organization or is a member of a board or committee which exercises a recommending or supervisory function in an organization; or

(2) Serves as an employee, officer, owner, trustee, partner, consultant, or paid advisor in an organization; or

(3) Owns (or his or her spouse, minor child, or other member of his or her immediate household owns) individually or collectively, 1 percent or more of the voting shares of an organization; or

(4) Owns (or his or her spouse, minor child, or other member of his or her immediate household owns) individually or collectively, either beneficially or as trustee, a direct financial interest in an organization through stock, stock options, bonds, or other securities, or obligations, valued at $50,000 or more; or

(5) As a continuing financial interest in an organization, such as participation in or entitlement under a bona fide pension plan, valued at $5,000 or more, through an arrangement resulting from prior employment or business or professional association.

Subpart B—Standards of Conduct

§ 1504.201 General.

(a) All employees of the Foundation are required to conduct themselves in such a manner as to create and maintain respect for the Foundation and the U.S. Government; to avoid situations which require or appear to require a balancing of private interests or obligations against official duties; to be mindful of the high standards of integrity expected of them in all their activities, both personal and official; and to conform with the applicable statutes, rules, and regulations governing their activities. Particularly, an employee shall avoid any action, whether or not specifically prohibited, which might result in or create the appearance of:

(1) Using public office for private gain;

(2) Giving preferential treatment to any organization or person;

(3) Impeding Government efficiency or economy;

(4) Losing complete independence or impartiality of action;

(5) Making a Government decision outside official channels;

(6) Affecting adversely the confidence of the public in the integrity of the Government; or

(7) Using Government employment to coerce, or give the appearance of coercing, a person in order to gain financial benefit for him or herself or for another person, particularly one with whom the employee has family, business or financial ties.

(b) An officer or employee of another Federal agency who is assigned or detailed to the Foundation shall adhere to the standards of conduct applicable to employees as set forth in this Part.

§ 1504.202 Statutes, rules, and regulations governing conduct of employees.

(a) The "Code of Ethics of Government Services" set forth by the Legislative Branch in House Concurrent Resolution 175, passed in 1958; the "Standards of Ethical Conduct for Government Officers and Employees" set forth by the President of the United States in Executive Order 11222, dated May 8, 1965, and the regulations issued by the Office of Personnel Management pursuant to this Executive Order (5 CFR Part 735); and other statutes, rules, and regulations governing conduct of employees, including Foundation regulations, shall govern Foundation employees in their service to the Government.

(b) Conflict of interest statutes: The provisions of 18 U.S.C. 203, 205, 207, 208, and 209 prohibiting conflicts of interests between an employee's Government duties and outside activities are summarized in specific sections of this Part.

(c) Miscellaneous statutory provisions: In addition to the various provisions referred to above, Foundation employees must observe the following:

(1) Chapter 11 of Title 18, United States Code, relating to bribery, graft, and conflicts of interests, as appropriate to the employees concerned.

(2) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(3) The prohibition against striking against the Government (5 U.S.C. 7311; 18 U.S.C. 1981).

(4) The prohibitions against: (i) The disclosure of classified information (18 U.S.C. 798; 50 U.S.C. 783); (ii) the disclosure of confidential information (18 U.S.C. 1905); and (iii) the disclosure of privileged information withheld under the exemptions of the Public Information Section of the Administrative Procedure Act (5 U.S.C. 552).

(5) The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

(6) The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a(c)).

(7) The prohibition against the misuse of the franking privilege (18 U.S.C. 1719).

(8) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

(9) The prohibition against fraud of false statements in a Government matter (18 U.S.C. 1001).

(10) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071).

(11) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(12) The prohibitions against (i): Embezzlement of Government money or property (18 U.S.C. 464); (ii) failing to account for public money (18 U.S.C. 643); and (iii) embezzlement of the money or property of another person in the possession of an employee by reason of his/her employment (18 U.S.C. 654).

(13) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(14) The prohibitions against political activities in Subchapter III of Chapter 73 of Title 5, United States Code, and 18 U.S.C. 602, 603, 607, and 608.

(15) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

(16) The prohibition against the employment of an individual convicted of a felonious rioting related offense (5 U.S.C. 7313).

(17) The prohibition against a public official's appointing or promoting a relative, or advocating such an appointment or promotion (5 U.S.C. 3110).

(18) The prohibition against self-dealing with a private foundation (26 U.S.C. 4941, 4946). "Self-dealing" is defined at 26 U.S.C. 4941(d) to include certain transactions involving an employee's receipt of pay, a loan, or reimbursement for travel or other expenses, or sale to or purchase of property from a private foundation.

§ 1504.203 Outside employment and other activities.

(a) An employee shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of Government employment. Incompatible activities include but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, conflicts of interest; or

(2) Outside employment which tends to impair the employee's mental or physical capacity to perform Government duties and responsibilities in an acceptable manner.

(b) A regular employee shall not receive any salary or anything of monetary value from a private source as compensation for services to the Government (18 U.S.C. 209). This section does not apply to special Government employees. Nor does it prevent a regular officer or employee from: (1) Continuing participation in a bona fide pension plan or other employee welfare or benefit plan maintained by a former employer, or (2) receiving payments or accepting contributions, awards, or other expenses in accordance with Chapter 41 or Title 5, United States Code, relating to employee training.

(c) Employees are encouraged to engage in teaching, lecturing, and writing which is not prohibited by law or regulations. However, an employee shall not, either for or without compensation, engage in teaching, lecturing, or writing (including teaching, lecturing, or writing for the purpose of the special preparation of person or class of persons for an examination of the Office of Personnel Management or The Board of Examiners for the Foreign Service) that depends on information obtained as a result of Government employment, except when the information has been made available to the general public or will be made available on request, or when the Chairman of the Board or the President of the Foundation gives written authorization for use of nonpublic information on the basis that the use is in public interest.

(d) This section does not perclude an employee from:

(1) Participation in the activities of national or State political parties not proscribed by law;

(2) Participation in the affairs of, or acceptance of an award for, a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational, recreational, public service, or civic organization; or

(3) Outside employment otherwise permitted under these regulations.

§ 1504.204 Speeches and participation in conferences.

(a) *Fees and expenses.* An employee may not accept a fee for his or her own use or benefit for making a speech, delivering a lecture, or participating in a discussion if the subject is the Foundation or Foundation programs or if such services are part of the employee's official Foundation duties. However, the employee may suggest that the amount otherwise payable as a fee or honorarium be contributed to a not-for-profit organization concerned with African development.

(b) When a meeting, discussion, or other gathering to which paragraph (a) of this section refers takes place at a substantial distance from the employee's home, he or she may accept such reimbursement, subject to the approval of the counselor, for the actual cost of transportation and necessary subsistence or expenses, as is compatible with this part and for which no Government payment or reimbursement is made. If an employee receives accommodations, goods, or services in kind from a non-Government source while on official travel, such items will be treated as a donation to the Foundation and an appropriate reduction will be made in per diem or other travel expenses payable.

(c) An employee may accept fees for speeches, etc., dealing with subjects other than Foundation programs when no official funds have been used in connection with his or her appearance and such activities do not interfere with the efficient performance of his or her duties, and for which leave of absence, where necessary, is obtained.

(d) No employee may participate for the Foundation in a conference or speak for the Foundation before audiences when he or she has reason to believe that any racial group has been segregated or excluded from the meeting, from any of the facilities or conferences, or from membership in the organization sponsoring the conference or meeting.

§ 1504.205 Gifts, entertainment, and favors.

(a) An employee shall not receive or solicit, directly or indirectly, for personal benefit or for persons with whom there exist family, business, or financial ties, anything of economic value as a gift, gratuity, loan, entertainment, or favor which might reasonably be interpreted by others as affecting the employee's independence or impartiality, from any person, corporation, or group, if the employee has reason to believe that the entity:

(1) Has or is seeking to obtain, contractual or other business or financial relationships with the Foundation;

(2) Conducts operations or activities which are regulated by the Foundation; or

(3) Has interests which may be substantially affected by the employee's performance or nonperformance of his or her official duty.

(b) Paragraph (a) of this section does not prohibit:

(1) Acceptance of things of economic value arising from obvious family or personal relationships (such as those between the employee and the parents, children, or spouse of the employee) when the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors;

(2) Acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting or on a project tour where an employee may properly be in attendance;

(3) Acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as, home mortgage loans; and

(4) Acceptance of unsolicited advertising or promotional material, such as, pens, pencils, note pads, calendars, and other items of nominal intrinsic value.

(c) An employee shall not solicit a contribution from another employee for a gift to an official superior, or accept a gift from an employee receiving less pay than himself/herself (5 U.S.C. 7351). However, this paragraph does not prohibit a voluntary gift of nominal value or a donation in a nominal amount made on a special occasion, such as marriage, illness, or retirement.

(d) An employee shall not accept a gift, present, decoration, nor any other thing from a foreign government unless authorized by Congress as provided by the Constitution, 5 U.S.C. 7342, and the regulations in Part 3 of Chapter 1 of Title 22 ("Acceptance of Gifts and Decorations from Foreign Governments").

(e) Neither this section nor § 1504.203 precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this Part and for which no Government payment or reimbursement has been made. However, this paragraph does not allow reimbursement, or payment to be made on the employee's behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits.

§ 1504.206 Financial interests.

(a) Neither a regular nor a special Government employee may participate in a governmental capacity in any matter in which that employee, the employee's spouse, minor child, associate or organization with whom there exists a business relationship, or person or organization with whom there exists negotiation for employment, has a financial interest (18 U.S.C. 208). Such an employee shall not: (1) Have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his/her Government duties and responsibilities; or (2) directly or indirectly, engage in any financial transaction as a result of, or primarily relying on, information obtained through his/her Government employment.

(b) An employee may be granted exemption from these restrictions provided: (1) The President of the Foundation for staff, or the Chairman of the Board for members of the Board, is first advised of the nature and circumstances of the particular matter, and the employees makes full disclosure of the financial interest, and (2) he/she receives in advance a written determination by the President or Chairman, as appropriate, that the outside financial interest is deemed not substantial enough to have an effect on the integrity of his/her services.

(c) This section does not preclude an employee from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Government so long as it is not prohibited by law, Executive Order 11222, this section, or these Foundation regulations.

§ 1504.207 Use of Government Property.

An employee shall not directly or indirectly, use, or allow the use of, Government property of any kind, including property leased to the Government, for other than officially approved activities. An employee has a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to him/her.

§ 1504.208 Misuse of information.

(a) For the purpose of furthering a private interest, an employee shall not, except as provided in § 1504.203, directly or indirectly, use, or allow the use of, official information obtained

through or in connection with Government employment which has not been made available to the general public.

(b) This section is not intended to discourage disclosure through proper channels of information which has been or should be made available to the public by law.

§ 1504.209 Indebtedness.

An employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law, such as, Federal, State, or local taxes. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee, reduced to judgment by a court, or imposed by law, such as Federal, State, or local taxes. "In a proper and timely manner" means in a manner which the Foundation determines does not, under the circumstances, reflect adversely on the Government as the individual's employer. In the event of dispute between an employee and an alleged creditor, this section does not require an agency to determine the validity or amount of the disputed debt.

§ 1504.210 Gambling, betting, and lotteries.

An employee shall not participate, while on Government-owned or leased property or while on duty for the Government, in any gambling activity, including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket.

§ 1504.211 Association with potential contractor prior to employment.

(a) No employee, or any person subject to his or her supervision, may participate in the decision to award a contract to any organization with which that employee has been associated in the past 2 years. When an employee becomes aware that such an organization is under consideration for or has applied for a contract with the Foundation, the employee shall notify his or her immediate supervisor in writing. The supervisor shall take whatever steps are necessary to exclude the employee from all aspects of the decision process regarding the contract or agreement.

(b) When an employee becomes aware that an organization with which he or she has been associated in the past 2 years is under consideration for or has applied for a contract with the Foundation, he or she shall refrain from participating in the decision process.

§ 1504.212 Association with Foundation contractor or potential contractor while an employee.

(a) No regular employee may be associated with any Foundation contractor or potential contractor. Any organization that is associated with a regular employee shall be suspended from consideration as a contractor.

(b) No regular or special employee, except in his or her official capacity as a Foundation employee, shall participate in any way on behalf of any organization in the preparation or development of a contract proposal involving the Foundation, or represent any other organization in a matter pending before the Foundation when such participation or representation would result in or create the appearance of the use of public office for private gain. In such cases, if a regular or special employee participates, while an employee of the Foundation, in any aspect of the development of a contract or agreement proposal on behalf of an organization, or represents another organization in a matter pending before the Foundation, that organization shall be suspended from consideration for the contract or other agreement.

(c) No regular or special employee who, prior to his or her employment at the Foundation, participated in the development of a contract or other agreement proposal on behalf of another organization, shall participate in any aspect of the decision process regarding that contract or other agreement, or, if the contract or other agreement is awarded, in any oversight or management capacity in relation to that contract or other agreement. In the event a regular or special employee who participated in the development of the contract or other agreement proposal prior to being employed at the Foundation does participate as a Foundation employee in the decision process for such contract or other agreement, the organization shall be suspended from consideration.

§ 1504.213 Economic and financial activities of employees abroad.

(a) Foundation employees are specifically prohibited from engaging in the activities listed below in any foreign country:

(1) Speculation in currency exchange;

(2) Transactions at exchange rates differing from local legally allowable rates, unless such transactions are duly authorized in advance by the Foundation;

(3) Sales to unauthorized persons, whether at cost or for profit, of currency acquired at preferential rates through diplomatic or other restricted arrangements;

(4) Transactions which entail the use, without official sanction, of the diplomatic pouch;

(5) Transfers of funds on behalf of blocked nationals, or otherwise in violation of U.S. foreign funds and assets control;

(6) Independent and unsanctioned private transactions which involve an employee as an individual in violation of applicable control regulations of foreign governments;

(7) Acting as an intermediary in the transfer of private funds for persons in one country to persons in another country, including the United States; and

(8) Permitting use of his or her official title in any private business transactions or in advertisements for business purposes.

(b) U.S. citizen-Foundation employees on official travel or assignment abroad are prohibited from engaging in the activities listed below:

(1) Transacting or having an interest in any business or engaging for profit in any profession or undertaking or other gainful employment in any country or countries in which he or she is on official travel assignment in his or her own name or through the agency of any other person.

(2) Investing in real estate or mortgages on properties located in his or her country of assignment. (The purchase of a house and land for personal occupancy is not considered a violation of this subparagraph); and

(3) Investing money in bonds, shares, or stocks of commercial concerns headquartered in his or her country of assignment or conducting a substantial portion of business in such country. (Such investments, if made prior to knowledge of assignment or detail to such country or countries, may be retained during such assignment or detail); and

(4) Selling or disposing of personal property, including automobiles, at prices producing profits which result primarily from import privileges derived from his or her official status as an employee for the U.S. Government.

§ 1504.214 Discrimination.

No employee may make inquiry concerning the race, political affiliation, or religious beliefs of any employee or applicant in connection with any personnel action, and may not practice, threaten, or promise any action against or in favor of any employee or applicant for employment because of race, color, religion, sex, age, or national origin, and in the competitive service, on the basis

of politics, marital status, or physical handicap.

§ 1504.215 General conduct prejudicial to the Government.

An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government.

Subpart C—Procedures

§ 1504.301 Responsibility of employees.

It is the responsibility of each employee: (a) To become familiar with the full text of applicable statutes, rules, and regulations before engaging in outside employment and financial activity which might involve a conflict of interest, or other activity which might involve a violation of standards of ethical conduct or of statutory or regulatory restrictions; and (b) to secure the advice or approval of his or her supervisor and the Counselor before engaging in the contemplated activity.

§ 1504.302 Sources of information and advice.

General information on statutes, rules, and regulations governing the conduct of employees may be obtained from the General Counsel. Specific information may be obtained from the United States Code, from the Federal Personnel Manual, and from Foundation regulations, all of which are available through the General Counsel. A copy (or a summary) of the Foundation regulations will be furnished to each employee in accordance with Office of Personnel Management Regulations (5 CFR Part 735). Clarification of standards of conduct and related laws, rules, and regulations, and advice on their applicability to individual situations, may be obtained from the General Counsel.

§ 1504.303 Executive personnel financial disclosure.

(a) The following employees of the Foundation shall submit completed Executive Personnel Financial Disclosure Reports (SF278) containing information required in accordance with 5 CFR Part 734, Subpart C:

(1) Within 5 days after transmittal by the President to the Senate of their nomination, each member of the Board of Directors of the Foundation.

(2) Within 30 days, after assuming the position, any newly appointed employee of the Foundation whose position is classified at GS–16 or above of the General Schedule, or whose basic rate of pay (excluding "step" increases) under other pay schedules is equal to or greater than the rate for GS–16 (Step 1).

(3) Within 30 days after designation, the designated Foundation Counselor on Ethical Conduct and Conflicts of Interest.

(b) Employees, who perform the duties of a position or office described in this section in excess of sixty days in any calender year, must submit annual statements as of May 15 of each year containing the information described in 5 CFR Part 734, Subpart C.

(c) Executive Personnel Financial Disclosure statements filed pursuant to this section shall be made available to the public in accordance with the provisions of 5 CFR Part 734.603.

§ 1504.304 Statements of employment and financial interests.

The following employees of the Foundation shall submit statements of employment and financial interests:

(a) Employees classified at GS–13 or above under section 5332 of Title 5, United States Code, or at a comparable pay level under another authority, including employees promoted into positions whose incumbents were required to file, as well as, new employees hired who are in positions, the basic duties of which, impose upon the incumbent the responsibility for making a Government decision or taking Government action with regards to:

(1) Contracting or procurement;

(2) Administering or monitoring grants or subsidies;

(3) Regulating or auditing private or other non-Federal enterprises; or

(4) Other activities where the decision or action has an economic impact on the interests of any non-Federal enterprise; and

(b) Other employees, including those classified at GS–12 and below whose submission of statements of financial interest has been approved by the Office of Government Ethics, whose duties and responsibilities require them to report employment and financial interests in order to avoid involvement in a possible conflict of interest situation and to carry out the purpose of the law, Executive Order 11222, and the Foundation's regulations.

§ 1504.305 Employees not required to submit statements.

(a) Employees in positions that meet the criteria in paragraph (c) of § 1504.303 may be excluded from the reporting requirement when the President of the Foundation determines that:

(1) The duties of the positions are such that the likelihood of the incumbent's involvement in a conflict of interest situation is remote; or

(2) The duties of the position are at such level of responsibility that the submission of a statement of employment and financial interests is not necessary because of the degree of supervision and review over the incumbent, or the inconsequential effect on the integrity of the Government.

(b) A statement of employment and financial interests is not required by these regulations from members of the Board of Directors and employees of GS–16 and above, who file Financial Disclosure Reports required by § 1504.303.

(c) The President of the Foundation may waive the requirement of this Subpart for the submission of a statement of employment and financial interests in the case of a special Government employee who is not a consultant or an expert when he/she finds that the duties of the position held by the special Government employee are of a nature and at such levels of responsibility that the submission of the statement by the incumbent is not necessary to protect the integrity of the Government. For the purpose of this paragraph, "consultant" and "expert" have the meanings given those terms by Chapter 304 of the Federal Personnel Manual.

§ 1504.306 Employees' complaint filing requirement.

Each employee shall have the opportunity for review of a complaint that his/her position has been improperly included in § 1504.303 as one requiring the submission of a statement of employment and financial interests. Employees are reminded that they may obtain counseling pursuant to § 1504.302 prior to filing a complaint.

§ 1504.307 Time and place of submission.

(a) An employee shall submit his/her statement of employment and financial interests to the Counselor no later than:

(1) Ninety days after the effective date of these regulations, if the person has entered on duty on or before that effective date; or

(2) Five days after entrance on duty, if the employee enters on duty after that effective date.

(b) Only the original of the statement, or supplement thereto, required by this Part shall be submitted. The individual submitting a statement should retain a copy for his or her personal records.

§ 1504.308 Information required, and forms.

(a) *Employees.* The employee's statement of employment and financial interests required by these regulations shall be submitted on the form, "Confidential Statement of Employment and Financial Interests", and shall

contain all the information therein required.

(b) *Interests of employees' relatives.* The interest of a member of an employee's family is considered to be an interest of the employee. The term "member of the employee's family" is defined in § 1504.102(e).

(c) *Information not known by employees.* If any information required to be included on a statement of employment and financial interests or supplementary statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit information in his/her behalf.

(d) *Information not required to be reported.* The regulations in this Part do not require an employee to submit on a statement of employment and financial interests or supplementary statement any information relating to:

(1) The employee's connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization, or similar organization, not conducted as a business enterprise. For the purpose of this section, educational and other institutions doing research and development or related work involving grants or money from, or contracts with, the Government are deemed "business enterprises" and are required to be included in an employee's statement of employment and financial interests; (2) an indirect interest, such as ownership of shares in a mutual fund, which in turn owns an interest in other organizations, unless such mutual fund is substantially involved in African ventures. Such an "indirect" interest is hereby determined pursuant to 18 U.S.C. 208(b)(2), to be too remote to affect the integrity of employees' services.

§ 1504.309 Supplementary statements.

(a) Employees, other than those occupying positions requiring the filing of Executive Personnel Financial Disclosure statements, who perform the duties of a position or office for a period in excess of sixty days in any calendar year, including special Government employees, must submit annual statements as of June 30 of each year containing the information described in § 1504.308.

(b) Notwithstanding the filing of reports required by this section, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflicts of interest provisions of section 208 of Title 18, United States Code, or these regulations.

§ 1504.310 Review of statements and determinations as to conflicts of interest.

(a) On the basis of the statement of employment and financial interests submitted by each employee, or on the basis of information received from other sources, the Counselor shall determine in the light of the duties which that employee is or will be performing whether any conflicts of interest, real or apparent, are indicated. The Counselor shall make the determination based on the applicable statutes, Executive Order 11222, and the applicable regulations of the Office of Personnel Management and the Foundation.

(b) Where the Counselor's determination in a particular case is that a conflict of interest, real or apparent, is indicated, informal discussions with the employee concerned shall be initiated. The discussions shall have as their objectives:

(1) Providing the individual with a full opportunity to explain the conflict or appearance of conflict; and

(2) Arriving at an agreement (acceptable to the Counselor, the individual, and the individual's immediate superior) whereby the conflict of interest may be removed or avoided.

(c) Where an acceptable agreement cannot be obtained pursuant to paragraph (b) of this section, the Counselor shall present his/her findings and recommendations to the President for decision. The President shall decide what remedy is most appropriate to remove or correct that conflict or apparent conflict. Remedial action under this paragraph may include disciplinary action or any of the actions enumerated in § 1504.310.

(d) Written summaries of all agreements and decisions arrived at pursuant to this section and § 1504.310 shall be placed in the Counselor's files. Copies shall also be made available to the regular or special Government employee concerned.

§ 1504.311 Penalties for violation.

(a) Violations of these regulations subject employees to remedial or disciplinary action by the Foundation which may be in addition to any penalty prescribed by law.

(b) When, after consideration of the explanation of the employee and the findings and recommendations of the Counselor, the President decides that remedial action is required, immediate action to end the conflict or appearance of a conflict of interest, shall be taken. Remedial action may include, but is not limited to:

(1) Changes in assigned duties;

(2) Divestment by the regular or special Government employee of the conflicting interest;

(3) Disciplinary action; or

(4) Disqualification for a particular assignment.

Remedial action, whether disciplinary or otherwise, shall be effected in accordance with any applicable laws, Executive Orders, and regulations.

§ 1504.312 Administrative enforcement proceedings.

In the event that the Foundation receives information that there has been a possible violation involving the Foundation of the restrictions against post employment activities contained in section 207 (a), (b), or (c) of title 18 U.S.C., the President or his designee shall follow the procedures set forth in 5 CFR 737.27 with respect to the initiation and conduct of an administrative disciplinary hearing.

§ 1504.313 Confidentiality of employees' statements.

The Foundation shall hold each statement of employment and financial interests, and each supplementary statement, in confidence. To insure this confidentiality only the Counselor and Deputy Counselor are authorized to review and retain the statements.

The Counselor is responsible for maintaining the statements in confidence and shall not allow access to, or allow information to be disclosed from, a statement except to carry out the purpose of this Part. The Foundation may not disclose information from a statement except as the Office of Personnel Management or the President of the Foundation may determine for good cause shown.

§ 1504.314 Effect of employees' statements on other requirements.

The statements of employment and financial interests and supplementary statements required for employees are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of a statement or supplementary statement by an employee does not permit participation in a matter in which such participation is prohibited by law, order, or regulation.

Dated: July 8, 1985.

Leonard H. Robinson, Jr.,

President, African Development Foundation.

[FR Doc. 85-16922, Filed 7-16-85; 8:45 am]

BILLING CODE 6117-01-M

POSTAL SERVICE

39 CFR Part 601

Procurement of Property and Services; Amendments to Postal Contracting Manual

AGENCY: Postal Service.

ACTION: Amendments to Postal Contracting Manual.

SUMMARY: The Postal Service announces that it is amending the Postal Contracting Manual to establish a 6 year records retention period for contract case files (excluding those relating to real property), but that unsuccessful offers may be destroyed after final payment of the contract or after 1 year from date of award, whichever is later. Several other minor changes and corrections of errors are also made.

EFFECTIVE DATE: July 10, 1985.

FOR FURTHER INFORMATION CONTACT: Eugene A. Keller, (202) 245–4818.

SUPPLEMENTARY INFORMATION: The Postal Contracting Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR 601.100), has been amended by the issue of PCM Circular 85–2, dated July 10, 1985.

In accordance with 39 CFR 601.105, notice of these changes is hereby published in the **Federal Register** and the text of the changes is filed with Director, Office of the Federal Register. Subscribers to the basic manual will receive these amendments from the Postal Service. (For other availability of the Postal Contracting Manual, see 39 CFR 601.104.)

List of Subjects in 39 CFR Part 601

Government procurement, Postal Service, Incorporation by reference.

PART 601—[AMENDED]

The authority citation for Part 601 continues to read as follows:

Authority: 5 U.S.C. 552(a), 39 U.S.C. 401, 404, 410, 411, 2008, 5001–5605.

Explanation of Changes

1–307, Documentation of Procurement Actions; Maintenance and Disposition of files, is expanded to set forth a 6 year records retention period for contract case files (excluding those relating to real property), except that unsuccessful offers may be destroyed either after final payment under the contract, or after 1 year from date of award of the contract, whichever occurs later.

1–323.2(a), Reporting Noncompetitive Practices, is revised to correct the title of the manager to whom reports are to be sent and to include notification of the Postal Inspection Service.

1–323.2(d) is revised to insert three words omitted by TL35.

1–323.3 is revised to insert a sentence omitted by TL35.

2–403, Recording Bids, is revised to delete the last sentence pertaining to keeping records, because records retention is specifically addressed in 1–307, as explained above.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 85–16951 Filed 7–16–85; 8:45 am]

BILLING CODE 7710–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 147

[OW–7–FRL–2862–1]

Missouri Department of Natural Resources Underground Injection Control Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Program.

SUMMARY: The State of Missouri has submitted an application under section 1422 of the Safe Drinking Water Act (SDWA) for the approval of an Underground Injection Control (UIC) program governing Classes I, III, IV and V injection wells. After careful review of the application, the Agency has determined that the State's injection well program for Classes I, III, IV and V injection wells meets the requirements of Section 1422 of the Act. Therefore, this application is approved.

EFFECTIVE DATE: This approval shall be promulgated for purposes of judicial review at 1:00 p.m. eastern time on July 31, 1985, and shall become effective on July 31, 1985.

FOR FURTHER INFORMATION CONTACT: Theodore Fritz, Ground Water Section, U.S. Environmental Protection Agency, Region VII, 726 Minnesota, Kansas City, Kansas 66101, at phone number (913) 236–2815.

SUPPLEMENTAL INFORMATION: Part C of the SDWA provides for a UIC program. Section 1421 of the SDWA requires the Administrator to promulgate minimum requirements for effective State programs to prevent underground injection which endangers drinking water sources. The Administrator is also to list in the **Federal Register** each State for which, in his judgment, a State UIC program may be necessary. Each State listed shall submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State: (i) Has adopted after reasonable notice and public hearings, a UIC program which meets the requirements of regulations in effect under section 1421 of the SDWA; and (ii) will keep such records and make such reports with respect to its activities under its UIC program as the Administrator may require by regulations. After reasonable opportunity for public comment, the Administrator shall by rule approve, disapprove or approve in part and disapprove in part, the State's UIC program.

The State of Missouri was listed as needing a UIC program on June 19, 1979 (40 FR 35288). The State submitted an application under section 1422 on September 28, 1984, for a UIC program to be administered by the Missouri Department of Natural Resources (MDNR). On November 2, 1984, EPA published notice of receipt of the application, requested public comments, and offered a public hearing on the UIC program submitted by the MDNR (49 FR 44111). A public hearing was held on December 12, 1984, in Kansas City, Missouri.

After careful review of the application, I have determined that the Missouri UIC program submitted by the MDNR to regulate Class I, III, IV and V injection wells on all State lands other than Indian lands meets the requirements established by the Federal regulations pursuant to section 1422 of the SDWA and, hereby, approve it. However, since there are no Class I and IV wells and the State elected to prohibit such injection, Class I and IV injection will be banned. The effect of this approval is to establish this program under the SDWA for non-Indian lands in the State of Missouri. Missouri's program for Class II wells under section 1425 was approved December 2, 1983.

This program replaces the existing EPA-administered program. EPA promulgated the EPA-administered program, published May 11, 1984, (49 FR 20209), in order to comply with the requirement of the SDWA to promulgate a Federally-administered program if a State-administered program cannot be approved within a certain time. Now that EPA has determined that the State-administered program meets all applicable Federal requirements, the Agency is withdrawing the EPA-administered program and establishing the State-administered program as the applicable UIC program in the State, because of the preference in the SDWA

for State administration of UIC programs.

This approval will be codified in 40 CFR Section 147.1301. State statutes and regulations that contain standards, requirements, and procedures applicable to owners or operators are incorporated by reference. These provisions incorporated by reference, as well as all permit conditions or permit denials issued pursuant to such provisions, are enforceable by EPA pursuant to section 1423 of the SDWA.

The terms listed below comprise a complete listing of the thesaurus terms associated with 40 CFR Part 147, which sets forth the requirements for a State requesting the authority to operate its own permit program of which the Underground Injection Control program is a part. These terms may not all apply to this particular notice.

List of Subjects in 40 CFR Part 147

Indian—lands, Reporting and recordkeeping requirements, Intergovernmental relations, Penalties, Confidential business information, Water supply, Incorporation by reference.

OMB Review

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

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that approval by EPA under section 1422 of the Safe Drinking Water Act of the application by the Missouri Department of Natural Resources will not have a significant economic impact on a substantial number of small entities, since this rule only approves State actions. It imposes no new requirements on small entities.

Dated: July 3, 1985.

A. James Barnes,

Acting Administrator.

As set forth in the preamble, Part 147 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 147—STATE UNDERGROUND INJECTION CONTROL PROGRAMS

Subpart AA—Missouri

1. The authority for Part 147 continues to read as follows:

Authority: Sections 1421 and 1422 Pub. L. 93-523, 88 Stat. 1674 (300 U.S.C. 300h, 300h-1).

2. Section 147.1301 is revised to read as follows:

§ 147.1301 State-administered program—Class I, III, IV, and V wells.

The UIC program for Class I, III, IV, and V wells in the State of Missouri, other than those on Indian lands, is the program administered by the Missouri Department of Natural Resources, approved by EPA pursuant to section 1422 of the SDWA. Notice of this approval was published in the **Federal Register** on November 2, 1984; the effective date of this program is July 31, 1985. This program consists of the following elements, as submitted to EPA in the State's program application.

(a) *Incorporation by reference.* The requirements set forth in the State statutes and regulations cited in this paragraph are hereby incorporated by reference and made a part of the applicable UIC program under the SDWA for the State of Missouri. This incorporation by reference was approved by the Director of the Federal Register effective July 31, 1985.

(1) Revised Statutes of the State of Missouri, Volume 2, sections 204.016, 204.026, 204.051, 204.056 and Volume V, section 577.155 (1978 and Cumm. Supp. 1984);

(2) Missouri Code of State Regulations, title 10, division 20, Chapter 6, sections 20-6.010, 20-6.020, 20-6.070, 20-6.080, 20-6.090, and title 10, division 20, Chapter 7, section 20-7.031 (1977, amended 1984).

(b) *Other laws.* The following statutes and regulations, although not incorporated by reference except for select sections identified in paragraph (a) of this section, are also part of the approved State-administered program.

(1) Revised Statutes of the State of Missouri, chapters 204, 260, 536, 557, 558 and 560; sections 640.130.1 and 1.020 (1978 and Cumm. Supp. 1984);

(2) Rule 52.12 Vernon's Annotated Missouri Rules (1978);

(3) Missouri Code of State Regulations, title 10, division 20, Chapters 1 through 7 (1977, amended 1984).

(c) The Memorandum of Agreement between EPA Region VII and the Missouri Department of Natural Resources, signed by the EPA Regional Administrator on October 10, 1984.

(d) *Statement of Legal Authority.* Opinion No. 123-84, signed by Attorney General of Missouri, September 24, 1984. Amended April 2, 1985.

(e) The Program Description and any other materials submitted as part of the application or as supplements thereto.

[FR Doc. 85-16381 Filed 7-16-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 147

[OW-9-FRL-2861-9]

Commonwealth of the Northern Mariana Islands Division of Environmental Quality Underground Injection Control Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Program.

SUMMARY: The Commonwealth of the Northern Mariana Islands has submitted an application under section 1422 of the Safe Drinking Water Act for the approval of an Underground Injection Control (UIC) program governing Classes I, II, III, IV, and V injection wells. After careful review of the application, the Agency has determined that the Commonwealth's injection well program meets the requirements of the Act and, therefore, approves it.

EFFECTIVE DATE: This approval shall be promulgated for purposes of judicial review at 1:00 p.m. eastern time on July 31, 1985. This approval shall become effective on August 30, 1985.

FOR FURTHER INFORMATION CONTACT: Meiling Odom or Nathan Lau, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105, PH: (415) 974-7766, (FTS) 454-7766.

SUPPLEMENTAL INFORMATION: Part C of the Safe Drinking Water Act (SDWA) provides for an Underground Injection Control (UIC) program. Section 1421 of the SDWA requires the Administrator to promulgate minimum requirements for effective State programs to prevent underground injection which endangers drinking water sources. The Administrator is also to list in the **Federal Register** each State for which, in his judgment, a State UIC program may be necessary. The definition of State in this case also includes territories such as the Commonwealth of the Northern Mariana Islands. Each State listed shall submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State: (i) Has adopted after reasonable notice and public hearings, a UIC program which meets the requirements of regulations in effect under section 1421 of the SDWA; and (ii) will keep such records and make such reports with respect to its activities under its UIC program as the Administrator may require by regulations. After reasonable opportunity for public comment, the Administrator shall by rule approve, disapprove or approve in part and

disapprove in part, the State's UIC program.

The Commonwealth of the Northern Mariana Islands was listed as needing a UIC program on March 19, 1980 (45 FR 17632). The State submitted an application under section 1422 on October 26, 1984, for a UIC program to regulate Class I, II, III, IV, and V injection wells to be administered by the Commonwealth of the Northern Mariana Islands Division of Environmental Quality (CNMIDEQ).

On January 18, 1985, EPA published notice of receipt of the application, requested public comments, and offered a public hearing on the UIC program submitted by the CNMIDEQ. No hearing requests nor comments were received.

After careful review of the application, I have determined that the portion of the Commonwealth of the Northern Mariana Islands program submitted by the CNMIDEQ applicable on all State lands other than Indian lands meets the requirements established by the Federal regulations pursuant to section 1422 of the SDWA and, hereby, approve it. The effect of this approval is to establish this program as the applicable underground injection control program under the SDWA for non-Indian lands in the Commonwealth of the Northern Mariana Islands.

This program replaces the existing EPA-administered program. EPA promulgated an UIC program for the CNMI published May 11, 1984 (49 FR 20220), in order to comply with the requirement of SDWA to promulgate a Federally-administered program if a State-administered program cannot be approved within a certain time. Now that EPA has determined that the State-administered program meets all applicable Federal requirements, the Agency is withdrawing the EPA-administered program and establishing the State-administered program as the applicable UIC program in the State, because of the preference in the SDWA for State administration of UIC programs.

This approval will be codified in 40 CFR 147.2800. State statutes and regulations that contain standards, requirements, and procedures applicable to owners or operators are incorporated by reference. These provisions incorporated by reference, as well as all permit conditions or permit denials issued pursuant to such provisions, are enforceable by EPA pursuant to section 1423 of the SDWA.

The terms listed below comprise a complete listing of the thesaurus terms associated with 40 CFR Part 147, which sets forth the requirements for a State requesting the authority to operate its own permit program of which the Underground Injection Control program is a part. These terms may not all apply to this particular notice.

List of Subjects in 40 CFR Part 147

Indian—lands, Reporting and recordkeeping requirements, Intergovernmental relations, Penalties, Confidential business information, Water supply, Incorporation by reference.

OMB Review

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

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that approval by EPA under section 1422 of the Safe Drinking Water Act of the application by the Commonwealth of the Northern Mariana Islands Division of Environmental Quality will not have a significant economic impact on a substantial number of small entities, since this rule only approves State actions. It imposes no new requirements on small entities.

Dated: July 3, 1985.

A. James Barnes,

Acting Administrator.

As set forth in the preamble, Part 147 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 147—STATE UNDERGROUND INJECTION CONTROL PROGRAMS

Subpart EEE—Commonwealth of the Northern Mariana Islands

1. The authority for Part 147 continues to read as follows:

Authority: Pub. L. 93-523, 88 Stat. 1674 (300 U.S.C. 300h, 300h-1).

2. Section 147.2800 is added to read as follows:

§ 147.2800 State-administered program—Class I, II, III, IV, and V wells.

The UIC program for Class I, II, III, IV, and V wells in the Commonwealth of the Northern Mariana Islands, other than those on Indian lands, is the program administered by the Commonwealth of the Northern Mariana Islands Division of Environmental Quality approved by EPA pursuant to Section 1422 of the SDWA. Notice of this approval was published in the **Federal Register** on January 18, 1985; the effective date of this program is August 30, 1985. This program consists of the following elements, as submitted to EPA in the State's program application.

(a) *Incorporation by reference.* The requirements set forth in the State statutes and regulations cited in this paragraph are hereby incorporated by reference and made a part of the applicable UIC program under the SDWA for the Commonwealth of the Northern Mariana Islands. This incorporation by reference was approved by the Director of the **Federal Register** effective July 31, 1985.

(1) CNMI Environmental Protection Act, 2 CMC sections 3101, *et seq.* (1984);

(2) CNMI Coastal Resources Management Act, 2 CMC sections 1501, *et seq.* (1984);

(3) CNMI Drinking Water Regulations, Commonwealth Register, Volume 4, Number 4 (August 15, 1982);

(4) CNMI Underground Injection Control Regulations, Commonwealth Register, Volume 6, Number 5 (May 15, 1984, amended November 15, 1984, January 15, 1985);

(5) CNMI Coastal Resources Management Regulations, Commonwealth Register, Volume 6, Number 12, December 17, 1984.

(b)(1) The Memorandum of Agreement between EPA Region IX and the Commonwealth of the Northern Mariana Islands Division of Environmental Quality, signed by the EPA Regional Administrator on May 3, 1985;

(c) *Statement of Legal Authority.* Statement from Attorney General Commonwealth of the Northern Mariana Islands, "Underground Injection Control Program—Attorney General's Statement," signed on October 10, 1984.

(d) The Program Description and any other materials submitted as part of the original application or as supplements thereto.

[FR Doc. 85-16382 Filed 7-16-85; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Parts 158 and 162

[OPP-250059; FRL 2863-3]

Notification to the Secretary of Agriculture of a Final Regulation on Product Performance Requirements for Vertebrate Control Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification to the Secretary of Agriculture.

SUMMARY: Notice is given that the Administrator of EPA has forwarded to the Secretary of the U.S. Department of Agriculture a final regulation that amends pesticide registration data

requirements to reinstate a requirement for the submission of efficacy data for certain vertebrate control products. At the same time, EPA is revising its conditional registration regulations to rescind an efficacy data waiver that would be inconsistent with the new requirement. This action is required by section 25(a)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT:

By mail: Jean Frane, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 1114, CM#2, 1921 Jefferson Davis Highway, Arlington, VA. (703-557-0592).

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(B) of FIFRA provides that the Administrator shall provide the Secretary of Agriculture with a copy of any final regulation at least 30 days prior to signing it for publication in the **Federal Register.** If the Secretary comments in writing regarding the final regulation within 15 days after receiving it, the Administrator shall issue for publication in the **Federal Register**, with the final regulation, the comments of the Secretary, if requested by the Secretary, and the response of the Administrator concerning the Secretary's comments. If the Secretary does not comment in writing within 15 days after receiving the final regulation, the Administrator may sign the regulation for publication in the **Federal Register** anytime after the 15-day period.

As required by FIFRA section 25 (a)(3), a copy of this final regulation has been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

Authority: 7 U.S.C. 136.

Dated: June 19, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 85-16480 Filed 7-16-85; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[OPP-300127A; FRL 2863]

Linoleic Diethanolamide; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule exempts linoleic diethanolamide from the requirement of a tolerance when used as an inert ingredient as a surfactant in pesticide formulations applied to growing crops only. This regulation was requested by Finetex, Inc.

EFFECTIVE DATE: July 17, 1985.

ADDRESS: Written objections may be submitted to the:

Hearing Clerk (A-110), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: N. Bhushan Mandava, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-557-7700.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of April 17, 1985 (50 FR 15188), which announced that Finetex, Inc., Elmwood Park, NJ 07470, had requested that 40 CFR 180.1001(d) be amended by establishing an exemption from the requirement of a tolerance for linoleic diethanolamide when used as an inert ingredient as a surfactant in pesticide formulations applied to growing crops only.

Inert ingredients are ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carageenan and modified cellulose; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

In the proposed rule, EPA stated the basis for a determination that when used in accordance with good agricultural practices, this ingredient is useful and does not pose a hazard to humans or the environment.

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

The pesticide is considered useful for the purpose for which the exemption is sought. It is concluded that the exemption from the requirement of a tolerance will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

List of Subjects in 40 CFR Part 180

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

Dated: July 1, 1985.

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

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

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

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

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* * * * *		
Linoleic diethanolamide (CAS Reg. No. 56863-02-6)		Surfactant.
* * * * *		

* * * * *

[FR Doc. 85-16478 Filed 7-16-85; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 00000/R761; FRL 2863-4]

Sodium Metasilicate and Sodium Propionate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule adds sodium metasilicate and expands the exemption for sodium propionate for the additional

use as a plant desiccant in the pesticide chemicals listed as generally recognized as safe (GRAS) when used as plant desiccants for the purpose of section 408(a) of the Federal Food, Drug, and Cosmetic Act. This rule was requested by the PQ Corp.

EFFECTIVE DATE: July 17, 1985.

ADDRESS: Written objections, identified by the document control number [PP 0E0000/R761], may be submitted to the:

Hearing Clerk (A–110), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: N. Bhushan Mandava, Registration Support and Emergency Response Branch, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 724A, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703–557–7700.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of April 17, 1985 (50 FR 15189), which announced that the PQ Corp. sought this rule in conjunction with the expected use of a a mixture of sodium metasilicate, sodium propionate, and sodium carbonate for the purpose of accelerating the field drying (desiccation) of freshly cut hay.

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

The data submitted and other relevant material have been evaluated and discussed in the proposed rulemaking. The pesticide chemicals are considered useful for the purposes sought. It is concluded that the uses will protect the public health, and they are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

List of Subjects in 40 CFR Part 180

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

Dated: July 1, 1985.

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

Therefore, Part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for 40 CFR Part 180 continues to read as follows:

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

2. Section 180.2(a) is revised by adding alphabetically an entry for sodium metasilicate and expanding the use for sodium propionate to include its use as a plant desiccant. As revised, paragraph (a) reads as follows:

§ 180.2 Pesticide chemicals considered safe.

(a) As a general rule, pesticide chemicals other than benzaldehyde (when used as a bee repellent in the harvesting of honey), ferrous sulfate, lime, lime-sulfur, potassium carbonate, potassium polysulfide, potassium sorbate, sodium carbonate, sodium chloride, sodium hypochlorite, sodium polysulfide, sodium sesquicarbonate, sorbic acid, sulfur, and, when used as plant desiccants, sodium metasilicate (not to exceed 4 percent by weight in aqueous solution) and sodium propionate, and when used as postharvest fungicides, citric acid, fumaric acid, oil of lemon, oil of orange, sodium benzoate, and sodium propionate are not for the purposes of section 408(a) of the Act generally recognized as safe.

* * * * *

[FR Doc–85–16479 Filed 7–16–85; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 180

[PP 3E2819/R773; FRL–2865–1]

Pesticide Tolerance for Chlorpyrifos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the insecticide chlorpyrifos and its metabolite in or on the raw agricultural crop group *Brassica* (cole) leafy vegetables. This regulation to establish a maximum permissible level for residues of the insecticide in or on the crop group was requested in a petition submitted by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: Effective on July 17, 1985.

ADDRESS: Written objections, identified by the document control number, [PP 3E2819/R773], may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Donald Stubbs, Emergency Response and Minor Use Section (TS–767C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1192).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking, published in the **Federal Register** of May 29, 1985 (50 FR 21876), which announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 3E2819 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project and the Agricultural Experiment Stations of Hawaii, Idaho, Michigan, New Jersey, Washington, Wisconsin, and the U.S. Department of Agriculture proposing the establishment of a tolerance for the combined residues of the insecticide chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on the raw agricultural commodity crop group *Brassica* (cole) leafy vegetables, as defined in 40 CFR 180.34(f) at 2 parts per million (ppm), of which no more than 1 ppm is chlorpyrifos.

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

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. The pesticide is considered useful for the purpose for which the tolerance is sought. Based on the data and information submitted, the Agency has determined that the establishment of the tolerance will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation

deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the gounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

List of Subjects in 40 CFR Part 180

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

Dated: July 9, 1985.

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

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

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

2. Section 180.342 is amended by deleting the commodities broccoli, Brussels sprouts, cabbage, Chinese cabbage, and cauliflower and adding and alphabetically inserting the raw agricultural commodity crop group *Brassica* (cole) leafy vegetables, to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

* * * * *

Commodities	Parts per million
Broccoli [Removed]	2 [Removed].
Brussels sprouts [Removed]	2 [Removed].
Cabbage [Removed]	2 [Removed].
Cabbage, Chinese [Removed].	2 [Removed].
Cauliflower [Removed]	2 [Removed].
* * * * *	
Vegetables, leafy, *Brassica* (cole).	2 (of which, no more than 1 ppm is chlorpyrifos).
* * * * *	

[FR Doc. 85-16845 Filed 7-16-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 4F2969/R772; FRL 2865-2]

Flucythrinate; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide flucythrinate in or on the raw agricultural commodity cabbage. This regulation to establish a maximum permissible level for residues of the insecticide in or on the commodity was requested pursuant to a petition by the American Cyanamid Co.

EFFECTIVE DATE: Effective on July 17, 1985.

ADDRESS: Written objections, identified by the document control number [PP 4F2969/R772], may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: George T. LaRocca, Product Manager (PM) 15, Registration Division (TS-767C), Environmental Protection Agency, 401 M. St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 207, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2690).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of November 30, 1983 (48 FR 54116), which announced that the American Cyanamid Co., PO Box 400, Princeton, NJ 08540, had submitted a pesticide petition (PP 4F2969) to EPA proposing to amend 40 CFR 180.400 by establishing a tolerance for residues of the insecticide flucythrinate ((±)cyano(3-phenoxyphenyl)methyl(±)-4-(difluoromethoxy)-alpha-(1-methylethyl) benzeneacetate)) in or on the raw agricultural commodity cabbage at 1.5 parts per million (ppm).

The petition was subsequently amended by increasing the proposed tolerance for cabbage to 2.0 ppm (49 FR 30789; August 1, 1984).

No comments were received in response to the notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data considered in support of the tolerance include an acute oral rat toxicity study with a median lethal dose (LD_{50}) of 81 milligrams (mg)/kilogram (kg) for male rats and 67 mg/kg for female rats; a 21-day delayed neurotoxicity hen study with a no-observed-effect level (NOEL) of 5.000 mg/kg, the highest dose tested (HDT); teratology studies (in rats and rabbits), with a NOEL of 8.0 mg/kg/day (HDT) for rats and a NOEL of 60 mg/kg/day (HDT) for rabbits; a 3-generation rat reproduction study with a NOEL of 30 ppm; 90-day subchronic rat and dog feeding studies with a NOEL of 60 ppm (HDT) for rats and 150 ppm (HDT) for dogs; a 24-month rat chronic-feeding/oncogenicity study that resulted in a systemic NOEL of 60 ppm in which no oncogenic effects were noted at dosage levels of 30, 50, and 120 ppm (120 ppm (mg/kg) being the highest dosage level tested) under the conditions of the study; an 18-month mouse oncogenic study in which no oncogenic effects were noted at dosage levels of 30, 60, and 120 ppm (120 ppm (mg/kg) being the highest dosage level tested) under the conditions of the study; and the following mutagenicity studies: an Ames test at 1.000 micrograms (μg)/Plate (HDT) and a rat dominant-lethal test at 10.0 mg/kg/ (HDT), both negative.

A 1-year dog feeding study previously identified as desirable has been submitted and is being reviewed by the Agency.

The acceptable daily intake (ADI) is calculated to be 0.015 mg/kg/day based on the 3-generation rat reproduction study and its NOEL of 30 ppm (1.50 mg/kg/day) using a 100-fold safety factor. The maximum permissible intake (MPI) is calculated to be 0.900 mg/day for a 60-kg person. Published and pending tolerances result in a theoretical maximum residue contribution (TMRC) of 0.1561 mg/day based on a 1.5-kg diet and use 17.35 percent of the ADI. The establishment of these tolerances will increase the TMRC to 0.1617, resulting in the total use of 17.96 percent of the ADI.

The nature of the residues is adequately understood for this tolerance. An adequate analytical method, gas chromatography, is available for enforcement purposes. Any secondary residue resulting in milk and meat, fat and meat byproducts of cattle, goats, horses, and sheep from this use will not exceed the established tolerances for these commodities. There are currently no regulatory actions pending against continued registration of this pesticide, and there are no other relevant considerations in establishing this tolerance.

The pesticide is considered useful for the purpose for which the tolerance is sought. Based on the information cited above, the Agency has determined that the establishment of the tolerance for residues of the insecticide flucythrinate in or on the commodity will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds

for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

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

List of Subjects in 40 CFR Part 180

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

Dated: July 9, 1985.

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

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

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

2. Section 180.400 is amended by adding, and alphabetically inserting, the raw agricultural commodity, to read as follows:

§ 180.400 Flucythrinate; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Cabbage	2.0
* * * * *	

[FR Doc. 85-16843 Filed 7-16-85; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 5470

[Circular No. 2564]

Forest Management; Modification of Federal Timber Contracts

Correction

In FR Doc. 85-15434 beginning on page 26676 in the issue of Thursday, June 27, 1985, the Circular No. in the heading should read as set forth above.

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

National Flood Insurance Administration

44 CFR Part 64

[Docket No. FEMA 6667]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register.**

EFFECTIVE DATES: The third date ("Susp.") listed in the 4th column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646-2717, 500 C Street, Southwest, FEMA—Room 416, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate floodplain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR part 59 et. seq.). Accordingly, the communities are suspended on the effective date in the 4th column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable flood plain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the **Federal Register.**

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the 5th column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Difector, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in Section 2 of the Flood Disaster Protection Act of 1973, the establishment of local floodplain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole.

This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate floodplain management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

List of Subject in 44 CFR Part 64

Flood insurance, Floodplains.

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et. seq., Reorganization Plan No. 3 of 1978, E.O. 12127

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and County	Location	Community	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Region II					
New York:					
Delaware	Delhi, town of	360193B	Aug. 5, 1975, Emerg.; July 18, 1985, Reg.; July 18, 1985, Susp.	July 26, 1974 and Jan. 7, 1977.	July 18, 1985.
Ulster	Lloyd, town of	361012C	Aug. 19, 1985, Emerg.; Sept. 17, 1982, Reg.; July 18, 1985, Susp.	Sept. 6, 1974, July 9, 1976 and Sept. 17, 1982.	Do.
Livingston	West Sparta, town of	360391B	Apr. 19, 1976, Emerg.; July 18, 1985, Reg.; July 18, 1985, Susp.	Oct. 29, 1976	Do.
Region IV					
Florida: Lake	Leesburg, city of	120136B	July 23, 1975, Emerg.; July 18, 1985, Reg.; July 18, 1985, Susp.	Sept. 13, 1974 and Jan. 28, 1977.	Do.
Georgia: Glynn	Brunswick, city of	130093B	Mar. 6, 1974, Emerg.; June 19, 1985, Reg.; July 18, 1985, Susp.	May 24, 1974, Jan. 9, 1976 and June 19, 1985.	Do.
Region V					
Illinois: Grundy	Unincorporated areas	170256C	June 11, 1974, Emerg.; July 18, 1985, Reg.; July 18, 1985, Susp.	Dec. 20, 1974, Feb. 3, 1978 and June 15, 1979.	Do.
Michigan: Ottawa	Georgetown, charter township of	260589A	Dec. 16, 1975, Emerg.; July 18, 1985, Reg.; July 18, 1985, Susp.	Sept. 26, 1975	Do.
Ohio: Franklin	Whitehall, city of	390180B	Oct. 7, 1974, Emerg.; July 18, 1985, Reg.; July 18, 1985, Susp.	Feb. 15, 1974 and June 4, 1976.	Do.
Region X					
California: San Luis Obispo	Unincorporated areas	060304C	June 26, 1974, Emerg.; July 5, 1982, Reg.; July 18, 1985, Susp.	Jan. 3, 1975, Nov. 22, 1977 and July 5, 1982.	Do.
Region II					
Minimal Conversions					
New York: Fulton	Caroga, town of	361129B	Mar. 29, 1976, Emerg.; July 18, 1985, Reg.; July 18, 1985, Susp.	Nov. 18, 1974 and June 25, 1976.	Do.
Region VII					
Missouri:					
Saline	Sweet Springs, city of	290407B	May 27, 1975, Emerg.; Oct. 5, 1984, Reg.; July 18, 1985, Susp.	June 7, 1974, Jan. 9, 1976 and Oct. 5, 1984.	Do.
St. Louis	Charlack, city of	290743A	July 2, 1975, Emerg.; Nov. 24, 1984, Reg.; July 18, 1985, Susp.	Feb. 14, 1975 and Nov. 24, 1984.	Do.
Kansas: Saline	Brookville, city of	200394B	Aug. 17, 1976, Emerg.; Jan. 4, 1985, Reg.; July 18, 1985, Susp.	Sept. 19, 1975 and Dec. 24, 1976.	Do.
Region IX					
Arizona: Greenlee	Unincorporated areas	040110B	Dec. 29, 1978, Emerg.; July 18, 1985, Reg.; July 18, 1985, Susp.	Oct. 25, 1977	Do.
California: Plumas	Portola, city of	060456	Apr. 14, 1975, Emerg.; July 18, 1985, Reg.; July 18, 1985, Susp.	Oct. 24, 1975	Do.

[1] Certain Federal assistance no longer available in special flood hazard areas.
Code for reading 4th column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Issued: July 11, 1985.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 85-16908 Filed 7-16-85; 8:45 am]

BILLING CODE 6718-03-M

GENERAL SERVICES ADMINISTRATION

48 CFR Part 552

[GSAR AC-85-1, Supplement 1]

Payment Due Date—Construction Contracts

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This supplement to the General Services Administration Acquisition Regulation Acquisition Circular AC-85-1 extends the expiration date to January 23, 1986. The intended effect is to extend the policies and procedures as established in AC-85-1, which revised the Payment Due Date clause for construction contracts at GSAR 552.232-70(f).

DATES: Effective date: July 23, 1985.

Expiration date: This circular expires January 23, 1986, unless extended or canceled.

FOR FURTHER INFORMATION CONTACT: Ida Ustad, Office of GSA Acquisition Policy and Regulations (VP), (202) 523-4754.

Regulatory Impact

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted agency procurement regulations from Executive Order 12291. The exemption applies to this rule. When AC-85-1 was originally issued, the General Services Administration certified under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) that the document would not have a significant economic effect on a substantial number of small entities. Therefore, no regulatory analysis was prepared. The rule does not contain information collection requirements that require the approval of OMB under the

Paperwork Reduction Act (44 U.D.C. 3501 et seq.).

List of Subjects in 48 CFR Part 552

Government procurement.

Authority: 40 U.S.C. 486(c).

48 CFR Part 552 is amended by the following supplement to Acquisition Circular AC–85–1.

General Services Administration Acquisition Regulation; Acquisition Circular AC–85–1; Supplement 1

July 8, 1985.

To: All GSA contracting activities.

Subject: Payment Due Date—Construction Contracts.

1. *Purpose.* This supplement extends the expiration date of General Services Administration Acquisition Regulation Acquisition Circular AC–85–1.

2. *Effective.* July 23, 1985.

3. *Expiration date.* The General Services Administration Acquisition Regulation Acquisition Circular AC–85–1 and this supplement will expire on January 28, 1986, unless canceled earlier.

Allan W. Beres,

Assistant Administrator for Acquisition Policy.

[FR Doc. 85–16926 Filed 7–16–85; 8:45 am]

BILLING CODE 6820–61–M

Proposed Rules

Federal Register
Vol. 50, No. 137
Wednesday, July 17, 1985

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 Parts 71 and 91

[85-PR-5A; Docket No. 24496]

Minimum Upper Limit for Terminal Control Areas (TCA); Lower Altitude for Requiring Mode C

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Reopening of Comment Period on Petition for Rulemaking.

SUMMARY: This notice reopens the period for comments on a petition for rulemaking submitted by the Air Line Pilots Association. The petition for rulemaking seeks to amend the Federal Aviation Regulations (FAR) by raising to 10,000 feet mean sea level (MSL) the upper altitude limit of any TCA, Category I or II, that is not currently at 10,000 feet MSL or higher, and by lowering the minimum altitude at which automatic altitude reporting Mode C transponders are required from 12,500 feet MSL to 10,000 feet MSL. The petitioner proposes these changes to improve safety by providing air traffic controllers with more precise information.

DATE: Comments must be received on or before September 6, 1985.

ADDRESSES: Comments on this petition for rulemaking may be mailed or delivered in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 24496, 800 Independence Avenue, SW., Washington, D.C. 20591. The official docket may be examined in the Rules Docket, Room 916, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Paul C. Smith, Airspace and Air Traffic Rules Branch, ATO-230, Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Office of the Associate Administrator for Air Traffic, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8626.

SUPPLEMENTARY INFORMATION

Comments Invited

This petition was published in summary form in the **Federal Register** on May 3, 1985 (50 FR 18869), with a comment period closing date of July 8, 1985. This notice reopens the closing date for comments to September 6, and sets forth the petition verbatim for clarity.

The FAA has not analyzed the value or the effect that this petition would have on operations, either in TCA locations or nationally, on the aircraft owner/pilot community in general or on air traffic control. The FAA, in publishing substantive parts of the petition for rulemaking, is inviting the public to comment and assist the FAA in determining the need, if any, for raising the upper altitude limit of all TCA's to a minimum of 10,000 feet MSL and for lowering the altitude above which the use of Mode C automatic altitude reporting equipment is required to 10,000 feet MSL. Interested persons are requested to participate by reviewing the information provided by the petitioner and submitting such data, views, and arguments as they may desire in writing. Comments that provide a factual basis supporting the views and suggestions presented are particularly helpful in developng reasoned regulatory decisions. Comments should identify the docket number and be submitted in duplicate to the address listed above. It should be noted that this summary does not propose a regulatory rule for adoption, represent an FAA position, or otherwise commit the agency on the merits of the petition. The FAA intends to proceed to consider the petition under the applicable procedure of FAR Part 11 and reach a conclusion on the merits of the petition after it has had an opportunity to evaluate it carefully in light of the comments received and other relevant matters presented. If the FAA concludes that it should initiate public rulemaking action on the petition, appropriate rulemaking action, including an evaluation of the proposal, will be published.

Background/Supporting Information

TCA Minimum Ceiling 10,000 feet MSL. FAR § 71.12 (14 CFR 71.12) defines the upper altitude limit of TCA's as extending" . . . to specified altitudes . . . ." The upper limits of each TCA are specified in the individual airspace description of the TCA. These limits are presently based upon site specific operational requirements and are not standardized. The following summary is set forth verbatim from the petition.

At the present time, there is no standardized top altitude for the existing TCAs. Some terminate at 7,000 ft., others higher, based on local airspace configurations and TRACON/ARTCC letters of agreement. This is another example of the nonstandard airspace configurations within the National Airspace System. If FAR 91.24 were revised to require Mode C transponders for all operations at 10,000 ft. and above, and the top of all TCAs were raised to that level, air traffic controllers would be provided the opportunity to have precise information on all traffic that could affect the safety of air carrier/commuter arrival and departure flights at TCA-designated airports and thus affort a majority of the traveling public a higher degree of safety. This concept would also serve to standardize airspace configurations throughout the NAS and thus help remove any misunderstanding by general aviation pilots about the configuration of TCAs.

Note.—Each of the following TCA's has an upper limit as indicated and would be affected by the requested rule. 7,000 feet MSL: Logan International Airport; Chicago O'Hare International Airport; Los Angeles International Airport; Miami International Airport; John F. Kennedy International Airport; LaGuardia Airport; Newark International Airport; Washington National Airport; Houston Intercontinental Airport; New Orleans International Airport; Philadelphia International Airport; and Seattle-Tacoma International Airport. 8,000 feet MSL: Dallas-Ft. Worth Airport; San Francisco International Airport; Cleveland-Hopkins International Airport; Kansas City International Airport, Minneapolis-St. Paul International Airport; Greater Pittsburg Airport; and St. Louis International Airport. 9,000 feet MSL: Honolulu International Airport and McCarran International Airport. Some areas within the TCA at San Diego, CA, have an upper limit of 6,000 feet MSL.

Mode C Transponders Above 10,000 feet MSL. Existing FAR § 91.24(b)(4) requires that all aircraft operating above 12,500 feet MSL in controlled airspace, except gliders under certain conditions, have an operable transponder with automatic altitude reporting capability.

The following summary is set forth verbatim from the petition:

At the present time, FAR 91.24 requires Mode C equipped transponders only above 12,500 ft. FAR § 91.70 authorizes speeds above 250 knots when operating at 10,000 ft. or above. In that 2,500 ft. altitude structure, operations can be conducted at high speeds that reduce a pilot's ability to 'see and avoid.' Air traffic controllers are deprived of essential altitude information from VFR aircraft that could be used to provide traffic advisories to aircraft operating within the ATC system. Revising FAR § 91.24 to require Mode C at 10,000 ft. and above would provide compatibility with FAR § 91.70, enable controllers to assist pilots in meeting their 'see and avoid' responsibilities, and at the same time elevate the level of safety provided the traveling public.

Issued in Washington, D.C., on July 12, 1985.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

[FR Doc. 85-16970 Filed 7-16-85; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 822-3101]

John Treadwell, d.b.a. Trans-Continental Industries; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require John Treadwell, doing business as Trans-Continental Industries, to cease, among other things, making any performance claims for any gasoline additive without competent and reliable evidence; claiming that tests support its performance claims without proper substantiation; and misrepresenting the results or conclusions of any tests pertaining to gasoline additives or the potential profits or marketing assistance that will be provided for distributors of its products. Further, respondent would be required to maintain records of substantiation for three years; file a compliance report with the Commission within 60 days; and notify the Commission of the discontinuace of his present employment and any future employment in similar areas for five years.

DATE: Comments must be received on or before September 16, 1985.

ADDRESS: Comments should be addressed to: FTC/Office of the Secretary, Room 136, 6th St. and Pa. Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Paul W. Turley, Director, Los Angeles Regional Office, Federal Trade Commission, 11000 Wilshire Blvd., Los Angeles, CA 90024. (213) 209-7575.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Fuel efficiency claims, Gasoline additives, Trade practices.

Before the Federal Trade Commission

[File No. 822-3101]

Agreement Containing Consent Order to Cease and Desist

In the matter of John Treadwell, and individual doing business as Trans-Continental Industries.

The Federal Trade Commission having initiated an investigation of certain acts and practices of John Treadwell, an individual doing business as Trans-Continental Industries, hereinafter some times referred to as "proposed respondent," and it now appearing that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between John Treadewll and counsel for the Federal Trade Commission that:

1. Proposed respondent John Treadwell is an individual doing business as Trans-Continental Industries, a sole proprietorship, with its office and principal place of business located at 2489 Burlingham Place, Simi Valley, California 93063.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent: (1) Issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right he may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement

may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. He understands that once the order has been issued, he will be required to file one or more compliance reports showing that he has fully complied with the order. Proposed respondent further understands that he may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered that respondent John Treadwell, an individual doing business as Trans-Continental Industries or under any other name or names, his successors and assigns, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, advertising, labeling, offering for sale, sale or distribution of the gasoline additive known as 20% Plus Organic Fuel Catalyst ("20% Plus") or any other gasoline, oil, or fuel-saving product, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

a. Representing, directly or by implication, that any such product will or may result in fuel economy improvement when used in an automobile, truck, recreational vehicle or other motor vehicle unless, at the time of making such representation, respondent possesses and relies upon written results of competent and reliable testing that isolates the effects of the product and substantiates the representation. Respondent may use such tests as the then current urban dynamometer driving schedule (40 CFR Part 86, Appendix I) or the then current highway fuel economy driving schedule (40 CFR Part 600, Appendix I) established by the Environmental Protection Agency or other tests of an equivalent competency and reliability;

b. Representing, directly or by implication, that any performance claim about any such product is based upon any competent and reliable test(s) or survey(s), unless such representation is true;

c. Misrepresenting, directly or by implication, the purpose, content, or conclusion of any test or survey pertaining to any such product;

d. Misrepresenting, directly or by implication, the past, present or future sales, profits or earnings available from the resale of respondent's products, or misrepresenting, directly or by implication, the past or present sales, profits or earnings of respondent's sales agents;

e. Misrepresenting, directly or by implication, the advertising or promotional efforts to be undertaken by respondent to assist distributors in the resale of respondent's products.

For the purposes of Part I, a competent and reliable test means one in which persons qualified to do so conduct the test and evaluate its results in an objective manner using procedures that ensure accurate and reliable results.

II

It is further ordered that respondent, his successors and assigns, in connection with the manufacturing, advertising, labeling, offering for sale, sale or distribution of any gasoline, oil, or fuel-saving product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall for at least three years after the last date of dissemination by respondent either directly or through any business entity of any representation about any such product maintain and upon request make available to the Federal Trade Commission for inspection and copying, copies of, and dissemination schedules for, all advertisements, labels, sales promotional materials and post-purchase materials for such product and copies of all test materials and results upon which such representation is based.

III

It is further ordered that respondent forthwith distribute a copy of this order to all present or future personnel, agents or representatives or respondent having sales, advertising, or policy responsibilities with respect to the subject matter of this order, and that respondent secure from each such person a signed statement acknowledging receipt of said order and maintain that statement in its files for at least three years.

IV

It is further ordered that respondent shall promptly notify the Commission of the discontinuance of his present business or employment and that for a period of five (5) years from the date of service of this order respondent shall promptly notify the Commission of each affiliation with a new business or employment in telephone sales, or in connection with the manufacturing, advertising, labeling, offering sale, sale or distribution of any gasoline additive or any other gasoline, oil, or fuel-saving product, each such notice to include the new business address of respondent and a statement of the nature of the business or employment in which the respondent is newly engaged, as well as a description of the respondent's duties and responsibilities in connection with the new business or employment.

V

It is further ordered that respondent shall within sixty (60) days after service upon him of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which he has complied with this order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from John Treadwell, an individual doing business as Trans-Continental Industries.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Complaint charges that John Treadwell and Trans-Continental Industries made false and misleading claims that their gasoline additive product, "20% Plus," was proven by laboratory and road tests to reduce fuel costs 20 to 25%. The Complaint also charges that the respondent falsely represented that most distributors of "20% Plus" have made substantial profits via resales and that the respondent would assist distributors in the advertising and resale of "20% Plus."

The order prohibits the respondent from making fuel savings claims about any gasoline additive product unless the claim is true and supported by competent and reliable testing. The order also prohibits misrepresentations regarding the profitability of distributors and the extent of assistance to distributors by the respondent. Mr. Treadwell is further required to notify the Commission of any endeavor involving telephone sales over the next five (5) years.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of

the agreement and proposed order or to modify in any way their terms.

Emily H. Rock,

Secretary.

[FR Doc. 85-16897 Filed 7-16-85; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 210

[Release Nos. 33-6598; 34-22219; IC-14623; File No. S7-36-85]

Accounting for Distribution Expenses

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule amendment.

SUMMARY: The Commission is proposing to amend Regulation S-X to require that registered investment companies account for net costs incurred as a result of a 12b-1 plan as expenses. The amendment would achieve consistent accounting for 12b-1 expenditures thereby ensuring greater uniformity in the accounting practices of investment companies and allowing investors to more accurately compare investment results among investment companies.

DATE: Comments must be received by September 30, 1985.

ADDRESS: Three copies of all comments should be submitted to John Wheeler, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Comment letters should refer to File No. S7-36-85. All comments received will be available for public inspection in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: John W. Albert, Office of Chief Accountant (202) 272-2130, Jay Gould, Attorney, Office of Disclosure and Adviser Regulation, (202) 272-2107, or Lawrence A. Friend, Senior Accountant, Office of Disclosure Policy and Review, (202) 272-2106, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is publishing for comment a proposed amendment to Rule 6-07 of Regulation S-X [17 CFR 210.6-07]. The amendment to Rule 6-07 would require an investment company filing financial statements to include as an expense in its Statement of Operations all costs incurred under a rule 12b-1 plan net of any amounts retained by or paid to the fund in connection with the plan. The Commission is proposing the amendment to require consistent accounting treatment of rule 12b-1 expenses.

Background

Rule 12b-1 under the Investment Company Act of 1940 (the "Act") [1] prescribes the circumstances under which a registered open-end investment company may finance any activity primarily intended to result in the sale of fund shares including, but not limited to, advertising, compensation of underwriters, dealers and sales personnel, the printing and mailing of prospectuses to other than current shareholders, and the printing and mailing of sales literature. Among other things, the rule requires that payments by the fund associated with distribution of fund shares be made under a written plan (hereafter, referred to as a "12b-1 plan") approved by fund shareholders and directors. Since the adoption of rule 12b-1 in 1980, an increasing number of investment companies have adopted 12b-1 plans.[2]

Typically, rule 12b-1 plans provide for an amount (usually a percentage of the fund's net asset value) to be paid annually by the fund for expenses incurred in selling the fund's securities irrespective of the actual amount of these sales. In preparing required financial statements, these funds account for the amounts spent on the plans as expenses.

A few investment companies have adopted 12b-1 plans which differ in certain respects from the typical plans. In these funds, fund shares are offered to investors at net asset value without any initial sales charge. When shares are sold, the fund pays its principal underwriter a percentage of the price paid to the fund on each sale. This amount is paid to the underwriter from fund assets (not from investor proceeds). The principal underwriter retains a portion of this amount and reallows the remainder to dealers for making sales. These funds recover from shareholders all or some of these distribution expenses by imposing a contingent deferred sales charge applicable to redemptions within a specified period of time after purchase. The amounts collected under the contingent deferred sales charge are paid to or retained by the fund, not the underwriter. In the required financial statements of these funds, the amounts paid to underwriters have been accounted for as charges against capital, and the contingent deferred sales loads have been treated as credits to capital.

The rationale for this accounting treatment appears to be that the payments to the underwriters under these plans are paid only upon sales and, as costs directly related to the sale and issuance of additional fund shares, are properly treated as adjustments to capital rather than operating expenses. Supporters assert that this approach is consistent with the treatment given underwriting costs incurred by industrial companies when raising capital.

Proposed Amendment to Rule 6-07

Article 6 of Regulation S-X governs the contents of financial statements filed by registered investment companies. Rule 6-07 of Regulation S-X sets forth the requirements for investment company Statements of Operations. The instructions to Rule 6-07 do not currently specify a particular accounting treatment for distribution expenses resulting from a 12b-1 plan. The proposed amendment to rule 6-07 of Regulation S-X would require all costs incurred by an investment company under a rule 12b-1 plan to be (1) reflected as an expense in the calculation of net investment income, and (2) reduced by any amounts retained by or paid to the fund with respect to the plan.

The Commission believes that a uniform accounting treatment for 12b-1 expenditures is necessary and appropriate for several reasons. In the Commission's view, transactions by investment companies which are essentially the same should be accounted for in the same manner. Distribution expenses under 12b-1 plans are incurred for the same purpose by all funds—selling fund shares. That funds differ in how fees incurred because of sales are paid should not cause a difference in the accounting treatment of the expenses associated with sales. The proposed amendment to Rule 6-07, if adopted, would achieve consistent

[1] Rule 12b-1 was adopted in 1980 under section 12(b) of the Act which makes it unlawful for any registered open-end management investment company (other than a company complying with section 10(d) of the Act) to act as distributor of securities of which it is the issuer, except through an underwriter, contrary to such rules as the commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

[2] While in 1982, 104 funds had 12b-1 plans, as of March 31, 1985, 435 funds had 12b-1 plans. *Lipper-Directors' Analytical Data*, June 1985, Special Study of 12b-1 plans.

accounting treatment for 12b–1 plan expenditures without regard to whether the fund is operating under a typical 12b–1 plan and paying a percentage of its assets for the sale of fund shares (whether sold or not), or operating under a different arrangement and paying a percentage of its assets for the sale of shares only if such shares are sold.

In addition, the Commission is not persuaded that the treatment by industrial companies of underwriting and stock issuance expenses as charges to capital necessarily should permit similar treatment of these kinds of expenses by investment companies. Unlike industrial companies, open-end investment companies are in the business of continuously offering their securities to investors. The costs of underwriting and stock issuance (distribution) are not incurred on an occasional basis but continuously as a part of a fund's normal operating expenses. Hence, treatment of these costs as expenses rather than capital charges is appropriate.[3]

Finally, the Commission believes the proposal is necessary to eliminate a discrepancy in fund yield calculations which can result from the inconsistent treatment of 12b–1 plan expenses. Yield for investment companies is based on comparing dividends from net investment income to net asset value. Because funds distribute all their net investment income in the form of dividends, the fund which charges 12b–1 plan costs to expenses will have higher expenses, distribute smaller dividends and thereby report a lower yield than a fund which is identical in every respect, including increases in net asset value, except that it charges capital for the same 12b–1 expenditures and thus has lower expenses and higher dividends.[4] The Commission believes that eliminating this unnecessary discrepancy will aid investors who often rely heavily on fund yield calculations in choosing in which fund to invest.

List of Subjects in 17 CFR Part 210

Accounting, Reporting and recordkeeping requirements, Securities.

Text of Proposed Rule Amendment

Part 210 of Chapter II of Title 17 of the Code of Federal Regulations is proposed to be amended as shown.

1. The authority citation for Part 210 continues to read in part as follows:

Authority: Secs. 6, 7, 8, 10, 12, 13, 15, 19, 23, 48 Stat. 78, 79 as amended, 81, as amended, 85, as amended, 892, as amended, 894, 895, as amended, 901, as ameded, secs. 5, 14, 20, 49 Stat., 812, 827, 833, secs. 8, 30, 31, 38, 54 Stat., 803, 836, 838, 841; 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 781, 78m, 78o, 78w, 79e, 79n, 79t, 80a–8, 80a–29, 80a–30, 80a–37, * * *.

2. Paragraph 2(f) is added to § 210.6–07 to read as follows:

§ 210.6–07 Statements of Operations.

* * * * *

2 *Expenses.* * * *

* * * * *

(f) State separately all amounts paid in accordance with a plan adopted under Rule 12b–1 under the Investment Company Act of 1940. These amounts shall be reduced by any amounts retained by, or paid to, the fund with respect to such a plan. State, in a note or otherwise, the gross amount paid in accordance with the plan and the gross amount retained by, or paid to, the fund with respect to the plan.

* * * * *

By the Commission.

John Wheeler,

Secretary.

July 10, 1985.

Regulatory Flexibility Act Certification

I, John S.R. Shad, Chairman of the Securities and Exchange Commission, hereby certify, pursuant to 5 U.S.C. 605(b), that the proposed amendment to Rule 6–07 under Regulation S–X set forth in Release Nos. 33–6598; 34–22219; IC–14623; if promulgated will not have a significant economic impact on a substantial number of small entities. The reason for this certification is that the amendment will affect approximately 12 investment companies out of 435 that have adopted 12b–1 plans and only four of these would be classified as small entities under the Regulatory Flexibility Act.

Dated: July 10, 1985.

John S.R. Shad,

Chairman.

[FR Doc. 85–16946 Filed 7–16–85; 8:45 am]

BILLING CODE 8010–01–M

[3] It is also appropriate that the contingent deferred sales load, which represents a recovery of distribution expenses, be offset against the 12b–1 expenditures, and the proposed amendment to Rule 6–07 contains specific language to this effect.

[4] The accounting and tax effects of the difference are that the shareholders of the fund capitalizing such expenses receive these amounts as current income at ordinary tax rates. The shareholders of funds expensing these expenditures receive the same amount as part of the redemption proceeds and are taxed at capital gain rates.

The difference is accounting treatment of 12b–1 expenses described above does not affect the calculation of "total return," which compares net asset value at the beginning of a period with net asset value at the end of that period. As a general matter, yield appears to be the more significant factor in investor decision making.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2, 154, 157, 161 and 284

[Docket No. RM85–1–000]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol; Rescheduling of Conference Date

Issued: July 10, 1985.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking; rescheduling of conference date.

SUMMARY: The Commission is rescheduling the conference to be held on its notice of proposed rulemaking concerning regulations applicable to the transportation of natural gas by interstate pipelines and intrastate pipelines on behalf of other shippers.

DATES: The conference will be held on Thursday, August 1, 1985 at 10:00 a.m., instead of Tuesday, July 30, 1985. The last date for filing written requests to participate at the conference is July 22, 1985, and remains unchanged.

ADDRESS: The public conference will be held at the Commission's offices at 825 North Capitol St., N.E., Washington, D.C. 20426 in Hearing Room A. Requests to participate should be filed with the Secretary at the same street address.

SUPPLEMENTARY INFORMATION: On May 30, 1985, the Federal Energy Regulatory Commission (Commission) issued a Notice of Proposed Rulemaking, 50 FR 24,130 (June 7, 1985), to amend its current regulations and adopt new regulations applicable to the transportation of natural gas by interstate pipelines and intrastate pipelines on behalf of other shippers.

The May 30, 1985, Notice scheduled a public conference for Tuesday, July 30, 1985. Recently, however, the Commission's Chairman has been invited by the Chairman of the Subcommittee on Energy Conservation and Power of the Committee on Energy and Commerce of the U.S. House of Representatives to testify on July 30, 1985, in a hearing to address proposed hydroelectric relicensing legislation. Because of this scheduling conflict, the public conference on the Commission's May 30, 1985, Notice is being rescheduled.

Notice is hereby given that the public conference on the Notice of Proposed Rulemaking is rescheduled for Thursday, August 1, 1985, at 10:00 a.m. The last day for the filing of written

requests to participate in the conference, namely, July 22, 1985, is not changed.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-16933 Filed 7-16-85; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 30

[Order No. 1102-85]

Department of Justice Programs and Activities Covered by Executive Order 12372

AGENCY: Office of the Attorney General, Justice.

ACTION: Notice of Covered Programs and Request for Comments on Proposed Excluded Programs.

SUMMARY: The primary purposes of this notice are to list the Department of Justice programs and activities that are covered by Executive Order 12372, "Intergovernmental Review of Federal Programs," and to invite public comment on the proposed exclusion of certain programs and activities from coverage under the Order. The notice also advises that section 304 of the Demonstration Cities and Metropolitan Development Act of 1966 does not apply to the U.S. Marshals Service's Cooperative Agreement Program.

DATES: All interested persons are invited to submit written comments on the proposed exclusion of certain programs and activities on or before September 3, 1985.

ADDRESS: Comments should be sent to the Office of Legal Policy, Room 4234, Department of Justice, Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT: Paul P. Colborn, Office of Legal Policy, Room 4248, Department of Justice, Washington, D.C. 20530 (202/633-4582).

SUPPLEMENTARY INFORMATION:

Covered Programs

Section 30.3 of the Department of Justice regulations implementing E.O. 12372 (28 CFR Part 30; published at 48 FR 29238, June 24, 1983) requires the Department to publish a list of those federal financial assistance and direct federal development programs and activities for which each state may choose to avail itself of the intergovernmental consultation procedures established by the Order and set forth in the Department regulations.

To reflect recent changes in Justice Department programs and activities, the Department is publishing the following revision to the list of "covered" programs and activities that we published on June 24, 1983 (48 FR 29248) (the parenthetical numbers are Catalog of Federal Domestic Assistance references):

Drug Enforcement Administration—Suppression of Diversion of Controlled Substances Program (16.006) (funds not yet appropriated).

Community Relations Service—Cuban and Haitian Entrant Resettlement Program (16.201).

Office of Juvenile Justice and Delinquency Prevention—Formula Grant Program (16.540)

Office of Juvenile Justice and Delinquency Prevention—Special Emphasis and Technical Assistance Grants, except grants which are national in scope (16.541).

Bureau of Justice Statistics—Criminal Justice Statistics Development Grants (16.550).

Bureau of Justice Assistance—Criminal Justice Block Grants (16.573).

Bureau of Justice Assistance—Criminal Justice Discretionary Grants, except grants to non-governmental entities for national scope purposes (16.574).

National Institute of Corrections—Technical Assistance Grants, except contracts to individuals for specialized assistance (16.603).

Bureau of Justice Assistance—Transfer of Surplus Real Property for Correctional Purposes (no CFDA Number).

Bureau of Justice Assistance—Regional Information Sharing Systems (no CFDA Number).

Bureau of Prisons—Construction projects such as correctional institutions and detention centers (no CFDA number)

Immigration and Naturalization Service—Construction projects such as border patrol stations (no CFDA number)

U.S. Marshals Service—Cooperative Agreement Program (no CFDA number).

Proposed Exclusions

The Department is committed to seeking public comment on any proposed exclusion of a financial assistance or direct development program or activity from coverage under E.O. 12372. We are therefore requesting public comment on the following proposed exclusions. After identifying each program or activity that we propose to exclude, we justify the exclusion either by referring to exclusion criteria listed in the White House Fact Sheet that accompanied E.O. 12372 or by explaining why the program or activity does not directly affect the state and local governments.

We welcome comments on the following proposed exclusions:

Office of Juvenile Justice and Delinquency Prevention—Special Emphasis and Technical Assistance Grants (16.541). Excluded under the White House Fact Sheet category of "Research and development national in scope" would be those grants which have as their primary purpose national scope research, development, training of technical assistance; assistance to particular states or local governments would remain covered.

National Institute for Juvenile Justice and Delinquency Prevention Grants (16.542)—Excluded under the White House Fact Sheet category of "Research and development national in scope."

Office of Juvenile Justice and Delinquency Prevention—Missing Children's Assistance (16.543). Excluded under the White House Fact Sheet category of "Research and development national in scope." Most of the funds for this program are for research (national incidence study, national study of police practices and other research studies). A small amount for purposes other than research will be awarded to a national organization, which will allocate funds or services to other groups. The award will not identify particular states or local governments to receive sub-grants and thus will not directly affect state and local governments.

National Institute of Justice—Research and Development Project Grants (16.560). Excluded under the White House Fact Sheet category of "Research and development national in scope."

National Institute of Justice—Visiting Fellowships (16.561). Excluded under the White House Fact Sheet category of "Research and development national in scope."

National Institute of Justice—Research Development Graduate Research Fellowships (16.562). Excluded under the White House Fact Sheet category of "Research and development national in scope."

Bureau of Justice Assistance—Public Safety Officers Benefit Program (16.571). Excluded under White House Fact Sheet category of "Direct payments to individuals."

Bureau of Justice Assistance—Mariel Cubans (16.572). Budget authority appropriated in FY 1985; terminated April 1, 1985. Excluded due to termination of program.

Bureau of Justice Assistance—Criminal Justice Discretionary Grants (16.574). Only grants under this program to non-governmental entities for national scope purposes would be excluded. These activities do not directly affect any specific state or local

government and probably would not be performed by state and local governments on their own.

Office for Victims of Crime—Crime Victim Assistance (16.575). Excluded under the White House Fact Sheet category of "Financial transfer for which Federal agencies have no funding discretion or direct authority to approve specific sites or projects." Each state is given $100,000 plus a portion determined by population. States determine individual awards.

Office for Victims of Crime—Crime Victim Compensation (16.576). Excluded under the White House Fact Sheet category of "Financial transfer for which Federal agencies have no funding discretion or direct authority to approve specific sites or projects." Funds awarded to a state are based on a percentage of the state's awards during the preceding fiscal year for victims compensation. The state determines where the funds go.

Section 204

Finally, we wish to retract the statement, which we made in our June 24, 1983 **Federal Register** notice of programs and activities covered by E.O. 12372 (48 FR 29248), that the U.S. Marshals Service's Cooperative Agreement Program is subject to the requirements of section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334). The Department has now determined, in consultation with the Office of Management and Budget, that section 204 does *not* apply to that program.

Dated: July 5, 1985.

Edwin Meese III,

Attorney General.

[FR Doc. 85-16932 Filed 7-16-85; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 33

Enforcement of Nondiscrimination on the Basis of Handicap in Department of Labor Programs

Correction

In FR Doc. 85-15655 beginning on page 27298 in the issue of Tuesday, July 2, 1985, make the following corrections:

1. On page 27299, in the second column, in the seventh paragraph, in the eighteenth line, "they conducted" should read "they are conducted".

2. On page 27301, in the first column, in the fourth complete paragraph, in the fourteenth line, "Department of" should read "Department for".

3. On page 27302, in the third column, in the sixth line, "The" should read "They".

4. On page 27302, in the third column, in the first complete paragraph, in the twenty-fourth line, "providing" should read "proving"; also, in the twenty-eighth line, "under" should read "undue".

5. On page 27305, in the third column, in § 33.9(a)(2), in the second line, "is" should read "it".

6. On page 27306, in the first column, in § 33.9(c) in the second line, "of" should read "or".

7. On page 27306, in the first column, in § 33.9(e), in the sixth line, "strucual" should read "structural".

8. On page 27306, in the second column, in § 33.11(b), in the second line, "perons"should read "persons".

9. On page 27306, in the third column, in § 33.11(d), in the eighteenth line, "publication" should read "publications".

10. On page 27306, in the third column, in § 33.11(e)(1), in the fourth line, "activities" should read "activity".

11. On page 27307, in the third column, in § 33.12(n), in the tenth line, "19" should read "29".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300135; FRL-2863-2]

Mineral Oil; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to expand the exemption from the requirement of a tolerance for mineral oil when used as an inert ingredient diluent, carrier, and solvent in pesticide formulations. This proposed regulation was requested by Malcolm Nicol and Co.

DATE: Written comments, identified by the document control number [OPP-300135], must be received on or before August 16, 1985.

ADDRESS: By mail, submit comments to: Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

In person, deliver comments to: Registration Support and Emergency Response Branch, Registration Division (TS-767), Environmental Protection Agency, Room 716 CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential, by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: N. Bhushan Mandava, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Office location and telephone number: Registration Support and Emergency Response Branch, Rm. 724A, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-7700.

SUPPLEMENTARY INFORMATION: At the request of Malcolm Nicol and Co., the Administrator proposes to amend 40 CFR 180.1001(c) by expanding the existing exemption from the requirement of a tolerance for mineral oil (U.S.P.). The ingredient is listed for use a diluent, solvent in pesticide formulations. The exemption would expand the entry to read "Mineral oil, U.S.P., or conforming to 21 CFR 172.878 or 178.3620(a), (b)" and the additional use as a carrier in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest. A separate entry is not necessary to reflect this change.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the

ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient. Mineral oil, U.S.P. or conforming to 21 CFR 172.878 or 178.3620 (a), (b).

Name and address of requestor. Malcolm Nicol and Co., Lyndhurst, NJ 07071.

Bases for approval. 1. Petroleum oils are cleared under 40 CFR 180.1001(b)(3) for use on growing crops.

2. Mineral oil (U.S.P.) is cleared under 40 CFR 180.1001(c) for use as a diluent of solvent.

3. Mineral oil, U.S.P., or conforming to Title 21, § 172.878 or § 178.3620 (a), (b) is cleared under 40 CFR 180.1001(e) for use as a solvent or diluent.

4. White Mineral oil is cleared under 21 CFR 172.878 for use in foods.

5. Mineral oil is cleared under 21 CFR 178.3620 (a) and (b) for use as a component of nonfood articles intended for use in contact with food.

Based on the above information, and review of its use, it has been found that when use in accordance with good agricultural practices this ingredient is useful and does not pose a hazard to humans or the environment. It is concluded, therefore, that the proposed amendment to 40 CFR Part 180 will protect the public health, and it is proposed that the regulation be established as set forth below.

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

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating both the subject and the petition and document control number, [OPP-300135]. All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Registration Support and Emergency Response Branch at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

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

List of Subjects in 40 CFR Part 180

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

Dated: July 2, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

1. The authority citation for 40 CFR Part 180 continues to read as set forth below:

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

2. Section 180.1001(c) is amended by revising the entry mineral oil (U.S.P.), to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * * * *		
Mineral oil, U.S.P., or conforming to 21 CFR 172.878 or 178.3620(a), (b) (CAS Reg. No. 8012-95-1).		Diluent, carrier, and solvent.
* * * * *		

* * * * *

[FR Doc. 85-16477 Filed 7-16-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300133; FRL-2864-8]

Octyl Epoxytallate, Stearic Acid, 4,4'-Isopropylidene-Diphenol Alkyl (C_{12}-C_{15}) Phosphites, Carbon Black, Chlorinated Polyethylene, and Epoxidized Soybean Oil; Tolerance Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that octyl epoxytallate, stearic acid, 4,4'-isopropylidenediphenol alkyl (C_{12}-C_{15}) phosphites, carbon black, chlorinated polyethylene, and epoxidized soybean oil be exempted from the requirement of a tolerance when used as inert ingredients in pesticide formulations in animal ear tags. These proposed regulations were requested by Zoecon Industries.

DATE: Written comments, identified by the document control number [OPP-300133], must be received on or before August 16, 1985.

ADDRESS: By mail, submit comments to:

Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

In person, deliver comments to: Registration Support and Emergency Response Branch, Registration Division (TS-767), Environmental Protection Agency, Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: N. Bhushan Mandava, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

Office location and telephone number: Registration Support and Emergency Response Branch, Rm. 724A, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7700).

SUPPLEMENTARY INFORMATION: At the request of Zoecon Industries, the Administrator proposes to amend 40 CFR 180.1001(e) by establishing exemptions from the requirement of a tolerance for octyl epoxytallate, stearic acid, 4,4'-isopropylidenediphenol alkyl

(C_{12}–C_{15}) phosphites, carbon black, and chlorinated polyethylene when used as inert ingredients in pesticide formulations in animal ear tags, and amending the existing exemption from the requirement of a tolerance for epoxidized soybean oil for the additional use as a plasticizer in pesticide formulations for animal ear tags.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrangeenan and modified cellulose; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredients. Octyl epoxytallate, stearic acid, 4,4'-isopropylidenediphenol alkyl (C_{12}-C_{15}) C_{15}) phosphites, carbon black, chlorinated polyethylene, and epoxidized soybean oil.

Name and address of requestor. Zoecon Industries, Dallas, TX 75234.

Bases for approval. The ear tags are to be used as controlled-release pesticide-dispensing devices, the active ingredient being incorporated into the plastic matrix in the same manner as flea and tick collars that are made for domestic pets.

1. Octyl epoxytallate is the epoxidized octyl ester of tall oil. Tall oil contains predominantly oleic and linoleic acids and minor amounts of rosin acids. Soybean oil contains predominantly the triglycerides of oleic, limoleic and linolenic acids. Therefore, tall oil is similar to soybean oil regarding its fatty acid content. Tall oil is cleared under 40 CFR 180.1001(c) for use as a surfactant, related adjuvants of surfactants, in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest. Epoxidized soybean oil is cleared under 40 CFR 180.1001(e) for use as a stabilizer in pesticide formulations applied to animals. When used as proposed, octyl epoxytallate is considered to be toxicologically equivalent to epoxidized soybean oil.

2. Stearic acid is cleared under 40 CFR 180.1001(c) for use as a diluent in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest.

3. 4,4'-Isopropylidenediphenol alkyl (C_{12}–C_{15}) phosphites are cleared under 21 CFR 178.2010 as antioxidants and stabilizers used in polymers in contact with food at levels not to exceed 1.0 percent by weight in the rigid polymer.

4. Carbon black is cleared under 21 CFR 175.300 as a pigment/colorant for resinous and polymeric coatings in contact with foods.

5. Chlorinated polyethylene is cleared under 21 CFR 177.1610 for use as a component of food-contact articles or as a food-contact article.

6. Epoxidized soybean oil is cleared under 21 CFR 181.27 as a plasticizer; under 40 CFR 180.1001(c) for use as a surfactant, related adjuvant of surfactant in pesticide formulations applied to grownig crops or to raw agricultural commodities after harvest; and under 40 CFR 180.1001(e) for use as a stabilizer in pesticide formulations applied to animals. The present clearance under 40 CFR 180.1001(e) can be amended to include the additional use as a plasticizer in animal ear tags.

Based on the above information, and review of their uses, it has been found that, when used in accordance with good agricultural practices, these ingredients are useful and do not pose a hazard to humans or the environment. It is concluded, therefore, that the proposed amendments to 40 CFR Part 180 will protect the public health, and it is proposed that the regulation be established as set forth below.

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

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating both the subject and the petition and document control number, [OPP-300133]. All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Registration Support and Emergency Response Branch at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

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

List of Subjects in 40 CFR Part 180

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

Dated July 5, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

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

1. The authority citation for Part 180 continues to read as set forth below:

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

2. Section 180.1001(e) is amended by revising the entry for epoxidized soybean oil and by adding and alphabetically inserting the inert ingredients as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(e) * * *

Inert ingredients	Limits	Uses
* * * *		
Carbon black (CAS Reg. No. 1333-86-4)		Colorant/pigment in animal tag
* * * *		
Chlorinated polyethylene (CAS Reg. No. 64754-90-1)		Resin, component animal tag
* * * *		
Epoxidized soybean oil (CAS Reg. No. 8013-07-8)		Stabilizer, plasticizer component animal tag
* * * *		
4,4'-Isopropylidenediphenol alkyl (C_{12}-C_{15}) phosphites (CAS Reg. No. 92908-32-2)	Not to exceed 1 percent of polymer	Stabilizer, component animal tag
* * * *		
Octyl epoxytallate (CAS Reg. 61788-72-5)		Plasticizer, component animal tag

Inert ingredients	Limits	Uses
* * * * *		
Stearic acid (CAS Reg. 57-11-4).		Lubricant, component animal tag.
* * * * *		

[FR Doc. 85-16850 Filed 7-16-85; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 302

Civil Defense; State and Local Emergency Management Assistance Program (EMA)

Correction

In FR Doc. 85-15869 beginning on page 27627 in the issue of Friday, July 5, 1985, make the following corrections:

§ 302.2 [Corrected]

1. On page 27628, first column, amendatory language instruction 2, third line, "CPG 1-3;" should appear after "of".

2. On the same page, first column, amendatory language instruction 3, fourth line, "; CPG 1-32" should appear between "CPG 1-3" and "*Financial*".

§ 302.3 [Corrected]

3. On the same page, first column, § 302.3 (b), sixth line, "in CPG 1-8," should appear between "1-3," and "Guide".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 71

[OST Docket No. 6; Notice 85-9A]

Standard Time Zone Boundary in the State of Indiana; Schedule of Public Hearings

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: In the **Federal Register** of Friday, June 21, 1985 (50 FR 25856), DOT published a proposal to relocate a portion of the State of Indiana from the central to the eastern time zone. The schedule of public hearings was not finalized at the time that proposal was published; it is now, and the schedule is set forth below. The public hearings will be chaired by a representative of DOT. The hearings will be informal and will be tape recorded for inclusion in the docket. Persons who desire to speak at the hearings—either to express opinions or ask questions—need not reserve in advance the opportunity to do so. To the greatest extent practicable, the DOT representative will provide an opportunity to speak for all those wishing to do so. Priority will be accorded those who have not previously spoken. The deadline date and address for written comments was inadvertently omitted from the proposal and are stated below.

DATES: Written comments must be received by Tuesday, August 20, 1985, to be assured of consideration. Comments received after that date will be considered to the extent practical. The dates of the hearings are listed below.

ADDRESS: Comments should be sent to Documentary Services Division, Attention: OST Docket No. 6, Department of Transportation, C-55, Room 4107, Washington, DC 20590. Persons who wish acknowledgment that their comments have been received should include a self-addressed stamped postcard, on which the Docket Clerk will note the date and time of receipt.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the General Counsel, C-50, Department of Transportation, Washington, DC 20590, (202) 472-5577.

SUPPLEMENTARY INFORMATION:

Schedule of Public Hearings

Monday, July 22, 1985

10 a.m.—Municipal Building, 222 First Street, Henderson, Kentucky 42420

6:30 p.m.—University of Evansville, Hyde Hall, Room 126, Evansville, Indiana 47702

Tuesday, July 23, 1985

11 a.m.—Heritage Hills High School, Highway 162, Lincoln City, Indiana 47552

7 p.m.—Owensboro City Hall, 4th and Allen Street, Owensboro, Kentucky 42301

Wednesday, July 24, 1985

11 a.m.—Mount Vernon City Hall, Corner of Sixth and Main Street, Mount Vernon, Indiana 47620

6:30 p.m.—Municipal Building, Council Room, 225 East Main Street, Carmi, Illinois 62821

Thursday, July 25, 1985

10 a.m.—City Hall, 219 Market Street, Mount Carmel, Illinois 62863

6:30 p.m.—Princeton Community High School, Old Highway 41 North, Princeton, Indiana 47670

Friday, July 26, 1985

11 a.m.—Knights of Columbus Hall, Main Street, Jasper, Indiana 47546

6:30 p.m.—City Council Chambers, 17 South Fourth Street, Vincennes, Indiana 47591.

The authority citation for this document is: Act of March 19, 1918, as amended by the Uniform Time Act of 1966 and Public Law 97-449, 15 U.S.C. 260-64; 15 CFR 1.57(a).

Issued in Washington, DC, on July 15, 1985.

Rosalind A. Knapp,

Deputy General Counsel

[FR Doc. 85-17057 Filed 7-16-85; 8:45 am]
BILLING CODE 4910-62-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Public Hearing and Reopening of Comment Period on Proposed Endangered Status for "Achyranthes Rotundata"

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing and reopening of comment period.

SUMMARY: The U.S. Fish and Wildlife Service gives notice that a public hearing will be held on the proposed determination of endangered status for *Achyranthes rotundata* and that the comment period on the proposal is reopened. The proposal was published in the **Federal Register** on April 22, 1985 (50 FR 15764). This plant is known from only two populations, one located at Ka'ena Point and the second at Barbers Point, island of Oahu, Hawaii. The Ka'ena Point population consists of only two individuals and is believed to be near extirpation. The Barbers Point population is vulnerable to any substantial habitat alteration and faces the potential threat of complete habitat destruction during conversion of existing sites to industrial use. This hearing and the reopening of the comment period will allow comments on this proposal to be submitted from all interested parties.

DATES: The comment period on the proposal is reopened July 17, 1985. The public hearing will be held from 7:00 to 9:00 p.m., on Monday, August 5, 1985, in Ewa Beach, Hawaii. The comment period, which originally closed on June 21, 1985, now closes August 26, 1985.

ADDRESSES: The public hearing will be held at the Ewa Beach Community School Library, Humanities Room, 91-950 N. Road, Ewa Beach, Hawaii. Written comments and material should be sent to the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 N.E. Multnomah Street, Suite 1692, Portland, Oregon 97232. Comments and materials received will be available for public inspection during normal business hours, by appointment, at the Regional Endangered Species Division at the above Regional Office address.

FOR FURTHER INFORMATION CONTACT: For information on the public hearing, contact Mr. Ernest Kosaka, Project Leader, U.S. Fish and Wildlife Service, 300 Ala Moana Blvd., Room 6307, P.O. Box 50167, Honolulu, Hawaii 96850 (808/546-7530).

SUPPLEMENTARY INFORMATION:

Background

Achyranthes rotundata was first recorded in 1819 by C. Gaudichaud during the voyage of the Uranie. It was later formally described by W. Hillerbrand in 1888 as a variety of *Achyranthes splendens*. The species is a low shrub, 1½ to 8½ feet in height and is covered with short, silvery hairs. Small inconspicuous flowers are borne in terminal spikes with prominent floral and rachis bracts. H. St. John (1976) first recognized this taxon as a species endemic to the island of Oahu, and described it as abundant on the seaward portions of the 'Ewa Coral Plain. He concluded that it may have once been distributed all along the arid and semi-arid coastal lowlands of the island, from Barbers Point to Ka'ena Point. *Achyranthes rotundata* is now unknown except for two populations.

The comment period on the proposal originally closed on June 21, 1985. In order to accommodate the hearing, the Service reopens the public comment period. Written comments may now be submitted until August 26, 1985, to the Service office in the Addresses section.

Author

The primary author of this notice is Mr. Wayne White, U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 N.E. Multnomah Street, Suite 1692, Portland, Oregon 97232 (503/231-6131).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*; Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Dated: July 11, 1985.

Joseph R. Blum,

Acting Regional Director.

[FR Doc. 85-17049 Filed 7-16-85; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 663

[Docket No. 41155-4175]

Foreign Fishing and Pacific Coast Groundfish Fishery

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

ACTION: Notice of proposed inseason adjustment and request for comments.

SUMMARY: NMFS issues a preliminary reassessment of domestic annual harvest (DAH) and domestic annual processing (DAP) for Pacific whiting and announces its intent to increase the total allowable level of foreign fishing (TALFF) of Pacific whiting in the fishery conservation zone (FCZ) off Washington, Oregon, and California. The TALFF would be increased by releasing a 35,000 metric ton (mt) reserve which is surplus to domestic needs. The action would not affect the amount of fish harvested and processed by the domestic industry, but would provide the flexibility to allow additional allocations of Pacific whiting to foreign countries, if appropriate.

DATE: Comments must be submitted on or before August 1, 1985.

ADDRESS: Send comments to Rolland A. Schmitten, Director, Northwest Region, NMFS, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten, 206-526-6150.

SUPPLEMENTARY INFORMATION:

Background

The fishery management plan (FMP) for the Pacific Coast groundfish fishery was implemented on October 5, 1982 (47 FR 43964, October 5, 1982). Under § 611.70 and Part 663, the Secretary of Commerce (Secretary) annually specifies a numerical optimum yield (OY), DAH, DAP, joint venture processing (JVP), TALFF, and a reserve for Pacific whiting. Regulations at § 611.70(d)(2) also establish procedures to reassess DAH, DAP and JVP on or about July 1 each year, and to increase TALFF during the fishing year by any part of the reserve that the Secretary determines will not be harveted by U.S. fishermen.

The following table lists the 1985 fishing year initial specifications for Pacific whiting (50 FR 471, January 4, 1985) and the proposed revised specification of TALFF.

REVISED SPECIFICATIONS FOR FISHING YEAR JANUARY 1, 1985 THROUGH DECEMBER 31, 1985

[In metric tons (mt)]

Terms	Pacific whiting	
	Initial specifications	Revised specifications
OY	175,000	
DAH	95,000	
DAP	10,000	
JVP	85,000	
TALFF	45,000	80,000
Reserve	35,000	0

The initial DAP and JVP for 1985 were based on the projected needs of the U.S. industry, as surveyed by the NMFS Northwest Region in December 1984. The industry was surveyed again in June 1985 to determine whether there was any change in the domestic intent and capacity to harvest and process Pacific whiting, and U.S. catch, effort, and processing performance were projected to the end of the season. The results of the June survey indicate that the initial DAP, JVP, and DAH are adequate to meet domestic needs during the remainder of 1985. There is no current information to indicate any biological problem with the stock nor any need to reassess OY. The Secretary has determined that no part of the reserve will be harvested by U.S. fishermen during the remainder of 1985 and thus is available for release to TALFF.

The purpose of releasing the Pacific whiting reserve, which is surplus to domestic needs, is to provide the flexibility to allow additional allocation to foreign countries, if appropriate. There is no certainty that all of the additional TALFF will be allocated to foreign countries during 1985. Poland was allocated 50,000 mt of Pacific whiting for directed fishing at the beginning of the year. The Soviet Union was allocated 5,000 mt.

Classification

The preliminary reassessment of DAH and DAP and the proposal to release the Pacific whiting reserve are based upon

the most recent data available. The action is taken under authority of 50 CFR Parts 611 and 663, is in compliance with Executive Order 12291, and is covered by the regulatory flexibility analysis and environmental impact statement prepared for the authorizing regulations. The action contains no collection of information requirement for purposes of the Paperwork Reduction Act.

The public has had opportunity to comment on the preliminary reassessment of DAP, JVP and DAH, and will be able to discuss and comment on the proposed release of the Pacific whiting reserve during the July 1985 meeting of the Pacific Fishery Management Council. Written public comments also will be accepted for 15 days after publication of this notice in the **Federal Register**.

(16 U.S.C. 1801 *et seq.*)

List of Subjects

50 CFR Part 611

Fisheries, Foreign relations, Reporting and recordkeeping requirements.

50 CFR Part 663

Fishing, Fisheries, Reporting and recordkeeping requirements.

Dated: July 11, 1985.

Carmen J. Blondin,

Deputy Assistant Administrator For Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 85-16942 Filed 7-16-85; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 50, No. 137
Wednesday, July 17, 1985

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

Forms Under Review by Office of Management and Budget

July 12, 1985.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, D.C. 20250, (220) 447–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

- Office of International Cooperation and Development

Automated Skills Inventory System (ASIST)
OICD–73, Qualifications Summary
On occasion
Individuals or households; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations; 1,500 responses; 1,500 hours; not applicable under 3504(h)
Charles H. Cook, (202) 475–5246

New

- Food and Nutrition Service

Semi-Annual Report of WIC Enrollment
Semi-annually
State or local governments; 172 responses; 2,912 hours; not applicable under 3504(h)
Chris Lipsey, (703) 756–3710

Revision

- Forest Service

Application for Temporary Employment
FS 6100–23
Annually
Individuals or households; 25,000 responses; 12,500 hours; not applicable under 3504(h)
Eric L. Hodnett, (703) 235–2045

Larry K. Roberson,
Acting Departmental Clearance Officer.
[FR Doc. 85–16982 Filed 7–16–85; 8:45 am]
BILLING CODE 3410–01–M

Soil Conservation Service

Beardsley Watershed, California; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Beardsley Watershed, Ventura County, California.

FOR FURTHER INFORMATION CONTACT: Eugene E. Andreuccetti, State Conservationist, Soil Conservation Service, 2828 Chiles Road, Davis, California, 95616, telephone (916) 449–2848.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Eugene E. Andreuccetti, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns construction of a grade stabilization structure in Beardsley Wash with associated bank stabilization.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Eugene E. Andreuccetti.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Executive Order 12372 regarding intergovernmental review Federal and federally assisted programs and projects is applicable)

Darwyn H. Briggs,
Assistant State Conservationist.
July 8, 1985.
[FR Doc. 85–16917 Filed 7–16–85; 8:45 am]
BILLING CODE 3410–16–M

COMMISSION ON CIVIL RIGHTS

New Mexico Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New Mexico Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 3:00 p.m. on August 8, 1985, at the Clasic Hotel, 6815 Menual, N.E., the Crown Room, Albuquerque, New Mexico. The

purpose of the meeting is to hold a briefing session on civil rights issues in the State and to elect vice-chair for the advisory committee.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Vincent J. Montoya or J. Richard Avena director of the Southwestern Regional Office at (512) 229–5570.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C. July 11, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85–16904 Filed 7–16–85; 8:45 am]

BILLING CODE 6335–01–M

Illinois Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Illinois Advisory Committee to the Commission will convene at 10:00 a.m and adjourn at 3:00 p.m. on August 9, 1985, at the U.S. Commission on Civil Rights, Midwestern Regional Office, 230 S. Dearborn Street, Chicago, Illinois. The purpose of the meeting is to discuss future project plans and make subcommittee assignments connected with those plans.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Hugh J. Schwartzberg or Clark Roberts, director of the Midwestern Regional Office at (312) 353–7371.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., July 9, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85–16902 Filed 7–16–85; 8:45 am]

BILLING CODE 6335–01–M

Mississippi Advisory Committee; Agenda for Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Mississippi Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 4:00 p.m. on August 5, 1985, at the Walthall Hotel, 225 East Capitol Street, the Wheeler Room, Jackson, Mississippi. The purpose of the meeting is to report on the National Chairpersons' Conference.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Louis Westerfield or Bobby Doctor, Director of the Southern Regional Office at (404) 221–4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 11, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85–16903 Filed 7–16–85; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Carnegie Institution of Washington; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No. 84–236. Applicant: Carnegie Institution of Washington, Washington, DC 20015. Instrument: Mass Spectrometer, Model VG MM354 with Accessories. Manufacturer: VG Isotopes Ltd., United Kingdom. Intended Use: See notice at 49 FR 35167.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific vaule to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides a variable space, multiple (5) collector system capable of simultaneous detection of several ion beams. The National Bureau of Standards advises in its memorandum dated May 20, 1985 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 85–16964 Filed 7–16–85; 8:45 am]

BILLING CODE 3510–DS–M

Cornell University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No. 85–028. Applicant: Cornell University, Ithaca, NY 14853. Instrument: Oscillator-Amplifier Excimer Laser, Model EMG 150ES–C, FL 2002E. Manufacturer: Lambda Physik, West Germany. Intended use: See notice at 49 FR 47647.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides high power, diffraction limited and tunable laser radiation at 157, 193, 222, 249, 308 and 351 nanometers for Raman shifting. The National Bureau of Standards advises in its memorandum dated April 13, 1985 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 85–16962 Filed 7–16–85; 8:45 am]

BILLING CODE 3510–DS–M

Cornell University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L 98–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 83–345R. Applicant: Cornell University, Ithaca, NY 14853. Instrument: Electrophoresis Apparatus and Rotating Prism. Original notice of this resubmitted application was published in the **Federal Register** of November 21, 1983.

This application is a resubmission of Docket Number 83–345 which was denied without prejudice to resubmission for informational deficiencies.

Comments: None received.

Decision: Approved No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides a cylindrical cell immersed in a thermostatted tank to reduce convective circulation and to control temperature accurately up to 80 degrees centigrade. The National Bureau of Standards advises in its memorandum dated May 2, 1985 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 85–16967 Filed 7–16–85; 8:45 am]

BILLING CODE 3510-DS-M

Emory University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decison is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No. 85–116. Applicant: Emory University, Atlantic, GA 30322. Instrument: Fluorescence Lifetime Instrumentation. Manufacturer: Photochemical Research Associates, Inc., Canada. Intended use: See notice at 50 FR 13843.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument operates in the nanosecond to millisecond range, with a pulse light mode providing time-correlated single photon counting. The capability of the foreign instrument described above is pertinent to the applicant's intended purpose. We know of no domestic instument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 85–16960 Filed 7–16–85; 8:45 am]

BILLING CODE 3510-DS-M

Department of Interior; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No. 85–057. Applicant: U.S. Department of Interior, Reston, VA 22092. Instrument: Mass Spectrometer, Model MAT 251 With Accessories. Manufacturer: Finnigan MAT, West Germany. Intended use: See notice at 50 FR 987.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument will be used to measure the effect of H^+_3 ion contributions on the measurement of hydrogen/deuterium ratios in natural water samples at a resolution of 1830, to separate it from the ion HD^+. The National Bureau of Standards advises in its memorandum dated April 8, 1984 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument of the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 85–16966 Filed 7–16–85; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No.. 85–126. Applicant: National Oceanic & Atmospheric Administration, Boulder, CO 80303. Instrument: Ionosonde Data Recorder, Model KEL–46 & Analyzer. Manufacturer: KEL Aerospace, Australia. Intended use: See notice at 50 FR 13844.

Comments: None received.

Decision: Approved. No instrument or equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument is an ancillary device compatible with existing instrument utilized in ionospheric research. The article provides the capability for interactively scaling data from ionogram images and tabulating the results in a systematic machine readable format. The capability of the foreign instrument described above is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 85-16958 Filed 7-16-85; 8:45 am]

BILLING CODE 3510-DS-M

Stanford University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No.. 85-120. Applicant: Stanford Universtiy, Stanford, CA 94305. Instrument: Streak Camera, Model C 1587 with Accessories. Manufacturer: Hamamastsu, Japan. Intended use: See notice at 50 FR 13844.

Comments: None received.

Decision: Approved. No instrument or equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument can measure phenomena with a time resolution of less than 3.0 picoseconds. The capability of the foreign instrument described above is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 85-16961 Filed 7-16-85; 8:45 am]

BILLING CODE 3510-DS-M

Texas A&M Research Foundation; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No. 85-083. Applicant: Texas A&M Research Foundation, College Station, TX 77843. Instrument: Gas Isotope Ratio Mass Spectrometer System, Model 251 PM. Manufacturer: Finnigan Corporation, West Germany. Intended use: See notice at 50 FR 7944.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides (1) a major iron beam current of 2.0×10^{-7} amperes for analysis of carbon dioxide and (2) precise analysis of very small sample volumes (internal precision is 0.008 percent for samples down to 0.001 milliliters). The National Bureau of Standards advises in its memorandum dated April 23, 1985 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or appartus of equivalent scientific value to the foreign iunstrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 85-16959 Filed 7-16-85; 8:45 am]

BILLING COD 3510-DS-M

University of Illinois/Urbana-Champaign Campus; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No. 84-321R. Applicant: University of Illinois/Urbana-Champaign Campus, Urbana, IL 61801. Instrument: Pulsed Dye Laser, Model FL 2002E. Original notice of this resubmitted application was published in the **Federal Register** of October 24, 1984.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides a high energy/pulse (>500 m] for XeCl) at a reputition rate >25 hertz, a broad tuning range (330-860 mm) and a ASE background $<10^{-3}$. The National Bureau of Standards advises in its memorandum dated March 1, 1985 that (1) the capability of the foreign instrument described above is pertinent to the application's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 85-16963 Filed 7-16-85; 8:45 am]

BILLING CODE 3510-DS-M

The University of Texas at Austin; Decision of Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 85-141. Applicant: The University of Texas at Austin, Austin, TX 78713. Instrument: CP/Mass Spectrometer. MANUFACTURER: VG Instruments, United Kingdom. Intended use: See notice at 50 FR 18898.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value of the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides an inductively coupled plasma source interfaced with a quadrupole mass spectrometer system capable of both positive and negative ion detection in aqueous samples. The capability of

the foreign instrument described above is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Program Staff.

[FR Doc. 85-16965 Filed 7-16-85; 8:45 am]

BILLING CODE 3510-DS-M

Semiconductor Technical Advisory Committee; Meeting

AGENCY: International Trade Administration, Commerce.

Federal Register Citation of Previous Announcement: 50 FR 26598 June 27, 1985.

Previously Announced Time and Date of the Meeting: 9:30 a.m.,

Changes in the Meeting: Cancelled.

Milton M. Baltas,

Director, Technical Programs Staff Office of Export Administration.

July 12, 1985.

[FR Doc. 85-16957 Filed 7-16-85; 8:45 am]

BILLING CODE 3510-DT-M

National Bureau of Standards

National Voluntary Laboratory Accreditation Program: Publication of Directory Supplement

AGENCY: National Bureau of Standards, Commerce.

ACTION: Publication of NVLAP Directory Supplement

SUMMARY: The National Bureau of Standards (NBS) announces laboratory accreditation actions taken during the seond quarter of 1985..

FOR FURTHER INFORMATION CONTACT: Dr. Stanley I. Warshaw, Manager, Laboratory Accreditation, ADMIN A603, National Bureau of Standards, Gaithersburg, MD 20899 (301) 921-3751.

SUPPLEMENTARY INFORMATION: This supplement to the 1984 NVLAP Director of Accredited Laboratories (NBS Special Publication 687 issued February 1985) is published pursuant to section 7.6(b) of the National Voluntary Laboratory Accreditation Program (NVLAP) Procedures (15 CFR 7.6(b)).

The following table summarizes NVLAP accreditation actions for the period April 1, 1985, through June 30, 1985.

	TIM	CON	CAR	STO	ACO	CPL	DOS	Totals
Initial accreditations	1	1				1	2	5
Suspensions						-1		-1
Balance	38	31	24	10	9	2	25	139

TIM—Insulation LAP.
CON—Concrete LAP.
CAR—Carpet LAP.
ACO—Acoustical Testing Services LAP.
STO—Stove LAP.
CPL—Commercial Products LAP (Paint, Paper, Mattresses)
DOS—Dosimetry LAP.

The laboratories awarded initial accreditations are:

Insulation LAP—Celotex Tracy Plant, Tracy, CA

Concrete LAP—GAI Consultants, Monroeville, PA

Commercial Products LAP—MacMillan Bloedel, Pine Hill, AL

Dosimetry LAP—Texas Utilities, Glen Rose, TX; Gulf States Utilities, St. Francisville, LA

The laboratory whose accreditation has been suspended due to temporary inoperation is:

Commercial Products LAP—Chemray, Middlesex, NJ

Dated: July 11, 1985.

Ernest Ambler,

Director, National Bureau of Standards.

[FR Doc. 85-16907 Filed 7-16-85; 8:45 am]

BILLING CODE 3510-13-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Import Restraint Limits for Certain Cotton Textile Products Produced or Manufactured in Bangladesh Under New Bilateral Agreement

July 12, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on July 18, 1985. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

On June 28, 1985, the Governments of the United States and Bangladesh exchanged letters on a new Bilateral Cotton Textile Agreement. The agreement establishes specific limits of 55,000 dozen and 330,000 dozen, respectively, for men's and boys' other cotton coats in category 334 and men's and boys' woven cotton shirts in Category 340, produced or manufactured in Bangladesh and exported, in the case of Category 334, during the twelve-month period which began on Junuary 29, 1985 and extends through Jaunary 28, 1986; and, in the case of Category 340, during the twelve-month period which began on March 1, 1985 and extends through February 28, 1986.

The import charges to the limit for Category 340 are being adjusted to account for imports in the amount of 199,120 dozen charged to the level for the restraint period established prior to negotiation of the new agreement. This prior level was filled.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1983 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1985).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

July 12, 1985.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive cancels and supersedes the directives of April 15, and April 25, 1985 from the Chairman of the Committee for the Implementation of Textile Agreements concerning cotton textile products in Categories 334 and 340, produced or manufactured in Bangladesh and exported during specified twelve-month periods.

Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854) and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton Textile Agreement effected by exchange of notes dated June 28, 1985, between the Governments of the United States and Bangladesh; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on July 18, 1985, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 334 produced or manufactured in Bangladesh and exported during the twelve-month period which began on January 29, 1985 and extends through January 28, 1986, in excess of 55,000 dozen.[1]

Also effective on July 18, 1985, you are directed to prohibit entry and withdrawal from warehouse for consumption in the United States of cotton textile products in Category 340, produced or manufactured in Bangladesh and exported during the twelve-month period which began on March 1, 1985 and extends through February 28, 1986 in excess of 330,000 dozen.[1]

Textile products in Category 334 and 340 which have been exported to the United States prior to the first days of the restraint periods established in this directive shall not be subject to this directive.

Textile products in Category 334 and 340 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The foregoing limits are subject to adjustment in the future according to the provisions of the bilateral agreement which provide, in part, that: (1) specific limits may be exceeded by not more than six percent for swing during an agreement year; (2) carryforward of six percent is available during the initial twelve-month period; and (3) carryover may be available up to 11 percent during the subsequent agreement period.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annoted (1985).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-16968 Filed 7-16-85; 8:45 am]

BILLING CODE 3510-DR-M

[1] The restraint limits have not been adjusted to reflect any imports exported after January 28, 1985 (Cat 334) or February 28, 1985 (Cat 340). Charges in the amount of 199,120 dozen should be made to the limit for Category 340 to account for imports exported during the previous restraint period.

COMMODITY FUTURES TRADING COMMISSION

Chicago Rice and Cotton Exchange; Proposed Amendments Relating to the Rough Rice Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule changes.

SUMMARY: The Chicago Rice and Cotton Exchange ("CRCE" or "Exchange") has submitted a proposal which would amend the terms and conditions of its rough rice futures contract. The principal amendments being proposed by the CRCE would redefine the delivery area from the four-state delivery area of Arkansas, Louisiana, Mississippi and Texas currently specified in the contract to an area encompassing twelve Arkansas counties; revise the contract's procedures for establishing locational price differentials; reduce the position limit for the May delivery month and require that rice hedge exemptions from the contract's position limits be subject to prior CRCE approval under the hedge definitions and exemptions contained in CRCE Chapter X; extend the last trading day of the September delivery month to the last business day of September and extend the last delivery day for the September delivery month to the tenth business day of October; and delete July as a delivery month. In addition, the proposal would modify the quality differentials applicable to the delivery of rough rice with different percentages of head rice. The Commodity Futures Trading Commission ("Commission") has determined that the proposal is of major economic significance and that, accordingly, publication of the proposal is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments should be received on or before August 16, 1985.

SUPPLEMENTARY INFORMATION: The current terms and conditions of the rough rice contract specify that delivery of rough rice on the contract may occur in regular warehouses located in the states of Louisiana, Taxas, Mississippi and Arkansas. Under the CRCE proposal, the contract's current four-state delivery area would be reduced to an area encompassing twelve counties in Arkansas.

The Exchange believes that the proposed twelve county Arkansas delivery area would increase the pricing and hedging utility of the rough rice contract. The Exchange indicates that the proposed delivery area accounts for over 60 percent of Arkansas' total long grain rice production, serves as the concentration and processing point for additional long grain rice, includes over 28 warehouses accounting for most of Arkansas' public warehouse rice storage capacity, and includes all 13 of Arkansas' commercial rice processing mills that in aggregate account for over 40 percent of the total U.S. long grain mill production.

Under the current CRCE rough rice contract, the only par delivery location is the milling center of Stuttgart, Arkansas. Locational price differentials (premiums or discounts) for delivery of rough rice at warehouses at any other milling center are establishd quarterly and reflect the cost of shipping milled rice by rail from each milling center to Gulf ports, including placement free alongside ship (F.A.S.), relative to the costs of such shipment from Stuttgart. Warehouse not located at a milling center are currently assigned an additional differential (discount) based on the cost of truck movement of rough rice to the nearest milling center. The existing rules in effect provide a transportation credit for deliveries of rough rice at local warehouses or regional milling centers which are closer than Stuttgart to the major Gulf export centers of Lake Charles and Houston, because the value of rough rice increases as its location is nearer the Gulf ports.

Under the CRCE proposal, rough rice stored at all mill-site warehouses located within the proposed twelve county delivery area would be deliverable at par. Delivery of rough rice in regular warehouses not located at mill sites would be subject to a schedule of fixed discounts, which are based on the prevailing costs of moving rough rice by truck to the mill site warehouse nearest to each such regular warehouse, according to the Exchange. The CRCE maintains that the majority of rough rice is transported by truck within the

proposed delivery area and, therefore, truck rates would be the most applicable. The Exchange further maintains that the proposed locational differentials would be consistent with cash market practices.

The CRCE proposal also includes amendments to the terms and conditions of the rough rice contract which the Exchange is adopting to avoid possible problems with respect to deliverable supplies of rough rice during specific delivery months. These include: (1) The deletion of July as a delivery month, (2) a reduced position limit for the May delivery month: (3) an extension of the last trading day in the September delivery month to the last business day of September; and (4) an extension of the last delivery day in the September delivery month to the tenth business day of October. In addition, the Exchange proposes to amend Chapter X of its rule book to require rough rice hedgers who desire to hold positions in excess of the contract's position limits to obtain prior approval by the Exchange before establishing such positions.

In addition, the rough rice contract currently specifies a premium or discount of 1.0 percent of the contract price for each percent of head rice milling yield above or below 55 percent, the contract's par requirement for head rice milling yield. Under the proposed amendments, the premium and discount schedule for head rice milling yield would be revised to 1.75 percent of the contract price.

The Exchange indicates that the current 1.0 percent premium and discount schedule for head rice milling yields is not reflective of actual cash market values. The Exchange maintains that the existing 1.0 percent premium and discount schedule penalizes the delivery of higher quality rice on the contract while rewarding the delivery of lower quality rice. The Exchange believes the proposed 1.75 percent premium and discount schedule is more reflective of actual cash market prices, which would allow producers, merchandisers and processors of rough rice to better utilize the rough rice futures contract for price basing and hedging.

The proposed amendments would be implemented within ten days after Commission approval for all currently listed contract months as well as all contract months subsequently listed by the Exchange for trading.

FOR FURTHER INFORMATION CONTRACT: Fred Linse, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, (202) 254-7303.

SUPPLEMENTARY INFORMATION: In accordance with section 5a(12) of the Commodity Exchange Act, 7 U.S.C. 7a(12) (1982), the Commission has determined that the proposal submitted by the CRCE concerning its rough rice futures contract is of major economic significance. Accordingly, the principal amendments being proposed by the CRCE are printed below, using bracketing to indicate deletions and Italics to indicate additions:

* * * * *

1101.01 Contract Specifications

* * * * *

To be deliverable, rough rice shall have a milling yield of not less than 65%, including not less than 48% head rice. Each precent of head rice over or below 55% shall receive a [one] *1.75* percent premium or discount, respectively, toward the settlement price for long grain rough rice and each percent of broken rice over or below 15% shall receive a .5% premium or discount, respectively. All rough rice shall be of a Southern origin or such other origin as the Exchange may approve.

1101.02 *Trading Months and Hours*—Futures contracts shall be traded initially for delivery during the months of September, November, January, March, *and* May [, and July] of each year. Thereafter, trading shall commence in each contract, for delivery during the twelfth eighteenth month hence, on the first business day immediately following the current delivery month of the same contract. Trading shall be conducted from 8:45 a.m. to 1:45 p.m. except in the expiring contract on the last day of trading when trading shall cease at 12:00 Noon.

* * * * *

1101.06 *Termination of Trading*—No trades shall be made during the last seven business days of the trading month. Any trades remaining open during this period shall be settled by delivery or a bona fide exchange of futures for the cash commodity. *Provided however, that for the September delivery month no trade shall be made following the last business day of September.*

* * * * *

1101.08 *Position Limits and Trading Limits*—The limit on the maximum net long or net short position in long grain rough rice on or subject to the Rules of the Exchange which any person may hold or control is 250 contracts in any one future month and 500 contracts in all future months combined. *On or after the first trading day preceding the first notice day of the expiring futures month of May the limit will be reduced to 150 contracts.* The foregoing limits do not apply to bona fide heding [operations as defined in the regulations of the CFTC.] *positions in accordance with rules 1001 and 1002.*

In determining whether any person has exceeded the limits established under this rule, all positions in accounts for which such person by power of attorney or otherwise directly or indirectly controls trading shall be included with the positions held by such person.

Such limits upon positions shall apply to positions held by 2 or more persons, acting pursuant to an expressed or implied agreement or understanding, the same as if the positions were held by a single person.

A position of 50 or more contracts representing a long or short position in any one futures month shall be a reportable position. Every member, or partner or corporation for which a membership is registered under rule 202, shall report each and every such reportable position to the Department of Surveillance, Audits and Investigations at such times, and in such form and manner as shall be prescribed by the Business Conduct Committee.

* * * * *

1102.03 *Delivery Dates*—Delivery may be made by the seller upon any business day of the delivery month the seller may select. Delivery must be made no later than the last business day of the delivery month. *Provided however, that delivery for the September delivery month may be made through the 10th business day of October.*

* * * * *

1102.06 *Par Delivery Point*—The par delivery [point for delivery of rough rice shall be Stuttgart, Arkansas. When delivering a warehouse receipt for long-grain rough rice issued by a warehouse located other than in Stuttgart, Arkansas, the rice shall be priced at a premium or discount to rice located in Stuttgart, Arkansas, in accordance with a schedule of such premiums or discounts, established and published by the Exchange pursuant to paragraph 1102.07 for each such warehouse.] *points for rough rice shall be mill site warehouses within the boundaries of the Arkansas counties of Craighead, Jackson, Poinsett, Woodruff, Cross, St. Francis, Lonoke, Prairie, Monroe, Jefferson, Arkansas and DeSha. A mill site warehouse shall be defined as a warehouse which is attached or directly adjacent (within 200 yards) to a rice mill regardless of municipal boundaries. Rough rice may be delivered in*

satisfaction of the rough rice futures contract at rice mill warehouses at the contract price. Rough rice may be delivered at regular warehouses within the twelve-county area which are not at mill sites in accordance with a schedule of discounts established and published by the Exchange pursuant to rule 1102.07. No warehouse regular for delivery of rough rice shall be located outside the twelve Arkansas counties listed above.

1102.07 *Location Differentials*—[The Exchange shall establish location differentials for each regular warehouse for the immediately following calendar quarter.

Exchange officials shall not collect on a routine basis for each warehouse not located within the municipal boundaries of a regional milling center information for the preceding calendar quarter as to all quantities of rough rice shipped, and actual truck rates paid for shipment thereof, to the following regional milling center: Greenville, Mississippi; Crowley, Louisiana; Houston, Texas; Jonesboro, Arkansas; or Stuttgart Arkansas. Exchange Officials shall collect the same information for the same period with respect to milled rice shipped by rail from Stuttgart, Arkansas; Jonesboro, Arkansas; Crowley, Louisiana; and Greenville, Mississippi to Lake Charles, Louisiana and for milled rice moved from warehouse to port within the Houston switching district.

Exchange officials shall establish a regional differential for each regional milling center in the following manner. The cost of shipping a single fully loaded boxcar of milled rice (bagged) from said regional milling center to its respective Gulf port shall be added to the port charge (unloading charges, wharfage, and other costs incidental to placing milled rice "free alongside ship") for rice. The result shall be known as the "F.A.S. differential." The F.A.S. differential for each regional milling center shall be subtracted from the corresponding figure for the par delivery location, Stuttgart, Arkansas and multiplied by the rough to milled rice conversion factor of .55. The result shall be the inter-regional milling center location differential.

Exchange officials shall establish a local differential for each regular warehouse not located within the municipal boundaries of a regional milling center based on a combination of the rates paid for shipment of rough rice from such warehouse to its nearest regional milling center and the regional differential established for said regional milling center.

The regional and local differentials established as provided above shall constitute the locational differentials applied on a quarterly basis to deliveries on the rough rice contract.

In establishing the location differentials for both the regional milling centers and their tributary warehouses, Exchange officials shall use rates within the range of such rates actually paid during the preceding calendar quarter. If no actual shipments have been made during such a period by any warehouse, Exchange officials may establish a differential for such warehouse on the basis of the percentage change in actual rates gathered with respect to the next nearest warehouse from the preceding quarter to the quarter for which such differential is being established.

In accordance with this rule, Exchange officials will propose to the Rice Committee specific F.A.S. differentials and local differentials for each regular warehouse. If the Rice Committee disagrees with any particular F.A.S. or local differentials, it may alter that differential to more accurately reflect true costs of transportation or charges for placing rice F.A.S. and shall record in detail its reasons for making any changes. The Exchange shall publish a schedule of location differentials no later than the last business day of the calendar quarter preceding the calendar quarter for which they shall be effective.] *Delivery of rough rice in satisfaction of the rough rice futures contract at regular warehouses other than regular mill site warehouses shall be subject to discounts based on the costs of moving rough rice by truck to the mill site warehouse nearest to such regular warehouses. The nearest mill site warehouse to a warehouse not located at a mill site shall be determined on the basis of the minimum number of miles on roads suitable for conveyance of rough rice by truck to the nearest mill site warehouse.*

The discounts which are applicable to delivery at regular warehouses other than regular mill site warehouses shall be as follows:

Miles to Nearest Mill Site/Differential

[Cents per cwt]

	Cents
Less than 5 miles	−5
5 but less than 15 miles	−10
15 but less than 30 miles	−15
30 but no more than 40 miles	−20

Pursuant to the provisions of this rule the Exchange shall publish for each regular warehouse its applicable discount.

* * * * *

Other materials submitted by the CRCE in support of the proposed amendments may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1984)), except to the extent that they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, by August 16, 1985.

Issued in Washington, DC on July 11, 1985.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85-16901 Filed 7-16-85; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Performance Review Boards; Names of Additional Members

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of additional members of the Performance Review Boards for the Department of Army for 1985.

EFFECTIVE DATE: July 15, 1985.

FOR FURTHER INFORMATION CONTACT: Carol D. Smith, Senior Executive Service Office, Directorate of Civilian Personnel, Headquarters, Department of the Army, the Pentagon, Washington, DC 20310-0300, (202) 697-2204.

SUPPLEMENTARY INFORMATION: Section 4314(c) (1) through (5) of Title 5 U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The boards shall review and evaluate the initial appraisal of senior executive's performance by the supervisor and make recommendations to the appointing authority or rating official relative to the performance of the senior executives. Publication of this notice corrects the notice published in 50 FR, No. 133, dated 11 July 1985, pages 28244, to account for additions to the

membership of those boards previously published.

The additional members of the Performance Review Board for the U.S. Army Corps of Engineers are:

1. Brigadier General James W. van Loben Sels, Commander, U.S. Army Engineer Division, Europe.

2. Brigadier General Thomas A. Sands, Commander, U.S. Army Engineer Division, Lower Mississippi Valley.

3. Mr. Herbert H. Kennon, Chief, Engineer Division, U.S. Army Engineer Division, U.S. Army.

4. Brigadier General Paul F. Kavanaugh, Commander, U.S. Army Engineer Division, North Pacific.

5. Mr. Kenneth H. Murdock, Chief, Planning Division, U.S. Army Engineer Division, North Central.

The additional members of the Performance Review Board for the U.S. Army Materiel Command are:

1. Mr. Alan M. Moss, Technical Director, U.S. Army Armament Research and Development Center.

2. Dr. Richard G. Rhoades, Associate Director for Technology, U.S. Army Missile Laboratory.

3. Mr. Richard Vitali, Deputy Chief of Staff for Technology, Planning, and Management, Headquarters, U.S. Army Materiel Command.

4. Mr. Colin F. MacDonnell, Jr., Director of Engineering, U.S. Army Communications-Electronics Command.

Carol D. Smith,

Chief, Senior Executive Service Office.

[FR Doc. 85-16980 Filed 7-16-85; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Meeting Change

The following meeting of the Army Science Board 1985 Summer Study on Manpower Implications of Logistics Support for AirLand Battle (Chair and Three subpanel Chairs—Active/U.S. Army Reserve, Army National Guard, and Mobilization Base/Industrial Perspective), which was originally scheduled for 30 July 1985 (50 FR 27481, July 8, 1985), has been changed to 9 August 1985.

Place: The Pentagon, Washington, DC.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 85-16943 Filed 7-16-85; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Wednesday, 31, July-1 August 1985.

Place: St. Louis, MO.

Time: 31 July-0900-1500 hours; 1 August-0900-1500 hours.

Agenda: The Training Technology Subpanel of the Army Science Board 1985 Summer Study on Training and Training Technology-Applications for AirLand Battle and Future Concepts will meet for planning and consolidation of information for a preliminary report writing session, and discussions involving advance simulations and display systems. This meeting will be closed to the public in accordance with section 552(c) of Title 5, U.S.C. specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039/7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 85-16945 Filed 7-16-85; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Friday, 9 August 1985.

Times of Meeting: 0800-1700 hours.

Place: Hay Group, Inc., Washington, DC.

Agenda: The Army Science Board 1985 Summer Study on Manpower Implications of Logistic Support for AirLand Battle—Chair and three subpanel Chairs (Active/U.S. Army Reserve, Army National Guard, and Mobilization Base/Industrial Perspective)—will meet to draft a final report. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039/7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 85-16944 Filed 7-16-85; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Deputy Under Secretary for Management invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATE: Interested persons are invited to submit comments on or before August 16, 1985.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place NW., Room 3208, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue SW., Room 4074, Switzer Building, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster, (202) 426-7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public and early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Department Under Secretary for Management publishes this notice containing proposed information collection requests prior to the submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Agency form number (if any); (4) Frequency of the collection; (5) The affected public; (6) Reporting burden; and/or (7) Recordkeeping burden; and (8) Abstract.

OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: July 12, 1985.

Linda M. Combs,

Deputy Under Secretary for Management.

Office of Elementary and Secondary Education

Type of Review Requested: Extension

Title: Annual Survey of Children in Institutions for Neglected or Delinquent Children or in Adult Correctional Institutions under Chapter 1 of the Education Consolidation and Improvement Act of 1981
Agency Form Number: ED 4376
Frequency: Annually
Affected Public: State or local governments
Reporting Burden—Responses: 52; Burden Hours: 2,000
Recordkeeping Burden—Recordkeepers: 0; Burden Hours: 0
Abstract: An annual survey is conducted to collect data on (1) the average daily attendance of children in State-operated or supported institutions for neglected or delinquent children or in adult correctional institutions and (2) the October caseload of children in local institutions for neglected or delinquent children. These data are used in the statutory formula for computing entitlements under Chapter 1 of the Education Consolidation and Improvement Act of 1981.

Office of Management

Type of Review Requested: New
Title: Authorization of Automatic Preauthorized Debits
Agency Form Number: R80–4P
Frequency: One-time
Affected Public: Individuals or households; Businesses or other for-profit; Non-profit institutions
Reporting Burden—Responses: 10,000; Burden Hours: 1,700
Recordkeeping Burden—Recordkeepers: 10,000; Burden Hours: 300
Abstract: This report relates to the collection of recurring payments, such as loan repayments, fees, premiums and other payments. A signed authorization to collect these funds via debit (charge) to a payor's bank account is required.

Office of Educational Research and Improvement

Type of Review Requested: New
Title: Institutional Characteristics of Postsecondary Institutions, 1985–86
Agency Form Number: G50–12P
Frequency: Annually
Affected Public: State or local governments; Non-profit institutions; Small businesses or organizations
Reporting Burden—Responses: 12,000; Burden Hours: 6,000
Recordkeeping Burden—Recordkeepers: 0; Burden Hours: 0
Abstract: This survey collects characteristics of institutions of postsecondary education in order to develop and maintain the Integrated Postsecondary Education Data System control file. The data requested includes the name, address, telephone number and type of institution, as well as tuition and fees information. Institutional accreditation is also verified.

[FR Doc. 85–16976 Filed 7–16–85; 8:45 am]
BILLING CODE 4000–01–M

Office of Special Education and Rehabilitative Services

National Institute of Handicapped Research; Application Notice for Special Projects and Demonstrations for Spinal Cord Injuries

Applications are invited for new projects for the Special Projects and Demonstrations for Spinal Cord Injuries program for Fiscal Year 1985 under the National Institute of Handicapped Research.

Authority for this program is contained in section 311 (a) and (b) of the Rehabilitation Act of 1973, as amended by Pub. L. 95–602 and Pub. L. 98–221 (29 U.S.C. 777a (a) and (b)).

Closing Date for Transmittal of Applications: Applications for new awards must be mailed or hand delivered on or before August 16, 1985.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.133N, 400 Maryland Avenue SW., Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building #3, 7th and D Streets SW., Washington, D.C. 20202.

The Application Control Center will accept a hand delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand delivered will not be accepted after 4:30 p.m. on the closing date.

Available Funds: NIHR has approximately $1,300,000 remaining for this program for Fiscal Year 1985. The Secretary expects to fund up to 4 projects, through either grants or cooperative agreements, at approximately $325,000 per project per year.

However, these estimates do not bind the Department of Education to a specified number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulation.

Program Information: In Pub. L. 98–221, the 1984 amendments to the Rehabilitation Act, Congress transferred a program of model spinal cord injury (SCI) demonstration projects from the Rehabilitation Services Administration to NIHR. While projects have been funded under the Model Spinal Cord Injury Systems program since 1970, the program has evolved on the basis of experience and Congressional interest. In Fiscal Year 1984, seventeen projects were funded under this program.

This is a program of research as well as a demonstration effort, as evidenced by the Congressionally-mandated objectives of research and evaluation of new clinical methods and techniques, collection of data related to cost effectiveness, and evaluation of new and innovative methods of service delivery.

The preliminary results and benefits of the model system have been widely disseminated, and new clinical research results are disseminated through the medical and scientific literature and professional conferences. Criteria used in evaluating these programs have been adopted by the Commission on Accreditation of Rehabilitation Facilities (CARF) and the American Spinal Injury Association (ASIA) for establishing national standards for all accredited spinal cord injury rehabilitation programs.

The regulations for this program emphasize a new scope of work. This scope of work emphasizes collaborative research and investigator-initiated clinical research to solve the medical management and rehabilitation problems of spinal cord injury. The

concept of a Model System will be retained to facilitate continued study of service delivery issues. The Special Projects and Demonstrations also coordinate work with the NIHR spinal cord injury Research and Training Centers and focus on research efforts of mutual and complementary interest.

NIHR intends to fund SCI projects this year which will be more comprehensive in scope and will include the added emphasis on collaborative clinical research and evaluation. These projects are for the purpose of providing model rehabilitation services to SCI patients in a mulitdisciplinary setting, demonstrating and evaluating the benefits of a service system, conducting research and demonstrations concerning new and innovative treatment methods, and contributing to a national analysis of data on system results.

Application Forms: Application forms and further information may be obtained by writing to or calling the National Institute of Handicapped Research, U.S. Department of Education, Mailstop 3070–2305, Switzer Office Building, 400 Maryland Avenue SW., Washington, D.C. 20202 (Attention: Peer Review Unit), Telephone (202) 732–1207. Deaf and hearing impaired individuals may call (202) 732–1198 for TTY services. Requests should refer to applications for Spinal Cord Injury Systems grants, 84.133N.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

(Approved by the Office of Management and Budget under Control Number 1820–0027)

Applicable Regulations: The following regulations are applicable to these programs:

(a) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

(b) National Institute of Handicapped Research Regulations (34 CFR Parts 350 and 359, published in the **Federal Register** on April 26, 1985 at 50 FR 16672).

For Further Information Contact: Betty Jo Berland, National Institute of Handicapped Research, U.S. Department of Education, Switzer Office Building, Room 3070, 330 C Street SW., Washington, D.C. 20202. Telephone (202) 732–1139; deaf and hearing impaired individuals may call (202) 732–1198 for TTY services.

(29 U.S.C. 760–762)

(Catalog of Federal Domestic Assistance No. 84.133, National Institute of Handicapped Research)

Dated: July 12, 1985.

Madeleine Will,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 85–16977 Filed 7–16–85; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Radioactive Waste Management System Draft; Project Decision Schedule

AGENCY: Office of Civilian Radioactive Waste Management, DOE.

ACTION: Notice of availability of the radioactive waste management system draft project decision schedule.

SUMMARY: Section 114(e) of the Nuclear Waste Policy Act (NWPA) of 1982 (Pub. L. 97–425), requires the Secretary of Energy, in cooperation with all affected Federal agencies, to prepare a Project Decision Schedule that portrays the optimum way to attain the operation of a geologic repository by 1998 and that identifies the key activities, decision points, and deadlines for Federal agency action that are integal to such initiation of operations.

A preliminary draft Project Decision Schedule was issued on January 4, 1985 (50 FR 1616) and comments were sought from Federal agencies regarding the completeness, accuracy, and clarity of the agency actions identified therein.

Comments received have been incorporated in a Draft Project Decision Schedule (DOE/RW–0018; July 1985), which is being provided at this time to all affected Federal agencies for review and comment and is being made available for information to the public.

The Project Decision Schedule will be issued subsequent to the consideration of comments received from Federal agencies. At such time as the Project Decision Schedule is formally issued, the provisions of section 114(e)(2) of the NWPA will take effect that requires affected Federal agencies to report to the Secretary of Energy and Congress that they cannot comply or have failed to comply with a deadline established by the Project Decision Schedule for taking action.

Copies of the Draft Project Decision Schedule may be obtained by writing: Office of Scientific and Technical Information, Technical Information Center, P.O. Box 62, Oak Ridge, Tennessee 37831.

Request for the Draft Project Decision Schedule should also make reference to the Department of Energy Document Identification Number—DOE/RW–0018; July 1985.

Copies of the document will also be available for public review at the following address: Office of Public Affairs, Room 1E–206, 1000 Independence Avenue SW., Washington, D.C. 20585.

Issued in Washington, D.C., July 11, 1985.

Ben C. Rusche,

Director, Office of Civilian Radioactive Waste Management.

[FR Doc. 85–17001 Filed 7–16–85; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. ID–2182–000]

William B. Bookhart, Jr.; Application

July 11, 1985.

Take notice that on May 17, 1985, William B. Bookhart, Jr. (applicant) file an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Director—South Carolina Electric and Gas Company

Director—South Carolina Generating Company, Inc.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, 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, 385.214). All such motions or protests should be filed on or before July 22, 1985. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–16939 Filed 7–16–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ID-2203-000]

John C. Duffett; Application

July 11, 1985.

Take notice that on May 24, 1985, John C. Duffett (applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Senior Vice President and Director—Public Service Company of New Hampshire

Director—Connecticut Yankee Atomic Power Company

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol 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, 385.214). All such motions or protests should be filed on or before July 22, 1985. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-16938 Filed 7-16-85; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3189-005]

Joseph M. Keating; Application for Transfer of Major License

July 12, 1985.

Public notice is hereby given that an application was filed on May 17, 1985, under the Federal Power Act, 16 U.S.C. 791(a)—825(r), by Mr. Joseph M. Keating, Licensee, and Rock Creek Limited Partnership, Transferee, for transfer of major license for the Rock Creek Project No. 3189. The project is located on South Fork American River in El Dorado County, California. Correspondence should be directed to William Kriegel, 1801 Avenue of the Star, Suite 815, Los Angeles, California 90067, and Mr. David T. Mercer, Jones, Day, Reavis & Pogue, One Century Plaza—Suite 3600, 2029 Century Park East, Los Angeles, California 90067.

Transferee states that it will comply with all applicable laws of the State of California as required by section 9(b) of the Federal Power Act.

Anyone desiring to be heard or to make any protest about this application should file a motion to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 385.211 or 385.214. Comments not in the nature of a protest may also be submitted by conforming to the procedures specified for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party or to participate in any hearings, a person must file a motion to intervene in accordance with the Commission's Rules. Any comments, protests, or motions to intervene must be received on or before August 19, 1985. The Commission's address is: 825 North Capitol Street, N.E., Washington, DC 20426. the application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-16934 Filed 7-16-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT85-18-000]

Mountain Fuel Resources, Inc., Proposed Change in FERC Gas Tariff

July 11, 1985.

Take notice that Mountain Fuel Resources, Inc. (MFR) on July 2, 1985, tendered for filing and acceptance the following tariff sheets to its FERC Gas Tariff:

First Revised Volume No. 1

First Revised Sheet No. 2

Original Volume No. 3

First Revised Sheet No. 1
First Revised Sheet No. 12

MFR's filing is made pursuant to Commission Order No. 319-B in Docket No. RM81-29-000, which provided that the Additional Incentive Charge program (AIC) as set forth in § 157.209(f) of the Regulations would expire on January 31, 1985. First Revised Sheet No. 12 of Original Volume No. 3 reflects the expiraon of MFR's AIC rate schedule. First Revised Sheet No. 1, Original Volume No. 3, and First Revised Sheet No. 2, First Revised Volume No.1, reflect this expiration in the Table of Contents.

MFR has requested an effective date of January 31, 1985, to allow its FERC Gas Tariff to remain consistent with the termination date of the Additional Incentive Charge program and has requested waiver of § 154.22 of the Commission's Regulations to establish January 31, 1985, as the effective date of its tendered tariff sheets.

A copy of this filing was served upon MFR's jurisdictional 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, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 19, 1985. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc 85-16935 Filed 7-16-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI85-529-000]

Ohio Gas Marketing Corp.; Application for Blanket Limited-Term Certificate of Public Convenience and Necessity, Limited Partial Abandonment Authorization and Declaration of Limited Jurisdiction

July 12, 1985.

Take notice that on June 28, 1985, Ohio Gas Marketing Corporation ("OGMC") 3933 Price Road, Newark, Ohio 43055, filed an application pursuant to sections 4 and 7 of the Natural Gas Act, 15 U.S.C. 717c, 717f, and the provisions of 18 CFR Part 157, for a blanket limited-term certificate of public convenience and necessity authorizing OGMC to conduct a short-term spot sales marketing program, hereinafter referred to as Ohio Gas Marketing Program ("OGMP"), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Approval would (1) authorize the sale of natural gas for resale in interstate commerce; (2) permit limited-term, partial abandonment of certain natural gas sales, (3) confer pre-granted abandonment authorization for sales of natural gas made pursuant to the requested certificate; (4) authorize transportation of natural gas by interstate pipeline companies able and willing to participate in OGMP; and (5) confer pre-granted abandonment

authorization for the transportation service allowed under the requested certificate. OGMC also requests the Commission to declare that, with respect to OGMC and its activities, the Commission will only assert Natural Gas Act jurisdiction over sales for resale and transportation not otherwise exempt from the NGA.

Under OGMP, OGMC proposes to sell natural gas qualifying for the section 102, 103, 107 and 108 rates under the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301–3432. Only contractually committed gas will be sold. OGMC and participating producers will seek temporary releases of gas from the purchasers in order to meet market demand for natural gas sales. Releasing purchasers will be absolved from take-or-pay liability for any volumes of gas released and sold under the program. Arrangements for transporting the released gas will be made on a case-by-case basis.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 29, 1985, 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 Rule of Practice and Procedure (18 CFR 385.211 and 385.214). 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. Persons wishing to become parties 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.

Under this procedure herein provided for, unless Applicant is otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc–85–16936 Filed 7–16–85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI85–516–000]

Shell Western E&P Inc.; Petition for Waiver of Condition

July 12, 1985

On June 7, 1985, Shell Western E&P Inc. ("SWEPI") filed with the Federal Energy Reulatory Commission a petition for waiver of condition pursuant to section 502(c) of the Natural Gas Policy Act, 15 U.S.C. 3412(c) and Rule 207 of the Commission's Rules of Practice and Procedure. In its petition, SWEPI seeks a waiver of Ordering Paragraph (B) of the Commission's "Order Denying Rehearing And Modifying Settlement' issued in *Montana-Dakota Utilities Co.*, 9 FERC ¶ 61,012 (October 2, 1984), *reh. denied and clarified*, 30 FERC ¶ 61,018 (January 14, 1985), as to natural gas production from the Pavillion Field, Fremont County, Wyoming.

The procedures applicable to the conduct of this proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure.

Any person desiring to participate in this proceeding must file a motion to intervene in accordance with the provisions of such Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Co. 85–16937 Filed 7–16–85; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OW–10–FRL–2865–4]

Draft General NPDES Permit for Oil and Gas Operations on the Outer Continental Shelf and in State Waters of Alaska; Cook Inlet/Gulf of Alaska

AGENCY: Environmental Protection Agency.

ACTION: Notice of Draft General NPDES Permit.

SUMMARY: The Regional Administrator, Region 10, is proposing to issue a draft general National Pollutant Discharge Elimination System (NPDES) permit for oil and gas stratigraphic test and exploration wells on the Alaskan Outer Continental Shelf (OCS) and in offshore and coastal waters of the State of Alaska. The proposed permit would authorize exploratory discharge in all areas offered for lease by the U.S. Department of the Interior's Minerals Management Service (MMS) in Federal Lease Sales 55 (Gulf of Alaska) and 60 (Cook Inlet). Additionally, the authorized exploratory discharge sites include all Cook Inlet blocks previously offered for lease by the State of Alaska or offered under State lease sales held during the effective period of this permit.

The proposed Cook Inlet/Gulf of Alaska general permit will also cover discharges from oil and gas development and production operations in coastal waters of the State of Alaska located in Upper Cook Inlet (i.e., north of the Forelands) (Figure 1).

When issued, the proposed permit will establish effluent limitations, standards, prohibitions, and other conditions on discharges from facilities in these areas. These conditions are based on existing national effluent limitations guidelines and material contained in the administrative record. A brief description of the basis for the conditions and requirements of the proposed general permit is given in the fact sheet published below.

Issuance of the final general permit will constitute Agency action under the Administrative Procedure Act (5 U.S.C. 558(c)) and will render null and void all individual permits in the area covered by this general permit which have been continued under 40 CFR 122.6 and the Administrative Procedure Act. There are twenty facilities (listed in Table 1) with individual NPDES permits in this category. Each of these individual permittees have complied with reissuance application procedures and has indicated a preference to be covered under this general permit. Therefore, Region 10 hereby announces its intention to cover these facilities under this general permit. If any individual objects to this automatic coverage, the objection should be submitted in writing during the public comment period.

Public Comment Period

Interested persons may submit comments on the draft general permit to EPA, Region 10, at the address below. Comments must be received in the Regional Office by 4 p.m. on August 19, 1985.

Public Hearing

A public hearing on the proposed general permit is tentatively scheduled to be held at the Federal Building, Room C109, 701 "C" Street, Anchorage, Alaska on August 19, 1985, from 9 a.m. until all persons have been heard. Persons interested in making a statement at the hearing must contact Kerrie Schurr at the address listed below or at (206) 442–1774 by 4 p.m. on August 13, 1985. The hearing will be cancelled if insufficient interest is expressed in it. Interested persons can contact Kerrie Schurr between the hours of 8:30 a.m. and 4 p.m. on August 14, 15, or 16 to confirm that the hearing will take place. At the hearing, interested persons may submit oral or written statements concerning the draft general permits.

Request For Coverage

Facilities receiving automatic coverage under the general permit need not submit a formal request for coverage prior to commencement of discharges.

However, the information required by Part I.A.3. of the permit must be submitted within 14 days of the effective date of the permit. Specific permit numbers under the general permit will be assigned to each permittee of this type at the time of final permit issuance.

For all other facilities, written request for coverage and authorization to discharge under the general permit shall be provided to EPA, Region 10, at least 60 days prior to intitiation of discharges, as described in Part I.A. of the draft permit. The 60-day notification requirement may be waived for those permittees who notify EPA during the public comment period for the draft permit. Authorization to discharge requires written notification from EPA that coverage has been granted and that a specific permit number has been assigned to operations at the discharge site. The permit also requires permittees to notify EPA within 7 days prior to the initiation of discharges at the site, and prior to the initiation of discharges from each new well at a given site.

Administrative Record

The administrative record for the draft permit is available for public review at EPA, Region 10, Room 10D, at the address listed below.

ADDRESS: Public comments and requests for coverage should be sent to: Environmental Protection Agency, Region 10, Attn: Ocean Programs Section M/S 430, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Kerrie Schurr, Region 10, at the address listed above or telephone (206) 442–1774. Copies of the draft general permit and todays notice will be provided upon request.

SUPPLEMENTARY INFORMATION:

Fact Sheet

I. General Permits and Requests for Individual NPDES Permit.

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 permits.

The Regional Administrator has determined that oil and gas facilities operating in the areas described in the proposed general NPDES permit are more appropriately controlled by a general permit than by individual permits. This decision is based on 40 CFR 122.28, 40 CFR Part 125 (Subpart M) and the Agency's recent permit decisions in other Alaskan OCS areas.

Any owner and/or operator authorized to discharged under a general permit may request to be excluded from coverage under the general permit by applying for an individual permit as provided by 40 CFR 122.28(b). The operator shall submit an application together with the reasons supporting the request to the Director, Water Division, EPA, Region 10 ("Director").

A source located within the general permit area, excluded from coverage under the general permit solely because it already has an individual permit (i.e., a permit that has not been continued under the Administrative Procedures Act), may request that its individual permit be revoked, and that it be covered by the general permit. Upon revocation of the individual permit, the general permit shall apply. Procedures for modification, revocation, termination, and processing of NPDES permits are provided by 40 CFR 122.62–122.64. 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.

II. Covered Facilities and Nature of Discharges

A. Nature of Discharges

The proposed permit will authorized discharges from exploratory operations in all areas, and from development and production operations only in state waters of Upper Cook Inlet, north of the Forelands (see Parts II. B. and C., below).

Exploratory operations involve drilling to determine the nature of potential hydrocarbon reserves. Under the permit, exploratory operations would be limited to a maximum of five wells per site. Development operations are engaged in the drilling and completion of production wells. Those operations may occur prior to or simultaneously with production operations, which are engaged in active recovery of hydrocarbons from producing formations.

The proposed general permit will authorize the following discharges: Drilling mud; drill cuttings and washwater; deck drainage; sanitary wastes; domestic wastes; desalination unit wastes; blowout preventer fluid; boiler blowdown; 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. Waterflooding discharges, produced water discharges, and well treatment fluids (other than tests fluids) will also be authorized for Upper Cook Inlet development and production operations. Descriptions of discharges are given in Part II. A. of the draft permit.

The discharge of produced solids as defined in Part II. A. of the draft permit is not authorized.

Operators of existing facilities are strongly encouraged to consider whether the above categories will cover all discharges at their facilities. If additional categories are necessary, notification should be given to EPA, Region 10, during the public comment period.

Drilling muds and cuttings are the major pollutant sources discharged from exploratory and development drilling operations. The major production operation pollutant sources are produced water and well treatment fluids.

The Agency considers it appropriate to include exploration discharges with development and production discharges in this proposed permit. First, although some development and production discharges vary from those of exploration, all exploratory discharges are a subset of those occurring in development and production. Second, the vast majority of development and production operations to be covered under this permit are the existing Cook Inlet production facilities. The only other development operation expected in the near-term will be located in the same area as the existing facilities. The existing facilities have been discharging to the high energy, low productivity environment of Upper Cook Inlet for more than 15 years. The locations and types of discharges from these facilities are known. Thus, the Cook Inlet region differs from other offshore regions of Alaska, where development and production are either nonexistent or in the early stages of planning. Additionally, the discharge environments in other regions are generally of lower energy, or of greater biological productivity.

B. Facilities and Areas of Coverage in Federal Waters

The proposed general permit will authorized discharges in all areas offered for lease by MMS in Federal Lease Sales 55 (Gulf of Alaska) and 60 (Cook Inlet). At this time, proposed Sale 88 (Gulf of Alaska/Cook Inlet) has been postponed idefinitely. Because it remains unknown when operations and thus discharges would occur in this area, Region 10 will not include the Sale 88 area in this proposed general permit.

Federal waters are located at least three miles from the ordinary low tide mark along the shoreline (i.e., at least three miles from the inner boundary of

the territorial seas). Operations in these areas are included in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR Part 435, Subpart A). The Offshore Subcategory includes discharges to all waters located seaward of the inner boundary of the territorial seas (Figure 1).

At the present time, specific development and production operations are not planned (and do not presently exist) in the above Federal waters. The permit will therefore cover only exploratory operations in Federal waters, including those operating under existing exploratory permits which expired on June 30, 1984, and were continued under 40 CFR 122.6 and the Administrative Procedures Act (5 U.S.C. 558(c)). Continued permits which will be replaced by the final general permit for exploratory operations in Federal waters include Chevron—Lower Cook Inlet (Permit No. AK-003778-8), and Chevron—Shelikof Strait (Permit No. AK-003731-1).

C. Facilities and Areas of Coverage in State Waters

The proposed general permit will authorize discharges from all Cook Inlet blocks previously offered for lease by the State of Alaska, or offered under state lease sales held during the effective period of this permit. For the purposes of the permit, the southern boundary of Cook Inlet is defined to be the line between Cape Douglas on the west and Port Chatham on the east.

Discharges from new exploratory operations would be allowed in all state waters in Cook Inlet. These include operations in both the Coastal and Offshore Subcategories (40 CFR Part 435, Subparts A and D). Operations in the Offshore Subcategory in state waters would be located within three miles of the ordinary low tide mark along the shoreline, or of closure lines. Closure lines determine the inner boundary of the territorial seas at the mouth of certain embayments. These lines also form the boundary between the Offshore and Coastal Subcategories (Figure 1). Operations in the Coastal Subcategory would be located inside the closure lines. The only existing exploratory permit for operations in state waters which Region 10 intends to replace with the final general permit is the continued exploratory permit for ARCO—Fire Island (Permit No. AK-004054-1).

Discharges from development and production operations would be allowed only for Coastal Subcategory operations north of the Forelands in Upper Cook Inlet (Figure 1), where the existing production platforms are located.

The permit is intended to replace existing continued individual permits (listed in Table 1) for fourteen production platforms, as well as three shore-based facilities which discharge produced water extracted at several of the platforms. The permit would also cover discharges from future platforms such as one planned to be built near platforms in the Trading Bay area in 1986.

EPA, Region 10, has excluded potential development and production in other areas from this permit because (1) the number and precise nature of such future operations is poorly known, in contrast to existing operations in Upper Cook Inlet; and (2) other areas are generally richer in biota and more sensitive to discharges than Upper Cook Inlet.

The proposed permit will not authorize discharges into any wetlands adjacent to the territorial waters of the State of Alaska, or from facilities in the Onshore Subcategory as defined in 40 CFR part 435, Subpart C.

III. Statutory Basis for Permit Conditions

Sections 301(b), 304, 308, 401, 402, and 403 of the Act provide the basis for the permit conditions contained in the draft permit. The general requirements of these sections fall into three categories, which are described below. A discussion of the basis for specific permit conditions follows in Part IV.

A. Technology-Based Effluent Limitations

1. *BPT Effluent Limitations.* The Act requires particular classes of industrial dischargers to meet effluent limitations established by EPA. EPA promulgated effluent limitations guidelines requiring Best Practicable Control Technology Currently Available (BPT) for the Offshore and the Coastal Subcategories of the Oil and Gas Extraction Point Source Category (40 CFR Part 435, Subparts A and D) on April 13, 1979.

BPT effluent limitations guidelines required "no discharge of free oil" for discharges of deck drainage, drilling muds, drill cuttings, and well treatment fluids. This limitation required 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 were allowed as a result of sanitary waste discharges from facilities continuously manned by nine or fewer persons or intermittently manned by any number, or as a result of domestic waste discharges. 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.* All permits issued after July 1, 1984, 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) 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. Permits must impose effluent limitations which control nonconventional pollutants by means of BAT no later than July 1, 1987.

BAT and BCT effluent limitations guidelines and New Source Performance Standards (NSPS) are currently under development and will be proposed in the near future for the Offshore Subcategory. Guidelines and NSPS are not yet under development for the Coastal Subcategory. In the absence of effluent limitations guidelines for both the Offshore and Coastal Subcategories, permit conditions must be established using Best Professional Judgment (BPJ) procedures (40 CFR 122.43, 122.44, and 125.3). This proposed permit incorporates BAT and BCT effluent limitations based on the Agency's Best Professional Judgment. Previous BPJ determinations for oil and gas exploratory operations in the Offshore Subcategory were incorporated into the general permits for the Bering and Beaufort Seas (49 FR 23734, June 7, 1984), and for Norton Sound (50 FR 23578, June 4, 1984).

As required by section 304(b)(2)(B) of the Act, in developing the BPJ/BAT permit conditions, the Agency considered the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, the cost of achieving such effluent reduction, non-water quality environmental impact (including energy requirements), and such other factors as the Director deemed appropriate.

The types of equipment and processes employed in exploratory, development, and production operations are well known to the Agency. Region 10 has issued numerous individual permits for such operations, as well as several general permits for exploratory operations. The records for this permit and those earlier permits thoroughly discuss the types of equipment, facilities and processes employed in exploratory, development, and production operations. With regard to the engineering aspects of the application of various types of control techniques, there are no BAT permit limitations based on installation of control equipment. All proposed BAT permit limitations can be achieved through product substitution. Any costs of achieving the effluent limitations and any non-water quality environmental impacts were also evaluated. A discussion of such evaluations is presented below with respect to any limitation where applicable.

As required by section 304(b)(4)(B) of the Act, the Agency considered the same factors in determining BPJ/BCT permit conditions, but with one exception. Rather than considering "the cost of achieving such effluent reduction," any BCT determination includes "consideration of the reasonableness of the relationship between the costs of attaining a reduction in effluents and the effluent reduction benefits derived and the comparison of the cost and level of reduction of such pollutants from publicly owned treatment works to the cost and level of reduction of such pollutants from a class or category of industrial sources." BCT effluent limitations cannot be less stringent than BPT; therefore, if the candidate industrial technology fails the BCT "cost test," BCT effluent limitations are set equal to BPT.

The Agency's evaluation of the BAT factors, as discussed above, is also applicable to BCT, as well as to the Agency's best professional judgment determinations of BPT in cases where there is no BPT effluent limitation guideline for a particular waste stream. Unlike the BAT permit limitations, there are two BCT limitations based on installation of control equipment. There is a 10% limit on the oil content of cuttings, based on the use of cuttings washers. In addition, the oil and grease limits for produced water are based on the use of oil-water separators. With respect to the BCT "cost test," all BCT limitations are equal to the BPT effluent limitations guidelines or to the Region's best professional judgment determinations of BPT. Therefore, no incremental cost will be incurred.

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 degradation of the marine environment. These guidelines, referred to as the Ocean Discharge Criteria (40 CFR Part 125, Subpart M), and Section 403 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).

If EPA determines that the discharge will cause unreasonable degradation, an NPDES permit will not be issued. If a determination of unreasonable degradation cannot be made because of a lack of sufficient 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 must be halted or additional permit limitations established.

Preliminary Ocean Discharge Criteria Evaluations for Sales 55 and 60, and a Revised Preliminary Ocean Discharge Criteria Evaluation for Sale 88 and state lease sales located in Cook Inlet, have been completed for discharges from operations in these lease sale areas.

C. State of Alaska Standards and Limitations

All discharges to state waters, either offshore or coastal, must comply with water quality standards and with limitations imposed by the State as part of its certification of NPDES permits under section 401 of the Act.

D. 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 this permit, as listed in the table below.

IV. Specific Permit Conditions

A. Approach

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 pollutants under BAT;

(3) Evaluation of the Ocean Discharge Criteria for discharges in the Offshore Subcategory, assuming conditions in parts (1) and (2) were in place; and

(4) For state waters, inclusion of permit terms necessary to ensure compliance with state water quality standards and stipulations of state lease sales.

Discussions of the specific effluent limitations and monitoring requirements derived from (1) through (4) appear below in Sections B. through E., respectively. Additional monitoring requirements based on the determinations in (1) and (2) are discussed in Section F. For convenience, these conditions and the regulatory basis for each are cross-referenced by discharge in the following table:

Discharge and permit condition	Statutory basis
Drilling muds and cuttings:	
Authorized muds and additives only	BAT.
No free oil	BCT.
No oil-based muds	BCT.
No diesel	BAT.
10% max. oil limitation on cuttings.	BCT
50 mg/l oil & grease—elutriate test.	State Water Quality Standards (WQS).
3 mg/kg cadmium and 1 mg/kg mercury in barite.	BAT.
Monitoring of metals and toxicity.	Section 308.
Inventory of added substances.	Section 308.
Monitor volume discharged	Section 308.
Flow rate limitations	Section 403(c).
Depth related limits	Section 403(c).
Environmental monitoring requirement.	Section 403(c).
Deck drainage:	
No free oil	BCT.
Monitor flow rate	Section 308.
Sanitary wastes:	
No floating solids	BCT.
Chlorine 1.0 mg/l (facilities with more than 10 people).	BCT.
Monitor flow rate	Section 308.
BOD and suspended solids	State WQS.
Domestic wastes:	
No floating solids	BCT.
Monitor flow rate	Section 308.
Miscellaneous discharges (006-015 as defined in permit):	
No free oil	BCT.
Monitor flow rate in cooling water	Section 308.

Discharge and permit condition	Statutory basis
Produced water:	
Oil & grease limits	BCT, State WQS, and Marine Water Quality Criteria (MWQC).
pH 6.5–8.5	BCT
Monitor flow rate	Section 308.
Environmental monitoring requirements	Section 403(c).
Well treatment fluids:	
No free oil	BCT.
No oil-based fluids	BCT.
ph 6.5–8.5	BCT, State WQS, and MWQC.
Monitor volume	Section 308.
Monitor oil and grease	Section 308.
All discharge:	
No halogenated phenol compounds, diesel oil, trisodium nitrilotriacetic acid, sodium chromate, or sodium dichromate.	BAT.
No biochides not FIFRA registered.	BAT.
No floating solids, or visible foam.	BCT.
No oily wastes	State WQS.
Area and depth related requirements.	Section 403(c), State WQS.
Discharge monitoring study	Section 308.

B. BCT Requirements

1. *Oil and grease in produced water:* Oil and grease concentrations in discharges of produced water from all facilities except Phillips Platform A will be limited to a 48 mg/l monthly average and a 72 mg/l daily maximum based on oil/water separation technologies. These limits are the same as the BPT effluent limitation guidelines. Oil and grease limitations from Phillips Platform A, a gas platform, will be set as 15 mg/l monthly average and 20 mg/l daily maximum. The limitations for Phillips Platform A are equal to those in the most recent BPT permit for that facility, limitations with which Phillips is currently in compliance. More stringent limits than 48/72 and 15/20 were considered for all of the oil and gas facilities covered by the permit, but the Region does not have sufficient technology performance data available at this time on which to base more stringent limitations. As these BCT limitations are equal to the BPT level of control, there is no incremental cost involved.

2. *Free oil and oil-based muds.* No discharge of free oil is permitted from the discharges of drilling mud, drill cuttings and washwater, deck drainage, and well treatment fluids. Region 10 has determined that the BPT effluent limitations guideline of no discharge of free oil should also apply to all miscellaneous discharges, including uncontaminated bilge water, uncontaminated ballast water, desalination unit wastes, boiler blowdown, non-contact cooling water, excess cement slurry, blowout preventer fluid, fire control system test water; mud, cuttings and cement at the seafloor; and waterflooding discharges. Thus, the no free oil limitation is Region 10's best professional judgment determination of BPT controls for these discharges. All of these discharges except waterflooding discharges have been subject to a no free oil limitation in previous permits issued by Region 10, and past practices have not resulted in violations of this limitation. Region 10's best professional judgment of BPT controls on free oil also extends to waterflooding discharges, which generally have no free oil.

Under the draft permit, the discharge of oil-based drilling fluids and well treatment fluids (with oil as the continuous phase and water as the dispersed phase) is prohibited since oil-based fluids would violate the BCT effluent limitations of no discharge of free oil.

No technology performance data available to Region 10 indicate that more stringent standards are appropriate at this time. Region 10 has, therefore, set BCT limitations equal to the BPT level of control. As such, these limitations impose no incremental costs.

Compliance with the free oil limitation for deck drainage and miscellaneous discharges will be by visual observation for sheen on the receiving water, except for deck drainage and bilge water under the conditions described below.

Compliance with the free oil limitation will be monitored by year-round use of Static Sheen Test for mud, cuttings, and well treatment fluids. The Static Sheen Test will also be required for monitoring of deck drainage and bilge water during unstable or broken ice and stable ice conditions. The Static Sheen Test is being required for well treatment fluids because these represent a significant discharge from production operations and are likely to be contaminated with oil. Use of the Static Sheen Test will prevent a violation of the free oil limitation due to those discharges most likely to be contaminated with oil. This would not be possible with an after-the-fact visual observation of a sheen on the receiving water.

3. *Oil content of cuttings.* The draft general permit restricts the discharge of oil-contaminated cuttings by prohibiting the discharge of free oil (see Part IV.B.2.) and by limiting the maximum mineral oil content of cuttings. The limitation of 10% by weight on oil content is based on the efficiency of currently available cuttings washers in removing mineral oil from drill cuttings. Region 10 expects that if mineral oil-based drilling muds or water-based muds with high concentrations of mineral oil additives are used, drill cuttings would have to be washed by cuttings washers to meet the free oil limitation. The limitation on the maximum oil content content of drill cuttings has been imposed as an additional means of effectively controlling the discharge of oil from cuttings associated with these muds.

Region 10 expects that cuttings washers will routinely be required only for drilling operations which use mineral oil-based drilling muds or water-based muds with high concentrations of mineral oil additives, and not for all drilling operations. Due to the rare usage of such muds by exploratory drilling operations, very few, if any, exploratory facilities will require the installation of cuttings washers. Such muds may be used more frequently by development or production facilities. However, any facility requiring a cuttings washer to meet the 10% oil limit would already require a cuttings washer to meet the BPT effluent limitation of no free oil. Therefore, there is no incremental cost involved beyond the cost of monitoring compliance, and the 10% oil limitation passes the BCT cost test.

The permit requires an analysis of cuttings for oil content daily when oil-based drilling fluids or oil additives are used. Analysis is also required daily when drilling fluids could be contaminated with hydrocarbons from the formation. In addition, analysis is required immediately on any sample that has failed the daily Static Sheen Test if a discharge has occurred. Two alternative analytical methods for determining the oil content of drill cuttings are specified in the permit: (1) The soxhlet extraction procedure for oil and grease (as specified in 40 CFR Part 136), and (2) the American Petroleum Institute retort distillation procedure for oil.

4. *pH.* The pH of discharged well treatment fluids (which may have a substantially different pH from that of the ambient receiving water) has been limited to a range of 6.5–8.5 at the point of discharge. In the Agency's best professional judgment, this limitation appropriately equals a BPT level of control. No more stringent standard has been identified by the Agency at this time. Therefore, the Agency is setting a BCT effluent limitation for the pH of well treatment fluids equal to that of BPT. This limitation will ensure that pH changes greater than 0.1 pH unit for state waters and 0.2 pH unit for federal waters will not occur beyond the edge of the 100-meter mixing zone (40 CFR 125.121(c)). This requirement for test fluids, a subset of well treatment fluids, has been and is routinely complied with by exploratory operations under

previous BPT permits. Thus, for test fluids, the requirement will incur no cost incremental to BPT. The cost to comply with this limitation for other types of well treatment fluids is expected to be minimal, particularly since well treatment fluids commingled with produced water have been subject to pH limits of 6–9 in all existing BPT permits for Cook Inlet production facilities.

The pH produced water has been limited to a range of 6.5–8.5 at the point of discharge. Previous BPT permits for production facilities in Cook Inlet contained a limitation of pH 6–9. There is thus a minimal cost incremental to BPT.

5. *Floating soilds.* The BCT prohibition of floating solids is equal to the BPT level of control for sanitary and domestic wastes. Region 10 has determined that the BPT effluent limitations guideline of no discharge of floating solids from the discharge of sanitary wastes should apply to all other discharges as well. They have been subject to this limitation in previous permits issued by Region 10, and past practices have not resulted in violations of this limitation. No technology performance data available to Region 10 indicate that a more stringent standard is appropriate at this time. Therefore, Region 10 has determined that BCT effluent limitation on floating solids from these discharges is equal to the BPT level of control. As such, the extension of this limitation to all discharges will involve no incremental cost.

6. *Chlorine.* Chlorine is being regulated as a BCT pollutant because its purpose is to control the conventional pollutant fecal coliform. The requirement of maintaining residual chlorine levels as close as possible to, but no less than 1 mg/l in sanitary discharges for facilities manned by 10 or more people is a BCT determination equal to BPT. There is therefore no incremental cost to the industry.

C. BAT Requirements

1. *Diesel oil.* The discharge of muds which have been contaminated by diesel oil (i.e., those drilling muds which have contained diesel) or drill cuttings associated with these muds is prohibited. Diesel, which is sometimes added to a water-based mud system, is a complex mixture of petroleum hyerocarbons, known to be highly toxic to marine organisms and to contain numerous toxic and nonconventional pollutants. While this limitation thereby controls the toxic as well as nonconventional pollutants present in diesel, the Agency's primary concern is to control the toxic pollutants. The pollutant "diesel oil" is being used as an "indicator" of the listed toxic pollutants present in diesel oil which are controlled through compliance with the effluent limitation (i.e., no discharge). The technology basis for this limitation is product substitution of less toxic mineral oil for diesel oil.

The Agency selected "diesel" as an "indicator" as an alternative to establishing limitations on each of the specific toxic and nonconventional pollutants present in the diesel-contaminated waste streams. The listed toxic pollutants found in various diesel oils include napthalene, benzene, ethylbenzene, phenanthrene, toluene, fluorene, and phenol. Diesel oil may contain from 20 to 60 percent by volume aromatic hydrocarbons. The light aromatic hydrocarbons, such as benzenes, napthalenes, and phenanthrenes, constitute the most toxic major components of petroleum products. Mineral oils, with their lower aromatic hydrocarbon content and lower toxicity, contain lower concentrations of toxic pollutants than do diesel oils. Diesel oil also contains a number of nonconventional pollutants, including polynuclear aromatic hydrocarbons such as methylnaphthalene, dimethylnaphthalene, methylphenanthrene, and other alkylated forms of each of the listed toxic pollutants.

The Region has determined that eliminating the discharge of drilling fluids contaminated with diesel oil will reduce the levels of toxic pollutants present in discharged fluids. Studies show that when the amount of diesel is reduced in drilling muds, the concentrations of toxic pollutants and the overall toxicity of the fluid generally is reduced. Available data clearly establish that diesel oils as a class contain significantly higher levels of toxic pollutants than do mineral oils as a class. It is reasonable and appropriate to conclude that BAT-level control of toxic pollutants (i.e., reduction in concentrations through substitution of mineral oil for diesel oil) will be achieved by regulating diesel oil as an indicator pollutant.

Region 10 has concluded that establishing effluent limitations for each of the seven toxic pollutants present in diesel oil is not economically or technically feasible at this time. The level achievable by BAT controls on the specific toxics can be calculated using available data on the three mineral oils which have been extensively characterized. However, the limited data on the many diesel and mineral oils, mud formulations, and the various additives used, and on the unquantified changes in toxic pollutant concentrations during drilling, all frustrate an attempt to develop specific toxic pollutant effluent limitations at this time.

Not only is it infeasible to establish limitations on the specific toxic pollutants, but to comply with specific limitations on each of the toxic pollutants would be costly and technically complex. The analytical costs for specific pollutant analyses would be much greater than the cost of analyzing for diesel by gas chromatography alone. The high cost of compliance monitoring, which may include awaiting results of analyses, which must be conducted onshore, possibly outside the State of Alaska, also would be unwarranted. Either operators would have to delay discharge until monitoring results confirmed compliance or they would discharge and risk permit noncompliance. A permit limitation that prohibits the discharge of diesel oil is economically and technologically feasible and allows a determination of permit compliance prior to discharge.

The prohibition on the discharge of diesel is a technology-based BAT limitation based on product substitution. Low toxicity mineral oils are available as product substitutes for diesel oil, and do not impose unreasonable additional costs on industry. The Agency has relied primarily on the increased cost of mineral oil over diesel oil as a basis for this determination. For example, mineral oil costs Alaskan operators approximately $2.60 per gallon more than does diesel oil. The increased costs associated with using mineral oil rather than diesel oil for 50 barrels (2,100 gallons) of oil (the maximum amount generally expected in a concentrated spotting or "pill" formulation used to free stuck drill pipe) would therefore be equal to approximately $5,500. Since the frequency of differential sticking of drill pipe requiring the use of oil-based spotting formulations is low for most drilling operations (less than once per well on an average), this cost would not be incurred for each operation. The Agency has evaluated other costs associated with either diesel or mineral use in response to comments on the draft Norton Sound permit (50 FR 28589, Response to Comment 10). Both analyses show that the cost associated with the prohibition on the discharge of diesel oil clearly is economically achievable.

Region 10 has considered limiting "free oil," "oil-based drilling fluids," and "oil content of cuttings" as indicators of

toxic pollutants. While the Agency has determined that such effluent limitations will control the discharge of toxic pollutants in these oils, it is unnecessary to designate these pollutants as indicators since the same levels of control have been established under BCT, which are equal to levels of control required by the BPT effluent limitations guidelines. Therefore, redundant limitations under BAT have not been imposed for these pollutant parameters.

2. *Mercury and cadmium in barite:* The proposed permit contains limits of 1 mg/kg/ mercury and 3 mg/kg cadmium on barite, a major constitutent of drilling muds. These restrictions are designed to limit the discharge of mercury, cadmium, and other potentially toxic metals which can occur as contaminants in some sources of barite. An identical limitation is included in the Bering and Beaufort Seas and Norton Sound general permits.

As discussed in the fact sheets for the above permits, the justification for the limitation under BAT is product substitution, i.e., Alaskan operators can substitute "clean" barite which meets the above limitations for contaminated barite which does not meet the limitations. Numerous offshore exploratory wells have been drilled in Alaska over the past year, and chemical analyses have shown that the barite used has not exceeded the limitations. Given that "clean" barite is available and that operators in the Bering and Beaufort Seas have been complying with an identical limitation, Region 10 believes that this limitation is both technologically feasible and economically achievable.

Region 10 has determined that it is impractical at this time to place the limitations on drilling mud until additional data are collected. Furthermore, if the limitation were placed on the drilling mud rather than on the barite, it would not be feasible for an Alaskan operator to determine in advance if the discharge complied with the permit requirements since metals analyses must be conducted at commercial laboratories onshore.

EPA does recognize the possibility of changes in the available supply of "clean" barite. The draft permit contains a provision which would allow the Director the discretion to grant a waiver from the limitations on a case-by-case basis if the permittee (1) satisfactorily demonstrates that barite which meets the limitations is not available, and (2) provides results of analyses of the substitute barite. In determining the availability of "clean" barite under this provision, Region 10 will reasonably consider all relevant factors, including the cost of obtaining barite which meets the limitations. The Agency solicits comments and supporting data from those individuals who do not believe they can meet the above limitations. The Agency also solicits data indicating any increased costs that a permittee has incurred in meeting the barite limitations contained in the general permits for offshore drilling in the Beaufort and Bering Seas (49 FR 23734, June 7, 1984).

3. *Generic muds and authorized additives.* The draft permit limits the discharge of toxic substances in drilling fluids by allowing only the discharge of generic drilling muds (listed in Table 1 of the draft permit) and additives for which acceptable bioassay or chemical data are available. Permittees are required to certify in advance of discharge that only generic drilling muds and authorized additives will be discharged.

Permittees may discharge additives listed in Table 2 of the draft permit up to the specified concentrations without special permission. This table is the same as Table 2 in the Norton Sound general permit (50 FR 23578, June 4, 1985). The permit contains a provision (Table 2) which will allow the discharge of additives which are listed in Table 2 of subsequent Region 10 general permits, unless otherwise stated in the new permits. For operations under this permit, any additive receiving authorization in this manner will be evaluated according to the regional criteria used for this permit.

Any discharge of a generic mud which has been modified other than by addition of an additive listed in Table 2 requires submission of information demonstrating that it passes the critieria in Part II.C.1.e of the permit or prior authorization by EPA, Region 10. Permittees may request authorization to discharge additives (including mineral oils) not listed in Table 2 by submitting appropriate information and bioassay data in advance of discharge. Region 10 will determine whether the use of the requested additives is likely to cause the mud system to be more toxic than Generic Mud No. 1, which is the base mud formulation the Agency uses to determine acceptable toxicity levels for discharge of fluids. Other criteria (e.g., persistence and degradation), as appropriate, are also considered in the evaluation process. The propsed permit furthermore contains a provision (Part II.C.1.g. of the permit) which allows an exception for the discharge of mineral oil-containing muds which exceed the toxicity of Mud No. 1 if the least toxic available alternative is discharged.

In some cases, interim discharge authorizations may be granted if preliminary bioassay data are submitted and EPA determines that additional bioassay testing is required. Such testing may be required, for example, to examine possible cumulative or synergistic effects if the additive is to be used in combination with a number of other additives. Because the additional testing may take a considerable amount of time to conduct, interim authorization to discharge may be granted so that operations are not impaired for an unreasonable amount of time. Interim authorizations may also require testing a used drilling mud from a rig.

This approach to limiting toxicity is expected to control the discharge of listed toxic as well as nonconventional pollutants in drilling muds. For example, the toxicity of muds containing lubricants, including mineral oil products, may vary widely, and such additives may greatly increase the toxicity of the mud. Studies on diesel-contaminated drilling muds have shown toxicity to be strongly correlated with content of aromatic hydrocarbons, which include listed toxic pollutants. Some mineral oils also contain aromatic hydrocarbons which are listed toxics, such as fluorene, naphthalene, and phenanthrene. The toxicity of muds containing these oils is assumed to be caused, in part, by the listed toxic pollutants as well as by the noconventional pollutants. Region 10 has determined that it is technically and economically infeasible to directly limit the toxic pollutants in drilling muds, as discussed in Part IV.C.1. Therefore, the Region has determined that the toxicity limitations (e.g., generic muds and approved additives) constitute a reasonable approach which is expected to control not only listed toxic pollutants, but other toxic substances (i.e., toxic nonconventional pollutants) as well.

The technology basis for this permit condition is product substitution; i.e., mud additives and components which would cause the toxicity of mud system to exceed that of Generic Mud No. 1 can be replaced by less toxic mud additives and components.

Under section 308 of the Act, compliance with this proposed permit condition will be monitored in two ways: first, by requiring that permittees certify that only generic muds and authorized additives will be discharged; and second, by requiring that permittees submit an end-of -well inventory listing all chemicals and the amounts of each added to each mud system. In addition, permittees must analyze one or more mud samples per well for metals content and toxicity. The metals data will be

used to verify that mercury and cadmium limits on barite are adequately controlling metal concentrations in discharged muds. The Drilling Fluids Toxicity Test, performed on the end-of-well mud system, will provide a comparison between the toxicity of used muds containing mixtures of additives and the bioassay data submitted on individual additives prior to discharge.

4. *Other toxic and nonconventional compounds.* Under the permit, discharges of the followng pollutants are prohibited: halogenated phenol compounds, trisodium nitrilotriacetic acid, sodium chromate, and sodium dichromate. The class of halogenated phenol compounds includes toxic pollutants, and sodium chromate and dichromate contain chromium, also a toxic pollutant. Trisodium nitrilotriacetic acid is a nonconventional pollutant. The discharge of these compounds was previously prohibited in the BPT general permits for the Beaufort Sea and Norton Sound (48 FR 54881, December 7, 1983) as well as in the BAT/BCT general permits for the Bering and Beaufort Seas and Norton Sound. These compounds are therefore subject to BAT limitations. Because operators complied with this provision in the BPT permits, there is no additional cost to the industry.

The proposed permit contains an additional restriction on all discharges under BAT. Discharges of biocides are limited to those biocides registered with EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for the use(s) in which they are intended (e.g., noncontact cooling water, or waterflooding operations). Discharges shall be in accordance with product registration labeling. The discharge of all other biocide is prohibited.

D. Requirements Based on the Ocean Discharge Criteria Evaluation

1. *Prohibited areas for all discharges from Offshore Subcategory operations.* The proposed general permit prohibits discharges from Offshore Subcategory exploratory operations in the following areas:

(1) Water depths less than 5 m (as measured from mean lower low water).

(2) Within 1,000 m of a coastal marsh, river delta, river mouth, designated Area Meriting Special Attention (AMSA), game refuge, game sanctuary, or critical habitat area.

(3) In Kamishak Bay west of a line from Cape Douglas to Chinitna Point.

(4) In Chinitna Bay inside a line (see Figure 2) from latitude 59°52'45" N, longitude 152°48'18" W to latitude 59°46'12" N, longitude 153°00'24" W; in Tuxedni Bay inside of the following lines on either side of Chisik Island (Figure 2): From latitute 60°04'06" N, longitide 152°34'12" W to the southern tip of Chisik Island (latitude 60°04'06" N, longitude 152°33'30" W) and from latitude 60°13'45" N, longitude 152°32'42" W to the point on the north side of Snug Harbor on Chisik Island (latitude 60°06'36" N, longitude 152°32'54" W).

These restrictions are necessary to ensure that unreasonable degradation of these areas will not occur.

Discharges are prohibited in waters shallower than 5 m because shallow nearshore waters in Lower Cook Inlet are an important habitat for many species. In addition, dilution and dispersion of drilling mud discharges in waters less than 5 m deep is uncertain given that the field data are limited and that the available models of mud dilution and dispersion are not field-verified for shallow depths. A similar condition on drilling muds and cuttings was included in an individual BAT/BCT permit (No. AK-004155-6) for Champlin Petroleum's operations near Kalgin Island.

The condition restricting discharges within 1,000 m of coastal marshes, river deltas, and other areas is necessary to comply with local and state Coastal Management Plan prohibitions on discharges of silt materials in these areas, or on activities that may alter the protected biological resources of these areas.

Chinitna, Tuxedni, and Kamishak Bays are, or are contiguous with, areas of high resource value. In addition, Kamishak Bay is a known net depositional environment where accumulation of drilling mud solids and other pollutants would be likely to occur if allowed to be discharged in this area.

Development and production facilities to be covered by the permit are restricted to Upper Cook Inlet north of the Forelands. They are in the Coastal Subcategory and are not subject to a 403(c) evaluation.

2. *Muds and cuttings.* Several additional restrictions on these discharges are necessary to ensure no unreasonable degradation of the marine environment. The discharge rate limitation of 1,000 bbl/hr on total muds and cuttings into waters greater than 40 m in depth was established through the Ocean Discharge Criteria Evaluation process in order to allow adequate dispersion of the discharges. In addition, the muds and cuttings discharge rate is restricted to 750 bbl/hr in water depths greater than 20 m but not more than 40 m, and to 500 bbl/hr in 5 to 20 m of water. These limits are necessary because for any given discharge rate, the dilution of drilling muds and cuttings is not as great in shallow waters as in deeper waters. However, at any particular water depth, greater dilution close to the discharge point will be achieved with a lower discharge rate. These maximum rates will ensure that acceptable toxicity limits will not be exceeded at the edge of the 100 m mixing zone (Tetra Tech, 1984).

3. *Deck drainage, sanitary and domestic wastes, and miscellaneous discharges.* These discharges are adequately controlled by the technology-based limitations above to ensure no unreasonable degradation of the maine environment.

E. Requirements to Ensure Compliance with State Quality Standards

1. *Elutriate test.* As part of its certification under section 401 of the Act, the State of Alaska will require that muds and cuttings not be discharged to state waters if they contain more than 50 mg/l of oil and grease as measured by the elutriate test.

2. *pH.* The pH of well treatment fluids and produced water will be limited to a pH of 6.5–8.5 at the point of discharge. The pH of these fluids must be within 0.1 pH unit of the ambient condition at the edge of a 100-m mixing zone.

3. *Prohibited areas for all discharges in state waters.* State waters covered by the general permit are located in Cook Inlet, and include both Offshore and Coastal Subcategory operations. Prohibited discharge areas for Offshore Subcategory operations, as determined through the Ocean Discharge Criteria Evaluation process (described in Part IV.D.1. above), are sufficient to ensure that Alaska Water Quality Standards will be met.

Prohibited discharge areas for Coastal Subcategory operations were determined as discussed below:

First, all discharges will be prohibited within 1000 m of a coastal marsh, river delta, river mouth, designated Areas Meriting Special Attention (AMSA), game refuge, game sanctuary, or critical habitat area. This is consistent with the discharge restriction on these areas for Offshore Subcategory operations.

Second, all discharges are prohibited to intertidal areas and to waters shoreward of the 5 m isobath (as measured from mean lower low water). Where terms of state lease sales prohibit discharges shoreward of isobaths deeper than 5 m, the deeper isobath shall be the boundary instead. The 5 m restriction will have a significant effect on the three shore-based facilities which discharge produced water well above the mean lower low water mark. The Marathon

Granite Point facility presently discharges approximately 0.2 MGD of produced water. The water is piped from the facility down a cliff, whereupon it flows through a ditch in a saltwater slough and through a culvert under a road, before discharging to the beach above the high tide line. At Marathon's Trading Bay facility, a monthly average discharge of approximately 2.8 MGD is piped to 1.7 m below the mean high tide mark, whereupon it flows over the mud flats. Finally, Shell's East Foreland facility discharges a monthly average of 0.2 MGD. The produced water is piped down a cliff, and presently discharges to the base of the cliff before flowing over the beach.

EPA often defines a mixing zone as extending 100 m laterally in all directions from a discharge point (40 CFR 125.21(c)). If a 100 m miximg zone is assumed, discharges from these shore-based facilities will violate the state water quality standards for total hydrocarbons (15 μg/l) and total aromatic hydrocarbons (10 μg/l) at the edge of the mixing zone, based on computer modeling results. This finding is based on computer modeling of plume dispersion using the PLUME model for nearfield dilution and a two-dimensional advection/diffusion model (EPA's MPN model) for farfield dilution. Based on discharge data available from the facilities, which indicates a total aromatic hydrocarbon concentration of 5 to 20 mg/l, a dilution of 2000:1 would be necessary for the discharges to meet the state water quality standard of 10 μg/l. Dilutions based on the computer modeling for a depth of 5 m would range from 3:1 to 33:1 for the Trading Bay facility depending on current speed, and from 17:1 to 100:1 for the East Foreland and Granite Point facilities. Although modeling for depths greater than 5 m showed only slightly greater dilutions, EPA believes that removal of the three facilities' discharges to this depth (and possible use of outfall diffusers) will be a significant improvement over the current situation, where discharges run out over the beach at low tide. The discharges would be submerged at all times including extreme low tides, and during the vast majority of the tidal cycle would have 5–11 m of water overlying the outfall.

Region 10 has assumed a 100 m miximg zone for each of the three facilities in the absence of proposed mixing zone determinations by ADEC under 18 AAC 70.032. This size is consistent with that used to evaluate discharge dilution and dispersion in offshore waters (both federal and state) as part of the Ocean Discharge Criteria Evaluation process. Preliminary discussions with ADEC staff members indicate that ADEC may propose mixing zones of as much as several kilometers for determining compliance with State Water Quality Standards. Such mixing zones would be likely to allow the companies to continue discharging well above the mean lower low water mark. ADEC's proposal will be based in part on computer modeling data presently being compiled by Marathon and Shell. Region 10 and ADEC request that Marathon and Shell provide this data during the public comment period. The agencies also request any other information and comments relevant to the mixing zone determinations.

A prohibition on discharges to waters shoreward of the 5 m isobath and to intertidal areas would be consistent with a lease term in State of Alaska leases for oil and gas operations in Cook Inlet. Any new operator wishing to locate in areas leased in State Sales 32, 33, 35, 40 and 46A would not be allowed to discharge produced water or muds and cuttings to an intertidal area. In addition, under the same lease term, the discharge of muds and cuttings to waters 5.5 m (3 fathoms) or less would be allowed only during the period from 2 hours before to 2 hours after each high tide. This lease term is intended to "protect shallow areas," "help maintain the sale area as a pollution-free environment," "mitigate disturbance to marine mammals," "help maintain the integrity of avian habitats and prevent disturbances to avian wildlife," and "protect anadromous fish and their habitat."

EPA believes that the protection of marine mammal, avian, and anadromous fish resource from potential adverse effects of new operations should extend to potential effects from existing facilities. Each of the existing facilities is, in fact, located in an area covered by a past lease sale, or to be covered in the near future by a lease sale.

4. *Environmental monitoring of muds and cuttings discharges from new development and production facilities.* New development and production facilities which discharge drilling muds or drill cuttings within 1500 m of an area of biological significance, such as a coastal marsh, river delta, river mouth, designated Area Meriting Special Attention, game refuge, game sanctuary, or critical habitat area, will be required to undertake environmental monitoring of the fate and effects of the discharges. The monitoring is needed because the active natural transport processes in Cook Inlet will likely carry discharged materials from the development and production operations into these sensitive areas. Region 10 has identified a need for further information on the fate and effects of muds and cuttings discharges from long-term production and development operations.

The specifics of each monitoring program, including survey design, analytical techniques, participants, and reporting requirements, will be determined by EPA, Region 10, in consultation with the South Central Regional Office of ADEC and the permittee. Monitoring shall include, but not be limited to, relevant hydrographic, sediment hydrocarbon, and heavy metal data from surveys conducted before and during drilling mud disposal operations and for at least one year after drilling operations cease.

Region 10, in consultation with ADEC, will consider granting exemptions from this monitoring requirement if the permittee can satisfactorily demonstrate that information on the fate and effects of the discharge is available and/or the discharge will have insignificant impacts on the area of biological significance.

5. *BOD and suspended solids.* As part of its certification under Section 401 of the Act, the State of Alaska will require that sanitary waste discharge to state waters comply with the following limits on BOD and suspended solids:

For 30 consecutive day, 30 mg/l mean.
For 7 consecutive days, 45 mg/l mean.
For a 24 hour period, 60 mg/l mean.

F. Discharge Monitoring Study

Region 10 has limited data on discharges from development and production facilities. In order to extend the data base for these discharges, a discharge monitoring study has been proposed in Part VI of the general permit. Development and production operators will have the choice of (1) participating in the proposed joint study, which would not examine discharges at every facility in detail, or (2) being subject to similar monitoring requirements on each of the operators' individual facilities. The advantage of the larger study is that operators would have a single contractor undertake sampling, analyses, and compilation of data at the various facilities. This would ensure uniformity of work procedures, and better data as an end result. It would also be less expensive for the operators than having to arrange that the work be done for each of their facilities.

1. *Deck drainage.* Samples of deck drainage shall be collected from two

platforms for 1 year, under a variety of operational and ambient weather conditions. Samples will be analyzed for oil and grease, and for total phenols. In addition, operators must report information on products present in significant amounts in deck drainage. Region 10 has discharge data which indicate that oil and grease may be as high as 450 mg/l, and phenols as high as 60 mg/l, in discharges from production platforms. The monitoring requirements would increase whether such concentrations occur on a routine basis, and the relationship of operational and weather factors to those concentrations.

2. *Non-contact cooling water and desalination wastes.* Samples of both wastes shall be collected bimonthly at all platforms for 1 year. Samples will be analyzed for BOD, COD, and biocides which may be present in the discharges. BOD and COD were high in some production discharges. Region 10 wishes to investigate how widespread biocide usage and high BOD and COD levels are in these discharges from production facilities. Additionally, operators will be asked to monitor flow rate of these discharges, and to provide chemical inventories of products added to these discharges.

3. *Blowout preventer fluid, boiler blowdown, fire control system test water, uncontaiminated ballast water, uncontaminated bilgewater, and waterflooding discharges.* Flow rates shall be measured and chemical inventories reported for a period of 6 months for all platforms.

4. *Excess cement slurry, and mud, cuttings, cement at seafloor.* The total volumes shall be estimated and chemical inventories reported for the first five development or production wells drilled and completed under the general permit.

5. *Produced water.* In order to get a broader spectrum of data on produced water in Alaska, sampling will be undertaken once each summer and in winter from the three shore-based facilities and three of the five platforms which discharge directly into Cook Inlet. The three flatforms shall include two oil platforms located on different fields, and the sole existing gas platform in Cook Inlet. Additionally, one of the oil platforms to be sampled in summer and winter shall be sampled in fall and spring of the same year.

Flow rates and chemical inventories shall be estimated for each sample. In addition, chemical analyses shall be performed on each sample as follows: ph; oil and grease; dissolved oxygen; BOD; COD; TOC; NH_3; salinity; total aromatic hydrocarbons; total naphthalenes; dimethylnaphthalenes; trimethylnaphthalenes; tetramethylnaphthalenes; xylene; benzene; ethylbenzene; naphthalene; toluene; phenol; 2,4-dimethylphenol; bis (2-ethylhexy) phthalate; anthracene; phenanthrene; zinc.

All of the pollutants including benzene and listed after benzene are priority pollutants which were found in at least 50% of produced water samples analyzed by EPA as part of a 30-platform survey in the Gulf of Mexico. These pollutants, along with xylene, have also been reported in Cook Inlet produced water discharges.

There are very few toxicity data available on produced water in general, and for Cook Inlet operations in particular. Toxicity testing would, therefore, also be required with adult and juvenile stages of the dock shrimp, *Pandalus danae*, which is an Alaskan species, and with the juvenile stage of the mysid, *Mysidopsis bahia*, which is a non-Alaskan standard test species.

6. *Well treatment fluids.* These fluids are among the most poorly characterized of production discharges. To increase the available information on them, the following requirements are included in the study.

First, the total volumes of fluid collected and discharged, the job type, and composition of the fluid shall be reported for the first ten discharged jobs or for each job for a period of 1 year, whichever is more. The first ten jobs to be discharged must be sampled and analyzed for pH, oil and grease, dissolved oxygen, BOD, COD, TOC, and salinity.

Second, there is a special concern that highly acidic well treatment fluids may leach greater amounts of metals from the formation. To investigate this concern, well treatment fluids for the first three acidizing jobs (with an initial pH of 4 or less) will be sampled and analyzed for cadmium, chromium, copper, mercury, zinc, and lead.

V. Other Legal Requirements

A. Oil Spill Requirements

Section 311 of the Act prohibits the discharge of oil and hazardous materials in harmful quantities. Routine discharges specifically controlled by the permit are excluded from the provisions of Section 311. However, this permit does 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 which are covered by Section 311 of the Act.

B. Endangered Species Act

Based on information in the Preliminary Ocean Discharge Criteria Evaluation (PODCEs) for OCS Sales 55 and 60, and the Revised PODCE for Sale 88 and state lease sales in Cook Inlet, and on formation in the Environmental Impact Statements prepared for the federal lease sale areas, EPA has concluded that the discharges authorized by this general permit will neither jeopardize the continued existence of any endangered or threatened species nor adversely affect their criteria habitat. EPA is requesting comments from the U.S. Fish and Wildlife Service and the National Marine Fisheries Service and will consider their comments in making the final permit decision. EPA will initiate consultation should new information reveal impacts not previously considered, should the activities be modified in a manner beyond the scope of the original opinion, or should the activities affect a newly listed species.

C. Coastal Zone Management Act

EPA has determined that the activities authorized by this general permit are consistent with local and state Coastal Management Plans. The proposed permit and consistency determination will be submitted to the State of Alaska for state interagency review at the time of public notice. The requirements for State Coastal Zone Management Review and approval must be satisfied before the general permit may be issued.

D. Marine Protection, Research, and Sanctuaries Act

No marine sanctuaries as designated by this Act exist in the vicinity of the permit area.

E. State Water Quality Standards and State Certification

Since state waters are involved in the proposed general permit, the provisions of section 401 of the Act will apply. The portion of Cook Inlet receiving waters located within the territorial seas of the State of Alaska and shoreward of the inner boundary of the territorial seas are classified by the State Water Quality Standards as Class II A(i)(ii)(iii), B(i)(ii), C, and D for use in aquaculture; seafood processing and industrial water supply; water contact and secondary recreation; growth and propagation of fish, shellfish, aquatic life and wildlife; and harvesting for consumption of raw mollusks or other raw aquatic life.

F. 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.

G. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities in this draft general permit under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. Most of the information collection requirements of the permit have already been approved by the Office of Management and Budget (OMB) in submissions made for the NPDES permit program under the provisions of the Act. In addition, the environmental monitoring requirements pursuant to section 403(c) of the Act in Part II.B. of this permit are similar to the monitoring requirements that were approved by OMB for the recently issued Beaufort Sea general NPDES permit (June 7, 1984; 49 FR 23734) and the Norton Sound general permit (50 FR 23578, June 4, 1985). The final general permit will explain how the information collection requirements respond to any OMB or public comments.

H. The Regulatory Flexibility Act

After review of the facts presented in the notice of intent printed above, I hereby certify, pursuant to the provisions of 5 U.S.C. 605(b), that this general permit will not have a significant impact on a substantial number of small entities. This certification is based on the fact that the regulated parties 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). These facilities are classified as Major Group 13—Oil and Gas Extraction SIC 1311 Crude Petroleum and Natural Gas.

Dated: July 11, 1985.

L. Edwin Coate,

Acting Regional Administrator, Region 10.

References

Tetra Tech, Inc. 1984. Technical support document for regulating dilution and deposition of drilling muds on the Outer Continental Shelf. Report to U.S. Environmental Protection Agency, Region 10, November 1984.

TABLE 1.—FACILITIES WITH CONTINUED INDIVIDUAL PERMITS AS OF JUNE 1985

Facility	Individual NPDES permit No.
ARCO—Fire Island	AK-004054-1
Chevron—Shelikof Strait	AK-003731-1
Chevron—Lower Cook Inlet	AK-003778-8
Amoco Platform Anna	AK-000078-7
Amoco Platform Baker	AK-000077-9
Amoco Platform Bruce	AK-000076-1
Amoco Platform Dillon	AK-000075-2
ARCO Platform King Salmon	AK-000020-5
Marathon Platform Dolly Varden	AK-000041-8
Marathon Platform Spark	AK-000019-1
Phillips Platform A	AK-000116-3
Shell Platform A	AK-000044-2
Shell Platform C	AK-000045-1
Texaco-Superior Platform A	AK-000143-1
Union Platform Granite Point	AK-000081-7
Union Platform Grayling	AK-000048-5
Union Platform Monopod	AK-000047-7
Marathon Granite Point Treatment Facility	AK-000018-3
Marathon Trading Bay Treatment Facility	AK-000141-4
Shell East Foreland Treatment Facility	AK-000046-9

BILLING CODE 6560-50-M

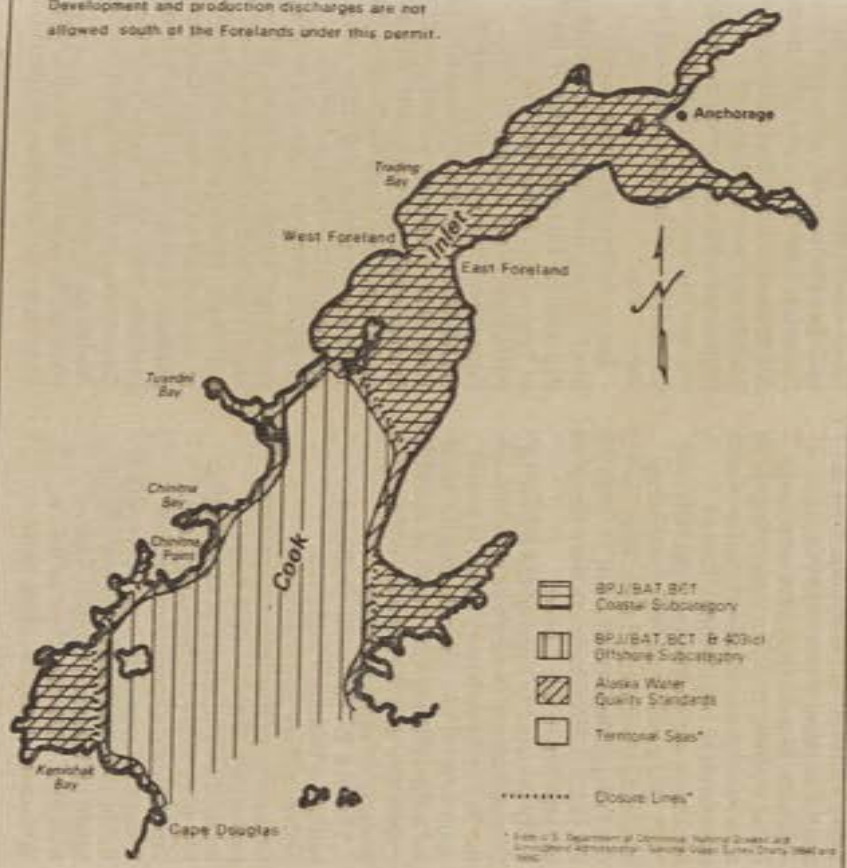

Figure 1
Applicability of Regulations to Discharges in Cook Inlet

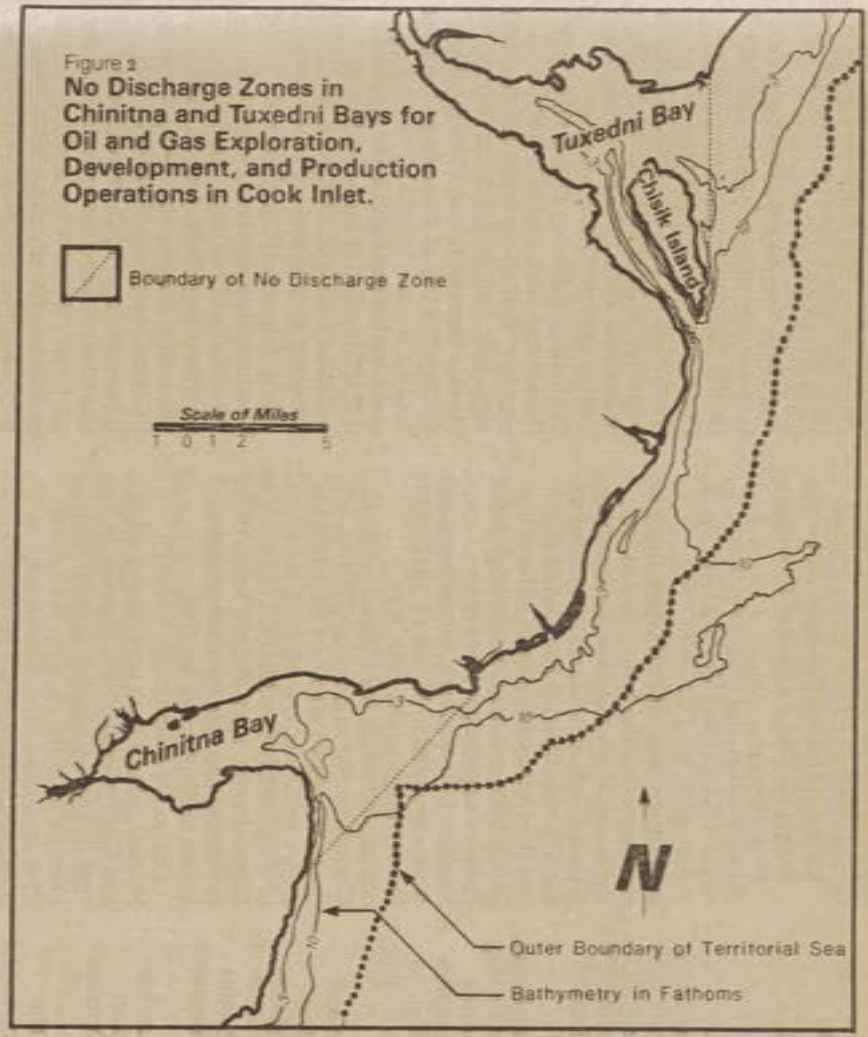

Figure 2
No Discharge Zones in Chinitna and Tuxedni Bays for Oil and Gas Exploration, Development, and Production Operations in Cook Inlet.

[OPP-30100; FRL-2866-3]

Registration of Compound 1080

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's issuance of a conditional registration for sodium monofluoroacetate (Compound 1080) for use as livestock protection collar under EPA Registration Number 6704–85.

EFFECTIVE DATE: The Agency anticipates that judicial challenge of this action may be likely. For the purpose of assuring orderly judicial review, the EPA action herein shall become final and effective at 1 p.m., Eastern Daylight Time, on July 18, 1985.

FOR FURTHER INFORMATION CONTACT:

By mail: William H. Miller, Product Manager 16, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 211, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2600).

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency issued a conditional reistration on July 11, 1985 for sodium monofluoroacetate (Compound 1080) Livestock Collar, to the U.S. Department of the Interior, Fish and Wildlife Service, Washington, D.C. 20240, under EPA Registration Number 6704–85.

Dated: July 12, 1985.

J.A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 85–17081 Filed 7–16–85; 8:45 am]

BILLING CODE 6560–50–M

[OPP-250066A; FRL #2864-3]

FIFRA Scientific Advisory Panel; Appointments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Notice is given of the appointment of three members to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel established pursuant to section 25(d) of FIFRA, as amended (86 Stat. 973 and 89 Stat. 751; 7 U.S.C. 136 et seq.). Public notice of nominees along with a request for public comments appeared in the **Federal Register** of April 11, 1985 (50 FR 14286).

FOR FURTHER INFORMATION CONTACT:

By mail: Philip H. Gray, Jr., Executive Secretary, FIFRA Scientific Advisory Panel (TS–766C), Office of Pesticide Programs,

Office location and telephone number: Rm. 1115, Crystal Mall Building No. 2, Arlington, VA (703–557–7096).

SUPPLEMENTARY INFORMATION: Congress mandated that the Scientific Advisory Panel would consist of seven members, selected from candidates nominated by the National Science Foundation (NSF and the National Institutes of Health (NIH). Congress also mandated that the terms of appointment would be staggered. Accordingly, seven members were appointed in March 24, 1983, to the Panel (which, at the time, was constituted under the Federal Advisory Committee Act rather than FIFRA), with the terms of two members scheduled to expire on September 30, 1984, the terms of three members scheduled to expire on September 30, 1985, and the terms of the remaining two members scheduled to expire on September 30, 1986.

One panel member, Dr. Robert Menzer, whose term was scheduled to end September 30, 1985, resigned in July 1984 due to his impending prolonged absence from the country. As a result, EPA appointed three new Panel members on November 15, 1984.

One of those new members, Dr. Richard Griesemer, resigend in May 1985 as a result of his appointment to chair a subcommittee of EPA's Science Advisory Board. Thus EPA was again faced with the need for appointing three new Panel members. In accordance with the statutory requirement, lists of nominees were obtained from NIH and NSF, and a public notice of nominees, including biographical data, appeared in the **Federal Register** of April 11, 1985 (50 FR 142686). No comments were received in response to this Notice.

My decision to appoint the following three nominees to serve as members of the Scientific Advisory Panel is based upon several factors including the need for a disciplinary mix, depth of scientific experience and the need for wide geographic representation:

Thomas W. Clarkson, professor, radiation biology, biophysics, pharmacology and toxicology, University of Rochester. Expertise: toxicology. Born: August 1, 1932. Education: University of Manchester, BS, 1953; PhD (biochemistry) 1956. Professional experience: Medical Research Council fellow, University of Rochester, 1957–1961; science officer, Medical Research Council, United Kingdom, 1962–1964; senior fellow, Weizmann Institute, 1964–1965; associate professor, biophysics, pharmacology and radiation biology, 1965–1967; professor, radiation biology, biophysics, pharmacology and toxicology, University of Rochester, 1971-present; director, Environmental Health Science Center, 1975-present. Concurrent position: Member, Committee for Food Protection, National Academy of Science-National Academy of England, 1973–1976; Subcommittee on Toxicology, 1972–1976; member Toxicology Advisory Board, Food and Drug Administration, 1975–1977; member, Toxicology Study Section, NIH, 1976–1977. Societies: AAAS; Health Physics Society; British Pharmacology Society; Society of Toxicology; Chemical Society. Research: cellular physiology; reabsorption mechanisms in intestine and kidney; heavy metal toxicology; action of metals on cellular level in intestine, kidney and red blood cells.

John James Lech, professor of pharmacology, Medical College of Wisconsin, Milwaukee. Expertise: pharmacology. Born: June 21, 1940. Education: Rutgers University, Newark, BS 1962; Marquette University, PhD (pharmacology) 1967. Professional experience: from instructor to assistant professor, 1967–1974; associate professor, pharmacology, 1974–1980; professor, pharmocology and toxicolgy, Medical College of Wisconsin, 1980-present. Concurrent position: American Heart Association grant, Medical College of Wisconsin, 1972–1975. Societies: AAAS; Society of Toxicology; American Fisheries Society; American Society of Pharmacology and Experimental Therapeutics. Research: cardiac triglyceride metabolism; metabolism of foreign compounds by fish.

James Arthur Swenberg, head, biochemical, toxicology and pathology department, Chemical Industry Institute of Toxicology. Expertise: Veterinary pathology. Born: January 15, 1942. Education: University of Minnesota, DVM, 1966; Ohio State University, MS, 1968; PhD (veterinary pathology), 1970. Professional experience: NIH trainee in pathology, Ohio State University, 1966–1970; research associate, 1970; assistant professor, 1970–1972; associate professor, 1972; research scientist in pathology, UpJohn Company, 1972–1977; head, biochemical, toxicology, and pathology, Chemical Industrial Institute of Toxicology 1978-present. Concurrent position: consultant, Battelle Memorial Institute, 1971–1972. Societies: American Association of Cancer Research; AAAS; American Association of Neuropathologists; American College of Veterinary Pathologists. Research:

cancer research, including chemical carcinogenesis, neurooncogenesis and chemotherapy, and short-term test for carcinogens; DNA damage/mutagenesis; improved toxicology and data handling methods.

Meetings of the Scientific Advisory Panel are always announced in the **Federal Register** at least 15 days prior to each meeting. It is expected that the next meeting will take place on July 8 and 9, 1985.

Dated: July 3, 1985.

A. James Barnes,

Deputy Administrator.

[FR Doc. 85-16731 Filed 7-16-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-002827-003.
Title: Alameda Terminal Agreement.
Parties:
Encinal Terminals (Encinal)
Crescent Wharf and Warehouse Company (Crescent)

Synopsis: Agreement No. 224-002827-003 modifies the parties' basic agreement providing for Crescent's lease of certain property at Alameda, California, to be operated as a public marine terminal. The amended agreement restates the basic agreement, and extends the term of the lease to September 30, 1987, and thereafter on a year to year basis. The amount of rent paid by Crescent to Encinal will be altered, and changes will also be made in the alteration and improvements clause of the agreement. Various other minor changes will be made in the clauses of the agreement.

Agreement No.: 224-010780.
Title: Seattle Terminal Agreement.
Parties:
Port of Seattle (Port)
Matson Terminals, Inc. (Matson)

Synopsis: The agreement provides that the Port will lease to Matson 15 acres of marine container yard with improvements, including 800 feet of vessel berth, and the preferential use of one container crane at the Port's Terminal 18. The term of the lease is for 2 years. Up to 2 acres can be added to the premises without amending the lease. Matson shall use the premises for the loading and discharging of vessels of Matson Navigation Company and other ocean carriers who are its customers. This lease shall terminate the current lease covered by Agreement No. T-4049, as amended.

Dated: July 12, 1985.

By Order of the Federal Maritime Commission.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-16969 Filed 7-16-85; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Canebrake Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 8, 1985.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Canebrake Bancshares, Inc.*, Uniontown, Alabama; to become a bank holding company by acquiring 80 percent of the voting shares of Canebrake Bank, Uniontown, Alabama.

2. *The Nashville Holding Company*, Nashville, Georgia; to acquire 80.42 percent of the voting shares of Adel Banking Company, Adel, Georgia.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vic President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Mid-South Bancorp, Inc.*, Franlin, Kentucky; to acquire 100 percent of the voting shares of Adairville Banking Company, Adairville, Kentucky.

C. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Arlington Commonwealth Corporation*, Arlington, Texas; to acquire 100 percent of the voting shares of Mercantile National Bank of Arlington, Arlington, Texas.

D. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *First Commerce Bancorp, Inc.*, Phoenix, Arizona; to become a bank holding company by acquiring 100 percent of the voting shares of First Commerce National Bank, Phoenix, Arizona (in organization).

Board of Governors of the Federal Reserve System, July 11, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-16906 Filed 7-16-85; 8:45 am]

BILLING CODE 6201-01-M

Centennial Beneficial Corp.; Notice of Application To Engage de Novo in Permissible Nonbanking Activities.

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted througout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for

inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 6, 1985.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Centennial Beneficial Corp.*, Orange, California; to engage *de novo* through its subsidiary, Centennial Mortgage Income Fund II, Orange, California, in acting as general partner in a limited partnership organized to engage *de novo* in real estate lending.

Board of Governors of the Federal Reserve System, July 11, 1985

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-16905 Filed 7-16-85; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Report on Revised System of Records Under the Privacy Act of 1974

AGENCY: General Services Administration.

ACTION: Notification of revised system of records.

SUMMARY: The purpose of this document is to give notice, under the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, of intent to revise a system of records being maintained by GSA. The system of records, Contracted Travel Services Program, GSA/GOVT-4, is revised to change the retention and disposal requirements of travel agencies' records. No additional information or routine uses are created. As no new information is being collected by GSA, the proposed revision is not considered as being within the purview of the provisions of 5 U.S.C. 552a(o) which would require submission of an altered report to Congress and the Office of Management and Budget.

DATES: Any interested party may submit written comments about this revised system. Comments must be received on or before the 30th day following publication of this notice. The routine use will become effective without further notice on the 30th day following publication of this notice unless comments are received that would result in a contrary decision.

ADDRESS: Address comments to General Services Administration (ATRAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Mr. William Hiebert, GSA Privacy Act Officer, telephone (202) 535-7647.

Background

The system of records, Contracted Travel Services Program, GSA/GOVT-4, is being revised to change the retention and disposal requirements for travel agencies' records from according to their needs to not longer than 3 years. This system of records notice was published in the **Federal Register** on May 15, 1985, 50 FR 20294.

The amended system of records is as follows:

GSA/GOVT-4

SYSTEM NAME:

Contracted Travel Services.

* * * * *

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

* * * * *

RETENTION AND DISPOSAL:

Records kept by the Federal agency are held for 3 years and then destroyed. Records kept by the travel agency are held and destroyed no longer than 3 years.

* * * * *

Dated: July 9, 1985.

Johnny T. Young,

Acting Director, Information Management Division.

[FR Doc. 85-16925 Filed 7-16-85; 8:45 am]

BILLING CODE 6820-24-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee Meeting; Cancellation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is cancelling the meeting of the Science Advisory Board to the National Center for Toxicological Research scheduled for July 23 and 24, 1985. The meeting was announced by notice in the **Federal Register** of June 20, 1985 (50 FR 25628).

FOR FURTHER INFORMATION CONTACT: Ronald F. Coene, National Center for Toxicological Research (HFT-2), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3155.

Dated: July 11, 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-16895 Filed 7-16-85; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

[BERC-298-GN]

Medicare and Medicaid Programs; Deficit Reduction Act of 1984; Information Notice on Medicare and Medicaid Amendments

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

ACTION: General notice.

SUMMARY: This notice describes briefly some of the provisions of Title III of Division B of the Deficit Reduction Act of 1984 (Pub. L. 98-369, enacted July 18, 1984). These provisions, referred to as the Medicare and Medicaid Budget Reconciliation Amendments of 1984, affect eligibility benefits, reimbursement, and administration of the Medicare and Medicaid programs. The provisions in this notice are, in whole or in large part, self-explanatory and are now or will soon be effective. These provisions are so clear and explicit that regulations are not required for their implementation.

DATES: *Effective date:* The effective date of each statutory provision is given in the "Supplementary Information" section of this document.

Comment period: since this notice merely contains a brief description of statutory changes and does not contain

policy interpretations or amendments to regulations, we are not providing a specified period for receipt of comments. However, we will consider all comments received in our review of the need for regulations, administrative action, or departmental legislative initiatives.

ADDRESS: Address comments in writing to: Health Care Financing Administration, Department of Health and Human Services, Attention: BERC-298-GN, P.O. Box 26676, Baltimore, Maryland 21207.

In commenting, please refer to file code BERC-298-GN.

If you prefer, you may deliver your comments to Room 309-G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C., or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Comments will be available for public inspection as they are received, beginning approximately three weeks after publication, in Room 309-G of the Department's offices at 200 Independence Avenue SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202-245-7890).

FOR FURTHER INFORMATION, CONTACT: Matt M. Plonski, (301) 594-9710.

SUPPLEMENTARY INFORMATION:

Background

On July 18, 1984, the Deficit Reduction Act of 1984, Pub. L. 98-369, was enacted. Title III of Division B of this Act (the Medicare and Medicaid Budget Reconciliation Amendments of 1984) added a number of new provisions that affect beneficiaries and providers of services, as well as State agencies and fiscal intermediaries involved in the operation of the Medicare and Medicaid programs.

This notice describes briefly some of the provisions of the new legislation relating to the Medicare and Medicaid programs that are sufficiently complete and clear that we believe they can take effect without issuance of regulations. This notice is not intended to be an exhaustive listing of new provisions that are self-implementing, nor is it intended to represent the complete text of the provisions. We are providing a summary of these provisions, along with budget estimates that reflect the impact of the provisions, to give notice to program administrators, providers of services, beneficaries, and the general public that they are being implemented. Readers are encouraged to review the Act itself and accompanying reports (e.g., see the Conference Report to accompany H.R. 4170, H.R. Report No. 98-861, 98th Congress, 2nd session, June 23, 1984) for information of interest to them. We are also incorporating many of these provisions in conforming regulations and program issuances.

There are provisions in the new law that conflict with current regulations, or portions of current regulations. To the extent that the new statutory provisions conflict with our existing regulations, the provisions of the new law supersede those portions of the regulations. Other portions of the same regulations and all other existing regulations remain in effect.

We note that with respect to all Medicaid provisions that are self-implementing, States may adopt their own lawful interpretation of these new provisions, unless and until regulations offering a contrary interpretation are adopted on those subjects or different interpretations are otherwise issued by the Department. This document describes the provisions as enacted. Readers should be aware that legislation is pending which could further modify several of these provisions.

Summary of Specific Provisions

(The section numbers cited before each item refer to the provisions of the Deficit Reduction Act of 1984.)

1. *Section 2302—Medicare Part B premium set at 25 percent of program costs for two calendar years (1986 and 1987).* This provision extends the existing temporary provision, which sets the monthly premium paid by enrollees at an amount equal to 25 percent of the Supplementary Medical Insurance program costs for aged beneficiaries through calendar years 1986 and 1987. However, this section also provides that if there is no social security cost-of-living adjustment (COLA), an individual's monthly Part B premium would not be increased for that year above the amount for the prior December. If there is a social security COLA, a January increase in premium for a beneficiary who is entitled to Social Security benefits for the prior November and December may not reduce the beneficiary's social security monthly payment received in January below the level of the payment received in December. This provision applies to calendar years 1986 and 1987.

Amends: Section 1839(e) of the Social Security Act (the Act).

Adds: Section 1839(f) to the Act.

Effective: For premiums for months beginning January 1986.

Budget Impact: $0 (FY 85); Savings of $439 million (FY 86).

2. *Section 2303—Payment for clinical diagnostic laboratory services.* This provision requires establishment of a fee schedule for Part B laboratory services furnished on or after July 1, 1984, except for services furnished by a hospital or performed by a skilled nursing facility for its inpatients. The fee schedule for independent clinical laboratories, and for laboratory services conducted in physicians' offices is to be established at 60 percent of the prevailing charge for the 12-month period beginning July 1, 1984. For hospital-based laboratory services furnished to hospital outpatients, the fee schedule is set at 62 percent of the prevailing charges. Any additional adjustments, such as those due to medical emergencies, low volume high-cost tests, and wage variations will be addressed in the rulemaking process.

Assignment is mandatory for independent laboratories in order to have payment made for their services under Part B of Medicare. When assignment is accepted, or when the service is furnished by a Medicare "provider," the payment will be 100 percent of the lesser of the billed charge or the fee schedule amount. When assignment is not accepted by a physician, the usual coinsurance and deductible provisions of Medicare apply.

The amendments made by this section also provide that, in the case of assigned claims, and in the case of claims for services furnished by a "provider of services" on an outpatient basis, payment may be made only to the person or entity which performed or supervised the performance of the test with two exceptions:

- Payment may be made to another physician who shares his or her medical practice with the physician who performed or supervised the performance of the test.
- Payment for a clinical diagnostic laboratory test performed at the request of a laboratory by another laboratory may be made to the referring laboratory.

In the case of unassigned claims, payment may be made to the beneficiary on the basis of an itemized bill from the person or entity which performed or supervised the performance of the test.

In addition, when hospitals are operating under a waiver granted under section 602(k) of the Social Security Amendments of 1983, Pub. L. 98-21, payment will continue to be made to the outside supplier under Part B reasonable charge methodology, rather than in accordance with fee schedules. Under this waiver, payment will continue on the basis of reasonable charges, except that when the laboratory accepts assignment, payment will be 100 percent of the reasonable charge, and

coinsurance and deductibles do not apply.

The provision is also applicable to the Medicaid program. For calendar quarters beginning October 1, 1984, Federal matching funds will not be available to the extent a State paid more for laboratory test than would be paid under the Medicare fee schedule.

Amends: Sections 1833(a)(1)(D); 1833(a)(2); 1833(b); 1833(h); 1842(h); 1866(a)(2)(A); 1902(a)(42), (43), and (44); 1903(i)(6) and (7) of the Act.

Effective: July 1, 1984, for Medicare provisions; October 1, 1984, for Medicaid provisions.

Budget Impact: Savings of $30 million (FY 84); $135 million (FY 85).

3. *Section 2305—Elimination of special payment provisions for preadmission diagnostic testing.* These amendments repeal certain provisions of sections 932 and 942 of the Omnibus Budget Reconciliation Act of 1980 (Pub. L. 96–499). These sections authorized 100 percent Medicare Part B reimbursement, subject to the applicable Part B deductible, on a reasonable cost or charge basis for preadmission diagnostic testing, either in a hospital's outpatient department or in a physician's office within seven days before a hospital admission.

These amendments do not prohibit payment under Medicare Part B, subject to applicable copayments, for preadmission diagnostic testing performed in a physician's office or in a hospital's outpatient department, to the extent that testing is otherwise reimbursable under current regulations.

Repeals: Amendments enacted by section 932 and, in part, section 942 of Pub. L. 96–499, The Omnibus Budget Reconciliation Act of 1960.

Amends: Section 1833(a)(1), (a)(2), (a)(3), (a)(4), (a)(5), 1833(b), and 1833(i)(3) of the Act.

Effective: July 18, 1984.

Budget Impact: $ Negligible (less than $1 million) (FY 84–85).

4. *Section 2306—Limitation of physician fee prevailing and customary charge levels: Participating physicians and suppliers.* Section 2306, in part, limits Medicare customary and prevailing charges for physicians' services for a 15-month period beginning on July 1, 1984, and ending on September 30, 1985, to the level in effect for the period July 1983–June 1984. Future updates of customary and prevailing charges will take effect October 1 instead of July 1 of each year beginning after 1984. The data to be used for any such updates will be charges for services in the period April 1 to March 31 preceding the update. When prevailing charges are increased by the economic index adjustment for physicians' services furnished after September 1985, there will be no "catch-up" for the economic index adjustments that are not made during the limitation period.

We have issued instructions relating to the process for physician enrollment as Medicare "participating physicians"—that is, physicians who voluntarily enter into an agreement with the Secretary to accept assignment for all Medicare claims during 12-month periods beginning October 1, 1984. Section 2306(c) enacted sections 1842 (h), (i), and (j) of the Social Security Act, which contains provisions governing "participating physicians." Under these amendments, participating physicians will be allowed to increase their actual charges during the 15 month period and have these recognized in the calculation of their customary charges effective with the October 1, 1985, and October 1, 1986 updates. Nonparticipating physicians are prohibited under the new provision from charging Medicare beneficiaries more for services during the period July 1, 1984, through September 30, 1985, than they charged for services in the period April 1, 1984, through June 30, 1984. Any increases in their actual charges for services furnished during the period July 1, 1984, through September 30, 1985, will be excluded from the computation of the physician's customary charges in the October 1, 1985, and October 1, 1986 updates. In addition, a nonparticipating physician who knowingly and willfully increases his charges in violation of this charge limitation is potentially subject to civil money penalties (up to $2,000 per violation); assessments of up to double the amount of each improper charge; as well as exclusion from the Medicare program for up to 5 years under the provisions of section 1862(d) of the Act. A participating physician who violates his participation agreement is potentially liable to criminal penalties under section 1877(d) of the Act. A participating physician is also subject to assessments of up to double each improper charge, and civil money penalties up to $2,000 per violation under section 1128A(a)(2) of the Act.

This section also establishes the concept of participating suppliers—suppliers who agree to enter into an agreement to accept assignment for all their Medicare claims during 12 month periods, beginning October 1 of each year.

Amends: Sections 1128A(a)(2), 1842(b); and 1877(d) of the Act.

Adds: New section 1842(b)(4), (h), (i), and (j).

Effective: July 1, 1984, except for provisions of section 1842(b)(3) of the Act, which reschedule the annual update, and apply to services furnished beginning October 1, 1985.

Budget Impact: Savings of $75 million (FY 84); $350 million (FY 85).

5. *Section 2314—Revaluation of assets.* The amendments made by this section limit the increase in capital-related cost reimbursement to a new owner that would result from the revaluation of hospital or skilled nursing facility (SNF) assets acquired on or after July 18, 1984, unless an enforceable agreement to acquire the assets was entered into before that date. The capital-related cost to the new owner will be based on the lesser of: (a) Historical cost (the allowable acquisition cost to the owner of record as of July 18, 1984, or, in the case of an asset not in existence as of that date, the first owner of record of the asset after that date), or (b) the acquisition cost of the asset to the new owner. The amendments also prohibit payment for the costs (including legal fees, accounting and administrative costs, travel costs and the costs of feasibility studies) attributable to the negotiation or settlement of the sale or purchase of any capital asset, by acquisition or merger, for which any payment has previously been made under Medicare. The Secretary is required to continue recapture of depreciation as under current policy. This provision applies to both hospitals and SNFs participating in Medicare.

The amendments also limit State Medicaid payments resulting from a change of ownership of a hospital, SNF or intermediate care facility (ICF). States are required to assure the Secretary that the methodologies used to establish payments to hospitals, SNFs or ICFs can reasonably be expected not to increase those payments more than they would increase under Medicare policy as a result of change of ownership of a facility.

Amends: Section 1902(a)(13) of the Act.

Adds: Section 1861(v)(1)(O) to the Act.

Effective date for Medicare: Changes in ownership occurring on or after July 18, 1984.

Effective date for Medicaid: Effective with medical assistance furnished on or after October 1, 1984, with respect to changes in ownership occurring on or after July 18, 1984. When State legislation is necessary, the State will not be considered out of compliance with Title XIX solely on the basis of section 1902(a)(13)(B) until the first day of the first calendar quarter after the close of the first regular State legislative session that begins after July 18, 1984.

Budget Impact: $ Undetermined (FY 84–85).

6. *Section 2318—Emergency room services.* This provision establishes a statutory definition of "bona fide emergency services" under Medicare for purposes of the exemption from special limits on hospital outpatient services and associated physicians' services. "Emergency services" are defined as "services provided in a hospital emergency room after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—(I) placing the patient's health in serious jeopardy; (II) serious impairment to bodily functions; or (III) serious dysfunction of any bodily organ or part."

Amends: Section 1861(v)(1)(K) of the Act.

Effective date: July 18, 1984.

Budget Impact: $ Negligible (FY 84–85).

7. *Section 2321—Cost sharing for durable medical equipment as a home health benefit.* This provision substitutes coverage of durable medical equipment for coverage of the use of medical appliances as a home health benefit and makes Medicare payment for this equipment consistent with existing payment rules that require Medicare enrollees to pay a 20 percent coinsurance on durable medical equipment furnished by medical equipment suppliers other than home health agencies.

Amends: Sections 1814(b); 1833(a)(2)(A); 1833(a)(2)(B); 1866(a)(2)(A)(ii); 1833(f)(1), (f)(2), (f)(3); 1861(m)(5); 1861(s)(6); 1861(cc)(1)(G); and 1814(j)(2).

Adds: Sections 1814(k), 1861(n).

Redesignates: Revised section 1833(f) as section 1889.

Effective date: July 18, 1984.

Budget Impact: $ Negligible (FY 84), savings of $8 million (FY 85).

8. *Section 2324—Coverage of hemophilia clotting factor.* This provision makes an exception to the exclusion of drugs and biologicals under Medicare to permit coverage for blood clotting factors, and the supplies necessary for administration of the clotting factors for hemophilia patients competent to use these factors to control bleeding without medical or other supervision. This expansion of coverage is subject to utilization controls that the Secretary may develop as deemed necessary.

Amends: Section 1861(s)(2) of the Act.

Adds: Section 1861(s)(2)(I) of the Act.

Effective: July 18, 1984.

Budget Impact: $ Negligible (FY 84–85).

9. *Section 2325—Payment for debridement of mycotic toenails.* This section places a restriction on payments under Part B of Medicare for a physician's care of toenails with a fungal infection (i.e., debridement of mycotic toenails). Payment may not be made for services furnished more frequently than once every 60 days, unless the medical necessity for more frequent treatment is documented by the billing physician.

Effective: July 18, 1984.

Budget Impact: $0 (FY 84–85).

10. *Section 2326—Contracts for Medicare claims processing.* This section includes the following self-explanatory provisions.

A. *Provider nomination* (section 2326(a), in part). Section 2326 included provisions whereby the Secretary may use competitive bidding to replace a contractor that over a period of time has been in the lowest 20th percentile as measured by the Secretary's cost and performance criteria (section 2326(a)). In FY 85 and again in FY 86, the Secretary may enter into two intermediary and two carrier agreements based on competitive bidding.

The Secretary may waive the right of a provider to nominate an intermediary of its choice when a contract for fiscal intermediary services is competitively bid, and for the duration of the competitively-bid contract. This new authority is in addition to existing authority to assign and reassign a provider where the Secretary determines that it would result in more effective administration of the program. The new authority may be applied to not more than two fiscal intermediary agreements during each of the Federal fiscal years 1985 and 1986.

B. *Cost reimbursement* (section 2326(d)). This section provides that, in determining an intermediary's or carrier's necessary and proper cost of administration, the Secretary will take into account the amount that is reasonable and adequate to meet the costs that must be incurred by an efficiently and economically-operated intermediary or carrier in carrying out the terms of its agreement.

C. *Other provisions.* In addition, section 2326(b) requires that the Secretary reduce the number of designated regional intermediaries for home health agencies to no more than 10, to be completed within 3 years.

Section 2326(c) provides that performance standards and criteria for fiscal intermediaries and carriers shall be published in the **Federal Register** for public comment prior to implementation.

Amends: Sections 1816(c), (e)(4), and (f); 1842(b)(2) and (c) of the Act.

Effective: July 18, 1984, except that the amendments made by section 2326(d) apply to agreements and contracts entered into or renewed after September 30, 1984.

Budget Impact: $0 (FY 84); Savings of $12 million (FY 85).

11. *Section 2331—Repeal of exclusion of for-profit organizations from research and demonstration projects.* This provision removes a restriction so that the Secretary may enter into research and demonstration projects with organizations that are operated for profit. Certain provisions of prior law permitted the Secretary to award the research and demonstration projects they authorized only to States, public or other non-profit organizations.

Amends: Section 1110(a)(1) of the Act, and section 402(a)(1) of Pub. L. 90–248, as amended.

Effective: July 18, 1984.

Budget Impact: $0.

12. *Section 2335—Repeal of special tuberculosis treatment requirements under Medicare and Medicaid.* This amendment repeals special conditions and requirements applicable to coverage of services provided to Medicare and Medicaid patients by institutions which primarily provide diagnosis and treatment of tuberculosis. These special conditions were originally intended to assure that the services provided by such institutions were not custodial and could reasonably be expected to improve the patient's condition or result in the condition being noncommunicable. The amendment also eliminates the special provider category for tuberculosis hospitals.

Amends: Sections 1814(a); 1861(e); 1861(j); 1863; 1866(b)(3); 1866(d); 1902(a)(28); and 1905(a)(1), (a)(4), (a)(14), (a)(15) and (a)(18).

Repeals: Section 1861(d) and (g).

Effective: July 18, 1984.

Budget Impact: $ Undetermined.

13. *Section 2338–Enrollment and Premium Penalty with Respect to Working Aged Provision.* This section provides for a special Medicare Part B enrollment period for those workers and spouses age 65 through 69 who elect an employer group health plan as primary payer for medical care. In these cases, the 7-month enrollment period will begin with the third month before the month an individual reaches age 70, or with the first month in which the individual is no longer enrolled in the employer group health plan (whichever results in earlier coverage). In calculating the premium surcharge (penalty) for late enrollment, months beginning with January 1983 in

which an individual was covered under Medicare Part A and an employer health plan are excluded. This exclusion applies to the surcharge on premiums due September 1984. The amendment also specifies when Part B coverage begins under various circumstances.

Amends: Section 1839(b) of the Act.

Adds: Sections 1837(i) and 1838(e) to the Act.

Effective: September 1, 1984, for the premium surcharge; November 1, 1984, for the special enrollment provision.

Budget Impact: $Negligible.

14. *Section 2340—Qualifications of psychiatric hospitals.* This section repeals the statutory requirements that psychiatric hospitals be accredited by the Joint Commission on the Accreditation of Hospitals (JCAH) in order to participate in Medicare and Medicaid, and that psychiatric units which are distinct parts meet equivalent requirements. This section does not repeal existing requirements in section 1861(f)(2) of the Act that psychiatric hospitals meet the requirements applicable to hospitals in section 1861(e)(3)–(9) of the Act.

Amends: Sections 1861(f); and 1905(h)(1)(A).

Effective: July 18, 1984.

Budget Impact: $ Undetermined.

15. *Section 2341—Including podiatrists in definition of "physician" for outpatient physical therapy services and including podiatrists and dentists in the definition of "physician" for outpatient surgery performed in a physician's office.*

A. *Definition of "physician" for outpatient physical therapy services.* This provision includes podiatrists (when acting within the scope of their practice as defined by State law) in the Medicare definition of "physician" for the purpose of the requirement that outpatient physical therapy services are covered by Medicare only when the beneficiary is under the care of a "physician." The amendment also has the effect of permitting a podiatrist to establish and review a plan of care for physical therapy.

B. *Definition of "physician" for outpatient surgery performed in a physician's office.* This Medicare provision includes dentists and podiatrists in the definition of "physician" for purposes of qualifying for payment of facility services in connection with outpatient surgery performed under certain conditions in a physician's office.

Amends: Sections 1861(p)(1); 1832(a)(2)(F)(ii), and 1861(r)(3) of the Act.

Effective: July 18, 1984.

Budget Impact: $ Undetermined.

16. *Section 2342—Establishment by physical therapists of plans for physical therapy.* This amendment provides that Medicare payment for outpatient physical therapy services (which includes services furnished by a physical therapist in independent practice) furnished to a beneficiary may be made if either a physician or a qualified physical therapist providing the services establishes a plan of care. A physician would still be required to review periodically all plans of care.

Amends: Sections 1861(p)(2); 1835(a)(2)(C)(ii).

Effective: For plans of care established on or after July 18, 1984.

Budget Impact: $ Undetermined.

17. *Section 2344—Medicare recovery against certain third parties.* This provision makes explicit the Federal Government's right to recover Medicare payment directly from third parties where Medicare is the secondary payer.

The amendment states that the Government (1) is subrogated to the right of any individual or other entity to receive payment from a third party payer to the extent of the Medicare payment; (2) may join or intervene in an action related to the events that gave rise to the need for items and services for which Medicare has paid; and (3) can recover Medicare payments from:

Any entity responsible for payment (such as an employer or insurance carrier responsible for paying workers' compensation; an automobile, medical or no-fault insurer; any liability insurer; or an employer group health plan which is primary to Medicare); and

Any entity (such as a beneficiary, physician or provider) which has received payment from a third party which is primary to Medicare.

Amends: Section 1862(b) of the Act.

Effective: July 18, 1984.

Budget Impact: $ Undetermined.

18. *Section 2345—Confidentiality of accreditation surveys.* This provision extends the prohibition against disclosure by the Medicare program of accreditation survey information furnished by the JCAH, to similar survey information provided by the American Osteopathic Association or any other national accreditation association.

Amends: Section 1865(a) of the Act.

Effective: July 18, 1984.

Budget Impact: $ Undetermined.

19. *Section 2351—Judicial review of provider reimbursement review board decisions (PRRB).* One amendment made by this section specifies that those Medicare providers that brought a group appeal before the PRRB because of a common question of fact, or interpretation of law or regulation, must bring any judicial appeal as a group. A second amendment specifies that when the PRRB determines that it is without authority to decide a question of law or regulations, the provider's request for judicial review must be brought within 60 days after receipt of notification of the PRRB decision, rather than within 60 days of the decision.

Amends: Section 1878(f)(1) of the Act.

Effective: July 18, 1984.

Budget Impact: $ Undetermined.

20. *Section 2361—Medicaid coverage for pregnant women and young children.* This provision requires that States provide Medicaid coverage to the following groups: (1) Qualified pregnant women, defined to include a woman whose pregnancy has been medically-verified and who (a) would be eligible for AFDC (or would be eligible for AFDC if coverage under the State's AFDC plan included an unemployed parents program) if the child had been born to her and was living with her in the month of payment; or (b) is a member of a family that would be eligible for AFDC if the State's AFDC plan included an unemployed parents program; and (2) Qualified children, defined as those who are under 5 years of age, who were born after September 30, 1983, and who meet the income and resource requirements under the State's approved AFDC plan.

Amends: Section 1902(a)(10)(A)(i); and 406(g).

Adds: Section 1905(n).

Effective: October 1, 1984, except that when State legislation is necessary, the State will not be considered out of compliance with Title XIX solely on the basis of sections 1902(a)(10)(A)(i)(III) and 1905(n) until the first day of the first calendar quarter after the close of the first regular State legislative session that begins after July 18, 1984.

Budget Impact: Costs of $40 million (FY 85) and $105 million (FY 86).

21. *Section 2365—Increase in Medicaid ceiling amount for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.* This amendment raises the annual ceiling on the amount of Federal matching payments for Medicaid services to the following jurisdictions:

Jurisdiction	Federal ceiling
Puerto Rico	$63.4 million
Virgin Islands	$2.1 million
Guam	$2.0 million
Northern Mariana Islands	$550,000
American Samoa	$1.15 million

Amends: Section 1108(c) of the Act.

Effective: for fiscal years beginning on or after October 1, 1983.

Budget Impact: Costs of $20 million (FY 84) and $20 million (FY 85).

Authority: Sec. 2302, 2303, 2305, 2306, 2314, 2318, 2321, 2324, 2325, 2326, 2331, 2335, 2338, 2340, 2341, 2342, 2344, 2345, 2351, 2361, and 2365 of Title III of Division B of the Deficit Reduction Act of 1984, Pub. L. 98-369.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance; Program No. 13.773, Medicare-Hospital Insurance Program; and Program No. 13.774, Medicare-Supplementary Medical Insurance Program)

Dated: April 29, 1985.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 85-16975 Filed 7-16-85; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Availability of Final Environmental Impact Statement on the Proposed Norton-Tesuque 115 kV Transmission Line and Substation in Santa Fe County, NM

July 2, 1985.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Final Environmental Impact Statement (FEIS) on the proposed Norton-Tesuque 115 kV Overhead Transmission Line and Substation in Santa Fe County, New Mexico is available for public review. The Public Service Company of New Mexico is proposing to be granted a right-of-way from the existing Norton Station for approximately 9.1 miles east of a new substation site, in order to construct a 115 kV overhead transmission line. The project area is located approximately three miles north of Santa Fe, New Mexico.

DATES: Written comments are due 30 days from the date of this notice.

ADDRESSES: Comments should be addressed to Mr. Vincent Little, Area Director, Albuquerque Area Office, P.O. Box 8327, Albuquerque, New Mexico 87198.

FOR FURTHER INFORMATION CONTACT: Mr. William C. Allan, Area Environmental Quality Specialist, Albuquerque Area Office, Bureau of Indian Affairs, P.O. Box 8327, Albuquerque, New Mexico 97198, telephone (505) 766-3374. Individual wishing copies of this Final Environmental Impact Statement should immediately contact the above named individual.

SUPPLEMENTAL INFORMATION: The Bureau of Indian Affairs (BIA), Department of the Interior, has prepared a FEIS on its proposal to approve a right-of-way for the Public Service Company of New Mexico on lands belonging to the Pueblo of Tesuque.

This action is designed to provide reliable electrical service to an area of increasing development and will also result in impacts to the visual character of the area, effects upon wildlife, vegetative cover, erosion, lifestyles, property values and sales.

The principal alternatives under consideration that were analyzed and evaluated during planning are: A. No action, B. Approval of proposed rights-of-way and necessary construction for eight alternative routes, and C. Construction alternatives including: (1) Underground transmission lines and, (2) construction of overhead transmission lines with various materials and design alternatives.

Other Government agencies and members of the public contributed to the planning and evaluation of the proposal and the preparation of this Environmental Impact Statement (EIS). The Notice of Intent was published in the **Federal Register** on September 21, 1983. Three scoping meetings were held; one on September 15, 1983, (at Tesuque Pueblo, and two in Santa Fe on September 20, 1983, and October 25, 1983.) The October 25 meeting was announced in the **Federal Register**, while the September 20 meetings were announced in the Santa Fe New Mexican. Cooperating Agencies include the Bureau of Land Management, the U.S. Fish and Wildlife Service and the County of Santa Fe.

A public meeting was held for the purpose of receiving oral comments on March 27, 1985, in Santa Fe, New Mexico.

Dated: July 2, 1985.

Hazel E. Elbert,

Acting Deputy Assistant Secretary—Indian Affairs (Operations).

[FR Doc. 85-16940 Filed 7-16-85; 8:45 am]

BILLING CODE 4310-20-M

Irrigation Operation and Maintenance Charges; Water Charges and Related Information on the Flathead Irrigation Project, MT

This notice of proposed operation and maintenance rates and related information is published under the authority delegated to the Assistant Secretary—Indian Affairs by the Secretary of the Interior in 230 DM 1 and redelgated by the Assistant Secretary—Indian Affairs to the Area Director in 10 BIAM 3.

This notice is given in accordance with § 191.1(e) of Part 191, Subchapter T, Chapter I, of Title 25 of the Code of Federal Regulations, which provides for the Area Director to fix and announce the rates for annual operation and maintenance assessments and related information of the Flathead Irrigation Project for Calendar Year 1985 and subsequent years.

This notice sets forth changes to the operations and maintenance charges and related information applicable to the Flathead Irrigation Project, St. Ignatius, Montana. These charges were proposed pursuant to the authority contained in the Acts of August 1, 1914 and March 7, 1928, (38 Stat. 583, 25 U.S.C. 382; 45 Stat. 21025 U.S.C. 387).

In compliance with the above, the operation and maintenance charges for the lands under the Flathead Irrigation Project, Montana, for the season of 1985 and 1986 and subsequent years until further notice, are hereby fixed as follows:

For the season of 1985 for lands not included in an Irrigation District but including land held in trust for Indians, the rate per acre for the various divisions are as follows:

Jocko	$11.26/acre
Mission Valley	$10.94/acre
Camas	$10.46/acre

For the season of 1986 for lands included in an Irrigation District, the Project charge per acre is as follows:

Jocko Valley Irrigation District	$6.49/acre
Mission Irrigation District	$8.65/acre
Flathead Irrigation District	$10.00/acre

Payments

The water charges become due on April 1 each year or as biannually billed. To all assessments on lands in non-Indian ownership, remaining unpaid 60 days after the due date, there shall be added a penalty of one and one-half percent per month, or fraction thereof, from the due date until paid. No water shall be delivered to any farm unit until all irrigation charges have been paid.

Wilford W. Bowker,

Acting Area Director.

[FR Doc. 85-16931 Filed 7-16-85; 8:45 am]

BILLING CODE 4310-02-M

Receipt of Petition for Federal Acknowledgement of Existence as an Indian Tribe

This is published in the exercise of authority delegated by the Secretary of

the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.8(a)(formerly 25 CFR 54.8(a)) notice is hereby given that the Chukchansi Yokotch Tribe, c/o Ms. Karen Tex Morris, P.O. Box 277, Coarsegold, California 93614, has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on May 9, 1985. The petition was forwarded and signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be sent by mail to the petitioner and other interested parties at the appropriate time.

Under § 83.8(d) (formerly 54.8(d)) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs files.

The petition may be examined by appointment in the Branch of Acknowledgement and Research, Code 440B, Bureau of Indian Affairs, Interior South Building Room 32, 1951 Constitution Avenue, N.W., Washington, D.C. 20245.

Sidney L. Mills,

Acting Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 85-16930 Filed 7-16-85; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

New Mexico; Filing of Plat of Survey

July 8, 1985.

The plat of survey described below was officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10:00 a.m. on July 2, 1985.

The dependent resurvey of a portion of the subdivisional lines, a portion of the subdivision of section 21 and the subdivision of section 20, Township 17 South, Range 30 East, New Mexico Principal Meridian, under Group 783, New Mexico.

This survey was requested by the Roswell District Manager, Bureau of Land Management.

The plat will be in the open files of the New Mexico State Office, Bureau of Land Managmenet, P.O. Box 1449, Santa Fe, New Mexico 87501. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

Gary S. Speight,

Chief, Branch of Cadastral Survey.

[FR Doc. 85-16920 Filed 7-16-85; 8:45 am]

BILLING CODE 4310-F-M

Winnemucca District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92-163 that a meeting of the Winnemucca District Grazing Board will be held on September 5, 1985. The meeting will begin at 10:00 a.m. in the conference room of the Bureau of Land Management Office at 705 East Fourth Street, Winnemucca, Nevada.

The agenda for the meeting will include:

1. Review Proposed Range Improvement Projects (8100) and Set Priorities for FY 1986.
2. Update on current (FY85) Range Improvement Projects.
3. BLM response time for Range Improvement Requests.
4. Grazing permittee's responsibility for Range Improvement Maintenance Requirements.
5. Public Comments.

The meeting is open to the public. Interested persons may make oral statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, 705 East Fourth Street, Winnemucca, Nevada 89445 by August 22, 1985. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the Board Meeting will be maintained in the District Office and available for public inspection (during regular business hours) within 30 days following the meeting.

Dated: July 9, 1985.

Frank C. Shields,

District Manager.

[FR Doc. 85-16919 Filed 7-16-85; 8:45 am]

BILLING CODE 4310-HC-M

Rules of Conduct and Supplementary Rules Of Yuma District, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Designation of developed recreation area and establishment of supplementary rules.

SUMMARY: The following area is designated a developed recreation site for the purposes of applying the rules of conduct contained in 43 CFR 8365.2.

Area	Type	Location
1. Squaw Lake	Campground	T. 15 S., R. 24 E., S. 5 (G&SRM)

In addition to the regulations contained in 43 CFR 8365.2, the following suplementary rules will apply to the developed recreation site listed above:

a. Reserving camping space is prohibited. Camping space will be allocated on a first come first served basis. Checkout time is 12 noon for overnight campers.

b. Campground speed limit is 10 miles per hour. Only street legal vehicles driven by licensed drivers may be operated on the site. Motorized vehicle free play is prohibited. Motorized vehicles will be used for access to and from the campsite only.

c. Permit receipts must be displayed so that they are plainly visible from the street side of trailers, campers, or other primary vehicle.

d. Trash must be deposited in bins. Dishes or clothes must not be washed in the restrooms. Water must not be dumped on the ground.

e. Cutting or damaging trees or plants is prohibited. No wood collecting is permitted.

f. Boats are prohibited in the swimming area and must be operated in a safe manner in the launching area. Squaw Lake is a no-wake zone. A maximum speed of 5 miles per hour is required.

EFFECTIVE DATE: August 23, 1985.

FOR FURTHER INFORMATION CONTACT: Hal Hallett, Outdoor Recreation Planner, Yuma District, Yuma Arizona 85364, (602) 726-6300.

SUPPLEMENTARY INFORMATION: The authority for establishing supplementary rules is contained in 43 CFR 8365.1-6. These rules will be available in each local office having jurisdiction over the lands, sites, or facilities affected. These rules will also be posted near and/or within the lands, sites, or facilities affected.

Dated: July 5, 1985.

J. Darwin Snell,

District Manager.

[FR Doc. 85-16915 Filed 7-16-85; 8:45 am]

BILLING CODE 4310-32-M

[A-19365]

Proposed Withdrawal and Reservation of Public Lands; Arizona; Correction

The notice published June 14, 1984 (50 FR 24947) is corrected to delete lands listed in T 21N R 21W, GSR Meridian.

Marsha Luke,

Acting Chief, Branch of Lands and Mineral Operations.

[FR Doc. 85-16913 Filed 7-16-85; 8:45 am]

BILLING CODE 4310-32-M

[CA 16173]

Land Exchange; Shasta/Trinity Counties, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, Exchange of Public Lands, Shasta County, California, CA 161673.

SUMMARY: The following described public land has been determined to be suitable for disposal by exchange under the provisions of Sec. 206 of the Act of October 21, 1976 (90 Stat. 2756; 43 U.S.C. 1716):

T. 33 N., R. 5 W., M.D.B. & M.
Sec. 35, SW¼NW¼SE¼
(containing 10 acres)

In exchange for these lands, the United States will acquire the following described lands from Robert F. Snell and Ila M. Snell, P.O. Box 84, Douglas City, California 96024:

T 33 N., R. 9 W., M.D.B. & M.
Sec. 13, SE¼NW4¼SW¼
(containing approximately 10 acres) and
Sec. 28, A parcel of land containing approximately 10.00 acre described by metes and bounds, lying within the NE¼

The purpose of this exchange is to acquire these private lands which have high public values for preservation and control of cultural significance, and recreation purposes. The subject private land lying in section 13 contains significant cultural values. The parcel in Section 28 lies along the Trinity River, a designated "recreation river" under the Wild and Scenic Rivers Act (P.L. 95-625). Acquisition is consistent with the approved Trinity River Recreation Area Management Plan (which provides for land tenure adjustments through exchange), and Redding Resource Area Land Use Plans.

The values of the lands to be exchanged are approximately equal; full equalization of values will be in accordance with regulations cited in 43 CFR 2201.3. Appraisal values will be available prior to consummation of the exchange at the BLM Area Office, Redding, California.

Lands to be transferred from the United States will be subject to the following reservations, terms, and conditions:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

Publication of this notice in the Federal Register segregates the public land described herein from all forms of appropriation under the public land laws, including the mining laws, for a period of two years from the date of first publication.

Evidence of title acceptable to the Department of Justice is required on private lands conveyed to the United States.

Detailed information concerning the exchange, including the Land Report, environmental assessment, and the report of non-federal participation, is available for review at the Redding Resource Area Office, 355 Hemsted Drive, Redding, California 96002.

DATE: For a period of 45 days from the date of first publication, interested parties may submit comments to Robert J. Bainbridge, Area Manager, Redding Resource Area.

ADDRESS: Comments should be sent to: Area Manager, Redding Resource Area, Bureau of Land Management, 355 Hemsted Drive, Redding, California 96002.

Objections will be reviewed by the California State Director, who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Robert J. Bainbridge, (916) 246-5325.

Dated: July 5, 1985.

Robert J. Bainbridge,

Redding Area Manager.

[FR Doc. 85-16914 Filed 7-16-85; 8:45 am]

BILLING CODE 4310-DQ-M

[U-55635]

Realty Action; Sale of Public Lands in Kane County, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Under section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716) public land described as Lot 5, Sec. 26, T. 40 S., R. 7 W., SLB&M, Utah, containing .69 acres, is proposed for direct noncompetitive sale to Keith and Ramona Walker at no less than fair market value. The lands described are hereby segregated from all forms of appropriation under the public land laws, including the mining laws, pending disposition of this action.

SUMMARY: The purpose of the sale is to dispose of public land that is difficult and uneconomical to manage by a government agency.

DATES: Comments will be accepted until September 5, 1985. The land would be offered for sale on September 25, 1985.

ADDRESS: Detailed information concerning the sale is available at the Kanab Area Office, 320 North First East, Kanab, Utah 84741, (801) 644-2672. Comments should also be sent to the same address.

SUPPLEMENTARY INFORMATION: The terms and conditions applicable to the sale are:

1. The sale will be for the surface estate only. Minerals will remain with the United States Government.

2. There is reserved to the United States a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.

3. Title transfer will be subject to valid existing rights.

Any comments received during the comment period will be evaluated and the District Manager may vacate or modify this realty action. In the absence of any objections, this realty action notice will be the final determination of the Department of the Interior.

Dated: July 9, 1985.

Morgan S. Jensen,

District Manager.

[FR Doc. 85-16912 Filed 7-16-85; 8:45 am]

BILLING CODE 4310-DQ-M

Fish and Wildlife Service

Annual Waterfowl Status Meeting and Meetings of FWS Migratory Bird Regulations Committee

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meetings.

SUMMARY: The U.S. Fish and Wildlife Service, Office of Migratory Bird Management will conduct an open meeting to review the status of waterfowl populations and the 1985 fall flight forecast for ducks. The Service Regulations Committee will meet to develop 1985-86 waterfowl hunting regulations recommendations for presentation at the August 1 public hearing to be held in Washington, DC (as announced in the March 14, 1985, **Federal Register** at 50 FR 10277), and will meet immediately after the public

hearing to review the public comments presented at the hearing and develop proposed 1985–86 waterfowl hunting regulations frameworks.

DATES: Waterfowl Status Meeting, July 25, 1985; Service Regulations Committee Meetings, July 31, 1985 and August 1, 1985.

ADDRESS: The Waterfowl Status Meeting will be held at the Sheraton-Denver Airport Hotel in Denver, Colorado. The Service Regulations Committee Meetings will be held in Room 7000 A/B, Main Interior Building, 18th and C Streets, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Rollin D. Sparrowe, Chief, Office of Migratory Bird Management, Room 536 Matomic U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240, telephone (202) 254–3207.

SUPPLEMENTARY INFORMATION: On July 25 at 8:30 a.m. at the Sheraton-Denver Airport Hotel in Denver, Colorado, the U.S. Fish and Wildlife Service, Office of Migratory Bird Management will review for State and Federal officials and any other interested parties or individuals results of the various field investigations and data analyses that are used annually to determine the status of waterfowl populations and the fall flight forecast for ducks. The information presented will have a bearing on regulations and the regulatory proposals; however, the meeting is not a regulations meeting. Public comment will be limited to that which supplements the status information presented.

The U.S. Fish and Wildlife Service Migratory Bird Regulations Committee, including Flyway Council Consultants to the Committee, will meet in Washington, DC on July 31 at 8:30 a.m. and August 1 at 1:00 p.m. in Room 7000 A/B, Main Interior Building. The meeting on July 31 is to review discussions that occurred at the flyway council meetings and to discuss and develop recommendations for 1985–86 waterfowl hunting regulations to be presented at the public hearing to be held in Washington, DC on August 1 at 9:00 a.m. The August 1 meeting of the Service Regulations Committee is to review the public comments presented at the hearing and to determine on the basis of those comments whether any modifications need to be recommended to the Director in regard to the regulations recommendations presented at the hearing.

In accordance with Departmental policy regarding meetings of the Service Regulations Committee that are attended by persons outside the Department, the meetings of July 31 and August 1 will be open to public observation. Members of the public may submit to the Director written comments on the matters discussed.

Dated: July 12, 1985.

F. Eugene Hester,

Acting Director.

[FR Doc. 85–16952 Filed 7–16–85; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

ODECO Oil and Gas Co.; Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that ODECO Oil and Gas Company has submitted a DOCD describing the activities it proposed to conduct on Lease OCS 073, Block 19, South Pelto Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Houma, Louisiana.

DATE: The subject DOCD was deemed submitted on July 8, 1985.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCD available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: July 9, 1985

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85–16910 Filed 7–16–85; 8:45 am]

BILLING CODE 4310–MR–M

Seagull Energy E & P Inc; Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Seagull Energy E & P Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 3991, Block 45, Eugene Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on July 8, 1985.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: July 9, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-16916 Filed 7-16-85; 8:45 am]

BILLING CODE 4310-MR-M

Shell Offshore Inc., Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Shell Offshore Inc. has submitted a DOCD describing the activities it proposes to conduct on Leases OCS-G 5889, 5900, and 7005, Blocks 65, 109, and 64, respectively, Green Canyon Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Venice, Louisiana.

DATE: The subject DOCD was deemed submitted on July 2, 1985. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the DOCD from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: July 8, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-16911 Filed 7-11-85; 8:45 am]

BILLING CODE 4310-MR-M

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Alaska Outer Continental Shelf

ACTION: Notice of availability of environmental documents prepared for Outer Continental Shelf (OCS) mineral prelease and exploration proposals on the Alaska OCS.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related environmental assessments (EA's) and findings of no significant impact (FONSI's) prepared by the MMS for the following oil and gas prelease and exploration activities proposed on the Alaska OCS. The listing includes all proposals for which environmental documents were prepared by the Alaska OCS Region in the 3-month period preceding this notice.

Activity/Operator.—Exploration Drilling Program for Beaufort Sea, Diapir Field (Sale 87) Union Oil Company, as operator for itself and others.

Location.—Union is proposing to drill up to 7 exploratory wells. Subsequent wells will depend upon the results of drilling, testing, and evaluation of the initial well. The location of Union's leases is described as follows:

LEASE AND BLOCK NUMBERS

Lease	Protraction No.	Block
Y0841	NR6-4	551
0843	NR6-4	580
0846	NR6-4	594
0847	NR6-4	595
0898	NR6-4	596
0848	NR6-4	623
0849	NR6-4	624
0850	NR6-4	625
0854	NR6-4	631
0855	NR6-4	632
0863	NR6-4	667
0871	NR6-4	678
Y0872	NR6-4	679
0862	NR6-4	723
0866	NR6-4	728
0869	NR6-4	769
0892	NR6-4	772
0893	NR6-4	813
0894	NR6-4	814
0898	NR7-3	573
0908	NR7-3	574
0910	NR7-3	662
0912	NR7-3	705
0913	NR7-3	706

Environmental Assessment.—No. AK 85-04.

FONSI Date.—April 12, 1985.

Activity/Operator.—Exploration Drilling Program for Beaufort Sea, Diapir Field (Sale 87) Shell Western Exploration and Production Company, as operator for itself and others.

Location.—Shell is proposing to drill up to six exploratory wells. Subsequent wells will depend upon the results of drilling, testing, and evaluation of the initial well. The location of Shell's leases is described as follows:

LEASE AND BLOCK NUMBERS

Lease	Protraction No.	Block
Y0841	NR6-4	551
0843	NR6-4	580
0846	NR6-4	594
0847	NR6-4	595
0998	NR6-4	596
0848	NR6-4	623
0849	NR6-4	624
0850	NR6-4	625
0854	NR6-4	631
0855	NR6-4	632
0863	NR6-4	667
0871	NR6-4	678
Y0872	NR6-4	679
0862	NR6-4	723
0866	NR6-4	728
0869	NR5-4	769
0892	NR6-4	772
0893	NR6-4	813
0894	NR6-4	814
0998	NR7-3	573
0908	NR7-3	574
0910	NR7-3	662
0912	NR7-3	705
0913	NR7-3	706

Environmental Assessment.—No. AK 85-05.

FONSI Date.—April 12, 1985.

Activity/Operator.—Exploration Drilling Program for Norton Basin; Exxon Company USA, as operator for itself and ELF Aquitaine, Inc.

Location.—Exxon Company USA proposes to drill up to 16 exploratory wells from a jackup drilling rig at

locations 45 to 83 miles south of Nome. Depending upon the results of drilling, testing, and evaluation of the initial well, subsequent wells may be drilled at other locations. Potential sites are described as follows:

Lease	Location	Latitude and longitude
OCS-Y0404	2423' FWL 1556' FSL	63.81018 N 164.98494 W
0406	4621' FWL 4435' FNL	63.79395 N 164.97136 W
0414	2170' FEL 2816' NSL	63.71186 N 164.72196 W
0414	5548' FEL 6066' FSL	63.69314 N 164.74299 W
0415	5245' FWL 7826' FSL	63.66782 N 164.67641 W
0415	1208' FWL 1078' FSL	63.67845 N 164.70143 W
0433	1975' FEL 4975' FSL	63.47346 N 164.33781 W
0434	1193' FWL 4334' FNL	63.49097 N 164.31796 W
0430	5259' FWL 75' FSL	63.50293 N 164.29283 W
0430	4504' FEL 6859' FSL	63.51214 N 164.25564 W
0430	6849' FWL 4186' FNL	63.53430 N 164.28231 W
0398	5123' FWL 5615' FSL	63.90462 N 164.08800 W
0398	2936' FEL 7484' FSL	63.90943 N 164.04005 W
0399	2645' FWL 3485' FNL	63.92233 N 164.00503 W
0399	7655' FEL 638' FNL	63.92971 N 163.97073 W
0393	1111' FEL 2735' FSL	63.93876 N 163.92978 W

Environmental Assessment.—No. AK 83–05 and supplemental Section 810, Evaluation and Finding.

FONSI Date.—April 18, 1985.

Activity/Operator.—Exploration Drilling Program for Norton Basin; ARCO Alaska, Inc.

Location.—ARCO Alaska, Inc., proposes to drill up to 10 exploratory wells from a jackup drilling rig at locations 28 or more miles offshore Norton Sound. Depending upon the results of drilling, testing, and evaluation of the initial well, subsequent wells may be drilled at other locations. Potential sites are described as follows:

Lease	Location
OCS-Y0402	SE Quarter
0403	SW Quarter
0412	NE Quarter
0417	SW Quarter
0423	NE Quarter
0435	NW Quarter
0436	NE Quarter
0436, No. 1	SE Quarter
0438	NE Quarter
0439	SE Quarter

Environmental Assessment.—No. AK 84–02 and supplemental Section 810, Evaluation and Finding.

FONSI Date.—April 18, 1985.

Activity/Operator.—Exploration Drilling Program for the Navarin Basin (Sale 83) Amoco Production Company, as operator for itself and others.

Location.—Amoco is proposing to drill from two to a maximum of seven exploratory wells. Subsequent wells will depend upon the results of drilling, testing and evaluation of the initial well. The location of Amoco's leases is described as follows:

LEASE AND BLOCK NUMBERS

Lease	Block
Y0707	1–2 0414
0639	1–8 0227
0673	1–1 0197
0719	1–2 0723
0615	1–8 0099
0694	1–2 0321
0598	1–7 0692

Environmental Assessment.—No. AK–85–06.

FONSI Date.—April 19, 1985.

SUPPLEMENTARY INFORMATION: The MMS prepares EA's and FONSI's for proposals which relate to exploration for oil and gas resources on the Alaska OCS.

The EA's examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. The EA's are used as a basis for determining whether approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense the NEPA section 102(2)(C). A FONSI is prepared in the instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis of that finding and includes a summary of copy of the EA.

The FONSI and associated EA for the activity listed above are available for public inspection between the hours of 7:30 a.m. and 4:30 p.m., Monday through Friday at: Minerals Management Service, Alaska OCS Region Library, 949 East 36th Avenue, Room 502, Anchorage, Alaska 99508. Phone: (907) 261–4435.

Persons interested in reviewing specific environmental documents, or obtaining information about EA's and FONSI's prepared for activities on the Alaska OCS, are encouraged to contact the above listed MMS office.

This notice constitutes the public notice of availability of environmental documents required under the NEPA regulations.

Alan D. Powers,

Regional Director.

[FR Doc. 85–16924 Filed 7–16–85; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Availability of Plan of Operations and Environmental Analysis for the Purpose of Conducting Subsurface Geophysical Exploration; CGG Land Seismic, Padre Island National Seashore, TX

Notice is hereby given in accordance with § 9.52(b) of Title 36 of the Code of Federal Regulations that the National Park Service has received from CGG Land Seismic a Plan of Operations for the purpose of conducting subsurface geophysical exploration along six lines, located in Kenedy and Kleberg Counties, Texas, and which extend across the Laguna Madre, through Padre Island National Seashore, and terminate in the Gulf of Mexico offshre of Padre Island.

The Plan of Operations and Environmental Analysis are available for public review and comment for a period of 30 days from the publication date of this notice in the Office of the Superintendent, Padre Island National Seashore, 9405 South Padre Island Drive, Corpus Christi, Texas 78418. Copies of the document are available from Padre Island National Seashore and will be sent, upon request, to individuals or groups at a charge of $14.50 per copy. The document is 145 pages in length.

Dated: July 10, 1985.

Robert Kerr,

Regional Director, Southwest Region.

[FR Doc. 85–16974 Filed 7–16–85; 8:45 am]

BILLING CODE 4310-70-M

Availability of Plan of Operations and Environmental Analysis for the Purpose of Drilling Exploratory Directional Well No. 1; Union Oil Company of California, Padre Island National Seashore, TX

Notice is hereby given in accordance with § 9.52(b) of Title 36 of the Code of Federal Regulations that the National Park Service has received from Union Oil Company of California a Plan of Operations of the purpose of drilling the Exploratory Directional Well No. 1 within Padre Island National Seashore, Kenedy County, Texas, into the Gulf of Mexico, State Tract 1009.

The Plan of Operations and Environmental Analysis are available for public review and comment for a period of 30 days from the publication date of this notice in the Office of the Superintendent, Padre Island National Seashore, 9405 South Padre Island Drive, Corpus Christi, Texas 78418. Copies of the document are available

from Padre Island National Seashore and will be sent, upon request, to individuals or groups at a charge of $7.30 per copy. The document is 73 pages in length.

Dated: July 10, 1985.

Robert Kerr,

Regional Director, Southwest Region.

[FR Doc. 85-16973 Filed 7-16-85; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-221]

Certain Apparatus for the Disintegration of Urinary Calculi; Review and Partial Reversal of Initial Determination Amending Notice of Investigation to Name Additional Respondents

AGENCY: International Trade Commission.

ACTION: The Commission has determined to review and partially reverse an initial determination (ID) (Order No. 3) of the administrative law judge (ALJ) amending the notice of investigation to add as parties to the above-captioned investigation two involuntary respondents.

SUMMARY: The Commission has reversed that portion of the ID adding Med Inventio, A.G. (Med Inventio), and Karl Storz GmbH Co. (Karl Storz) as involuntary respondents and affirmed those portions of the ID denying joinder of Blackstone Ultrasonics, Inc. (Blackstone Ultrasonics) as an involuntary party and denying a request to dismiss the complaint for failure to include indispensable parties.

FOR ADDITIONAL INFORMATION CONTACT: Brenda A. Jacobs, Esq., Office of General Counsel, U.S. International Trade Commission, Washington, D.C. 20436, telephone 202-523-1627.

SUPPLEMENTARY INFORMATION: On May 2, 1985, respondent Richard Wolf Medical Instruments Corp. (Wolf Medical), filed a motion (Motion No. 221-1) seeking the dismissal of the complaint on the grounds that the Commission had failed to include three indispensable parties to the investigation and, in the alternative, a motion (Motion No. 221-2) seeking the addition of those three firms as "involuntary complainants" in the investigation. Wolf Medical alleged that (1) Blackstone Ultrasonics, the wholly-owned subsidiary of complainant Blackstone Corp., (2) Med Inventio, a Swiss licensee of complainant, and (3) Karl Storz, the West German manufacturer of a component of the product at issue, were indispensable parties to the investigation.

On June 6, 1985, an ID amending the notice of investigation was issued by the ALJ. The ID denied the motion to dismiss and granted, in part, the motion to add parties to the investigation. The ALJ added Med Inventio and Karl Storz as "respondents" in the investigation on the grounds that Med Inventio and Karl Storz may have some interest in the patent at issue and respondent Wolf Medical therefore should have the protection of having those companies named as parties. Complainant filed a petition for review.

Notice of this investigation was published in the **Federal Register** on April 24, 1985 (50 FR 16169).

Copies of the Commission's Action and Order, the Memorandum Opinion to be issued in connection therewith, the ID, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, telephone 202-523-0161.

Issued: July 11, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-16996 Filed 7-16-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-216]

Certain Ceramic Drainage Foils; Prehearing Conference

Notice is hereby given that the prehearing conference in this matter will commence at 9:00 a.m. on August 19, 1985, Hearing Room 6311 at the Interstate Commerce Commission Building at 12th Street and Constitution Avenue NW., Washington, D.C., and the hearing will commence immediately thereafter.

The Secretary shall publish this notice in the **Federal Register**.

Issued: July 11, 1985.

Janet D. Saxon,

Administrative Law Judge.

[FR 85-16993 Filed 7-16-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-211]

Certain Electrical Connectors; Review and Affirm Initial Determination Terminating Two Respondents on the Basis of a Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Termination of two respondents on the basis of a settlement agreement.

SUMMARY: The U.S. International Trade Commission has determined to review an initial determination (ID) terminating the above-captioned investigation as to respondents ODU-Kontakt GmbH & Co. KG (ODU-Kontakt) and Otto Dunkel GmbH. (Otto Dunkel) on the basis of a settlement agreement. The Commission has further determined to affirm the initial determination with a correction.

FOR FURTHER INFORMATION CONTACT: Judith M. Czako, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0359.

SUPPLEMENTARY INFORMATION: On May 21, 1985, complainant Thomas & Betts Corporation and respondents ODU-Kontakt GmbH & Co. KG and Otto Dunkel GmbH filed a joint motion to terminate the investigation as to ODU-Kontakt GmbH & Co. KG and Otto Dunkel GmbH on the basis of a settlement agreement. The Commission investigative attorney filled a response supporting the joint motion.

On June 5, 1985, the presiding administrative law judge issued an initial determination (ID) granting the first motion and terminating the investigation as to ODU-Kontakt and Otto Dunkel on the basis of the settlement agreement. On review the ID was corrected so as to describe the settlement agreement as pertaining to both patents in issue, rather than to only one such patent. Notice of the ID was published in the **Federal Register** of June 12, 1985. 50 FR 24713. No petitions for review were filed, nor were any agency or public comments received, with regard to the ID.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Commission rules 210.53, 210.55, and 210.56 (49 FR 46,123 (November 23, 1984), to be codified at 19 CFR 210.53, 210.55, and 210.56).

Copies of the public versions of the ID and the settlement agreement and all other nonconfidential ducuments filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161.

Issued: July 9, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-16997 Filed 7-16-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-211]

Certain Electrical Connectors; Determination Not To Review Initial Determination Terminating Investigation

AGENCY: International Trade Commission.

ACTION: Termination of investigation.

SUMMARY: The U.S. International Trade Commission has determined not to review an initial determination (ID) terminating the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Judith M. Czako, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0359.

SUPPLEMENTARY INFORMATION: On May 21, 1985, complainant Thomas & Betts Corporation filed a motion to terminate the investigation. The Commission investigative attorney filed a response supporting the motion.

On June 6, 1985, the presiding administrative law judge issued an initial determination (ID) granting the motion and terminating the investigation. No petitions for review were filed, nor were any agency comments received, with regard to the ID.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Commission rule 210.53 (49 FR 46,123 (November 23, 1984), to be codified at 19 CFR 210.53).

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

Issued: July 9, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-16998 Filed 7-16-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-213]

Certain Fluidized Bed Combustion Systems; Prehearing Conference and Hearing; Cancellation

Notice is hereby given that the prehearing conference in this proceeding scheduled for July 15, 1985, and the hearing scheduled to commence immediately thereafter (50 FR 25474) are cancelled.

The prehearing conference is rescheduled to commence at 9:00 a.m. on July 22, 1985, in Room 6311 at the Interstate Commerce Commision Building at 12th Street and Constitution Avenue NW., Washington, D.C., and the hearing will commence immediately thereafter.

The secretary shall publish this notice in the **Federal Register.**

Issued: July 11, 1985.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 85-16992 Filed 7-16-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-213]

Certain Fluidized Bed Combustion Systems; Extend by 30 Days the Deadline for Determining Whether To Review an Initial Determination Designating the Investigation More Complicated

AGENCY: International Trade Commission.

ACTION: Extension of deadline for determining whether to review an initial determination (ID) designating the above-captioned investigation "more complicated."

SUMMARY: The Commission has determined to extend by 30 days, *i.e.*, until August 9, 1985, the deadline by which it must decide whether to review an ID designating the investigation more complicated.

FOR FURTHER INFORMATION CONTACT: Catherine R. Field, Esq., Office of the General Counsel, telephone 202-523-0189.

SUPPLEMENTARY INFORMATION: On January 10, 1985, the Commission voted to institute the investigation to determine whether there was a violation of section 337 in the unlawful importation into the United States of certain fluidized bed combustion systems, or in their sale, by reason of alleged: (1) infringement of claims 1, 4, 5, or 8 of U.S. Letters Patent 4,279,205; (2) infringement of claims 1, 2, 4, or 5 of U.S. Letters Patent 4,303,023; (3) misappropriation of trade secrets; and (4) fraudulent inducement to enter into a license agreement, the effect or tendency of which is to destroy or substantially injure an efficiently and economically operated industry in the United States and/or prevent the establishment of such an industry.

On June 4, 1984, complainant Wormser Engineering, Inc. (Wormser) filed a motion to designate the investigation more complicated within the meaning of § 210.59 of the Commission's rules. The motion was supported by the Commission investigative attorney (IA) and opposed by respondents ASEA STAL Inc., and ASEA STAL AB (collectively referred to as Stal Laval). On June 7, 1985, the ALJ issued an ID (Order No. 12) granting complainant Wormser's motion and designating the investigation more complicated.

On June 14, 1985, Stal Laval filed a petition for review of the ID. Wormser and the IA opposed Stal Laval's petition.

The authority for the Commission's action is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and § 210.53 of the Commission's Rules of Practice and Procedure (19 CFR 210.53).

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

Issued: July 11, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-16995 Filed 7-16-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 22-47]

Import Investigations; Certain Tobacco

February 15, 1985.

Findings and recommendations

On the basis of the information developed in the course of the Investigation, the Commission [1] finds

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[1] Commissioner Eckes dissents in part. Commissioner Eckes finds that flue-cured and burley tobacco, in unmanufactured form, provided for in items 170.20, 170.25, 170.32, 170.35, 170.40, 170.45, 170.50, 170.60, and 170.80 of the TSUS are being or are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price support and production adjustment programs for tobacco of the

Continued

that flue-, fire-, and dark air-cured tobacco and burley tobacco, in unmanufactured form, provided for in items 170.20, 170.25, 170.32, 170.35, 170.40, 170.45, 170.50, 170.60, and 170.80 of the Tariff Schedules of the United States (TSUS), are not being or are not practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price support and production adjustment assistance programs for tobacco of the U.S. Department of Agriculture (USDA).

Background

On September 10, 1984, the Commission received a letter from the President directing it to make an investigation under section 22(a) of the Agricultural Adjustment Act (7 U.S.C. 624(a)) to determine whether flue-, fire-, and dark air-cured tobacco and burley tobacco, in unmanufactured form, wherever classified in the TSUS, are practically certain to be imported under such conditions and in such quantities as to materially interfere with the tobacco price support and production adjustment programs now conducted by the USDA.

Notice of the Commission's investigation was published in the **Federal Register** on October 11, 1984 (49 FR 39926). A public hearing was held in Washington, DC on January 3–4, 1985. All interested parties were afforded an opportunity to appear and to present information for consideration by the Commission.

This report is being frunished to the President in accordance with section 22(a) of the Agricultural Adjustment Act. The information in the report was obtained from responses to Commission questionnaires, from information presentd at the public hearing, from interviews by members of the Commission's staff, from information provided by other Federal agencies, and from the Commission's files, submissions by the interested parties, and other sources.

The Commission transmitted its report on the investigation to the President on February 15, 1985. A public version of the Commission's report, *Certain Tobacco* (investigation No. 22–47, USITC Publication 1644, 1985), contains the statements of the Commission and information developed during the investigation.

Issued: July 9, 1985.

By order of the Commission

Kenneth R. Mason,

Secretary.

[FR Doc. 85–16999 Filed 7–16–85; 8:45 am]

BILLING CODE 7020-02-M

U.S. Department of Agriculture (USDA). Commissioner Eckes recommends that the President proclaim a quota on imports of flue-cured tobacco of 64.4 million pounds per crop year (July 1–June 30, farm-sales weight) and a quota on imports of burley tobacco of 99.9 million pounds per crop year (October 1–September 30, farm-sales weight).

[Investigation No. 104–TAA–26]

Termination of Portions of the Investigation Regarding the Sugar Content of Certain Articles From Australia

AGENCY: International Trade Commission.

ACTION: Termination of portions of a review investigation under section 104(b) of the Trade Agreements Act of 1979, concerning the *Sugar Content of Certain Articles from Australia.*

EFFECTIVE DATE: July 12, 1985.

FOR FURTHER INFORMATION CONTACT: Stephen McLaughlin, Esq., (202–523–0421) Office of General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION: On September 9, 1982, the International Trade Commission received a request from the Government of Australia under section 104(b) of the Trade Agreements Act of 1979 seeking a review of the outstanding countervailing duty order on the sugar content of certain articles from Australia. On May 30, 1985, the Commission published a notice in the **Federal Register** instituting a review investigation (Inv. No. 104–TAA–26) of that outstanding countervailing duty order (50 FR 23006). On June 4, 1985, the Commission published a notice in the **Federal Register** requesting public comment on the proposed termination of all or part of investigation No. 104–TAA–26 (50 FR 23533). That notice stated that, in the absence of an expression of interest by interested parties representing an industry producing all or some of the subject products, the Commission may terminate the investigation as to those products.

During the public comment period, expressions of interest were filed by interested parties representing industries producing canned pears, canned peaches, canned fruit mixtures, and semi-processed confectionery containing chocolate or cocoa as provided for in TSUSA item numbers 156.25, 156.3045, 156.3050, 156.3065, and 156.47. An expression of interest was also filed by the Apricot Producers of California, but it was subsequently withdrawn. No other comments were received. Accordingly, the Commission has determined to continue its review investigation, but to narrow the scope of that investigation to canned pears, canned peaches, canned fruit mixtures, and semi-processed confectionery containing chocolate or cocoa as provided for in the TSUSA items listed above. The investigation has, therefore, been terminated as to all other products covered by the outstanding countervailing duty order with a finding that no domestic industry would be materially injured or threatened with material injury, nor would the establishment of a domestic industry be materially retarded, by reason of the revocation of the countervailing duty order. Accordingly the Commission is requesting that the Department of Commerce revoke the countervailing duty order as to those products.

Issued: July 12, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–16989 Filed 7–16–85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731–TA–202 (Final)]

Tubular Steel Framed Stacking Chairs From Italy

Determination

On the basis of the record [1] developed in the subject investigation, the Commission unanimously determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Italy of tubular steel framed stacking chairs, provided for in item 727.70 of the Tariff Schedules of the United States, which have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective March 14, 1985, following a preliminary determination by the Department of Commerce that imports of tubular steel framed stacking chairs from Italy were being sold at LTFV within the meaning of section 731

[1] The record is defined in § 207.2(i) of the Commission's rules of practice and procedure (19 CFR 207.2(i)).

of the Act (19 U.S.C. 1673). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of April 10, 1985 (50 FR 14169). The hearing was held in Washington, DC, on June 3, 1985, and all persons who requested the opportunities were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on July 11, 1985. The views of the Commission are contained in USITC Publication 1722 (July 1985), entitled "Tubular Steel Framed Stacking Chairs from Italy: Determination of the Commission in Investigation No. 731–TA–202 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

By order of the Commission.

Issued: July 11, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–16991 Filed 7–16–85; 8:45 am]

BILLING CODE 7020–02–M

[332–217]

U.S. Trade-Related Employment; Notice of Investigation

AGENCY: International Trade Commission.

ACTION: Institution of an investigation under section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)) for the purpose of estimating U.S. trade-related employment.

EFFECTIVE DATE: July 11, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. Donald Rousslang, Chief, Research Division, Office of Economics, U.S. International Trade Commission, Washington, D.C. 20436 (Phone 202–523–0075).

Background: The Commission instituted this investigation, No. 332–217, on its own motion. The study will provide estimates of the labor content of U.S. trade with all countries combined and of U.S. trade with particular partners, including Japan, the European Community, the newly industrializing countries, the less developed countries, and the nonmarket economies. These labor content estimates will be made for disaggregate industries. The study will update the results of investigation 332–154 which was issued in October 1983. The Commission plans to complete this investigation and issue a report by March 3, 1986.

Written submissions: Interested persons are invited to submit written statements concerning the investigation. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. To be assured of consideration by the Commission, written statements should be submitted at the earliest practicable date, but no later than October 15, 1985. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 724–0002.

By order of the Commission.

Issued July 11, 1985.

Kenneth R. Mason,

Secretary.

[FR 85–16994 Filed 7–16–85; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–212 (Final)]

Certain Welded Carbon Steel Pipes and Tubes From Venezuela

AGENCY: International Trade Commission.

ACTION: Rescheduling of the hearing to be held in connection with the subject investigation.

SUMMARY: The Commission hereby announces the rescheduling of the hearing to be held in connection with the subject investigation from 10:00 a.m. on August 22, 1985, to 10:00 a.m. on October 29, 1985.

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's rules of practice and procedure, Part 207, subparts A and C (19 CFR Part 207), and Part 201, subparts A through E (19 CFR Part 201, as amended by 49 FR 32569, Aug. 15, 1984).

EFFECTIVE DATE: July 18, 1985.

FOR FURTHER INFORMATION CONTACT: Tedford Briggs (202–523–4612), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

SUPPLEMENTARY INFORMATION:

Background.—On June 3, 1985, the Commission instituted the subject investigation and scheduled as hearing to be held in connection therewith for August 22, 1985 (50 FR 26638, June 27, 1985). Subsequently, the Department of Commerce extended the date for its final determination in the investigation from Augest 12, 1985, to October 16, 1985. The Commission, therefore, is revising its schedule in the investigation to conform with Commerce's new schedule. As provided in section 735(b)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)(2)(B)), the Commission must make its final determination in antidumping investigations within 45 days of Commerce's final determination, or in this case by November 29, 1985.

Staff report.—A public version of the prehearing staff report in this investigation will be placed in the public record on October 8, 1985, pursuant to section 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on October 29, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on October 21, 1985. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on October 18, 1985, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is October 22, 1985.

Testimony at the public hearing is governed by section 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2)

as amended by 49 FR 32569, Aug. 15, 1984)).

Written submissions.—All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of section 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on November 5, 1985. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before November 5, 1985.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8, as amended by FR 32569, Aug. 15, 1984). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6, as amended by 49 FR 32569, Aug. 15, 1984).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20, as amended by 49 FR 32569, Aug. 15, 1984).

By order of the Commission.

Issued: July 12, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-16990 Filed 7-16-85; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-55 (Sub-No. 150X)]

Seaboard System Railroad, Inc.; Abandonment in Henry and Carroll Counties, TN; Exemption

Applicant has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon its 6.6-mile line of railroad between milepost F-256.0 near Henry and milepost F-262.6 near McKenzie, in Henry and Carroll Counties, TN.

Applicant has certified (1) that no local traffic has moved over the line for at least 2 years and that overhead traffic is not moved over the line or may be rerouted, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective August 16, 1985 (unless stayed pending reconsideration). Petitions to stay must be filed by July 29, 1985, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by August 6, 1985, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: R. Lyle Key, Jr., General Attorney, 500 Water Street, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: July 15, 1985.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85-17071 Filed 7-16-85; 8:45 am]

BILLING CODE 7035-01-M

MERIT SYSTEMS PROTECTION BOARD

Privacy Act of 1974; Systems of Records

AGENCY: Merit Systems Protection Board.

ACTION: Notice of proposed routine use for existing system of records.

SUMMARY: The purpose of this document is to provide information for public comment concerning the Merit Systems Protection Board's (MSPB) proposal to add a routine use to system MSPB/GOVT-1, Appeal and case records.

DATE: Any interested party may submit written comments regarding the proposed new routine use. Comments on this notice must be received on or before August 16, 1985.

ADDRESS: Comments may be mailed to Robert E. Taylor, Clerk of the Board, Merit Systems Protection Board, 1120 Vermont Avenue, NW., Washington, D.C. 20419.

FOR FURTHER INFORMATION CONTACT: Stephanie M. Conley, (202) 653-8902.

SUPPLEMENTARY INFORMATION: The MSPB is required by statute to conduct special studies relating to the civil service system and to other merit systems in the executive branch, and report to the President and to the Congress as to whether the civil service is adequately protected. 5 U.S.C. 1205(a)(3). In order to carry out this function, the MSPB may find it necessary, on occasion, to provide individuals in the Office of Personnel Management (OPM) and other Federal and State agencies certain identifying information about individuals who have filed appeals with the Board. This identifying information will be used to obtain from the appropriate agencies or individuals the information necessary to support MSPB's statutorily mandated research projects. The information provided by these sources will not be used in a personally identifiable manner in the resulting projects. The information will be used only as a basis for developing aggregate statistics. Further, the information obtained will not be used to make decisions about the rights, benefits or privileges of specific individuals. Upon completion of the project for which information was obtained, the MSPB will ensure that any personal identifying information is destroyed.

For example, in order to obtain current location information on federal employees for the purpose of developing an address listing for use in mailing out questionnaires, the Board may provide social security numbers from its appeal files to OPM. The information will be matched with OPM's listing of the servicing personnel offices for those federal employees whom the Board wishes to contact for study participation. The Board will then obtain the employee's address from information provided by the servicing personnel office. Questionnaires will be mailed to the survey population. Data from the returned questionnaires will only be reported in the aggregate.

Personally identifiable information, such as the employee's address, will not be included in the MSPB's final report.

MSPB/GOVT–1 last appeared in 47 FR 57803 dated December 28, 1982. The MSPB is proposing to add one new routine use of MSPB/GOVT–1, Appeal and Case Records, as follows:

MSPB/GOVT–1

SYSTEM NAME:

MSPB/GOVT–1, Appeal and Case Records.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Information from the record may be disclosed:

1. To federal and State agencies for the purpose of providing the MSPB with information concerning MSPB appellants, which information will be used, absent personal identifiers, in the MSPB's research projects mandated by 5 U.S.C. 1205(a)(3).

* * * * *

Dated: July 11, 1985.

Herbert E. Ellingwood,

Chairman.

[FR Doc. 85–16954 Filed 7–16–85; 8:45 am]

BILLING CODE 7400–01–M

Information Collection To Evaluate the Attractiveness of Federal Employment for College Students

AGENCY: Merit Systems Protection Board.

ACTION: Information collection request submitted to Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, Pub. L. 96–511, 5 U.S.C. Chapter 35, for review.

SUMMARY: The Merit Systems Protection Board (MSPB) is requesting OMB review under 5 CFR 1320.12 of a questionnaire to be used to survey officials of selected colleges and universities concerning (1) the attitudes of graduating students towards the Federal Government as an employer and (2) the outlook for the Federal Government to meet its entry-level professional and administrative hiring needs in career fields most frequently filled by college graduates.

DATE: Comments concerning this information collection request must be submitted on or before August 16, 1985.

Contacts

Copies of the submission to OMB may be obtained from Dennis L. Little, Director, Office of Merit Systems Review and Studies, Merit Systems Protection Board, Room 852, 1120 Vermont Avenue, NW., Washington, DC 20419; (202) 653–7208. Comments on the submission should be addressed to Office of Management and Budget, Office of Information and Regulatory Affairs, Room 3208, New Executive Office Building, Washington, DC 20503. Attention: Katie Lewin, Desk Officer for MSPB; (202) 395–7321.

FOR FURTHER INFORMATION CONTACT: Harry C. Redd III, Office of Merit Systems Review and Studies, Merit Systems Protection Board, Room 852, 1120 Vermont Avenue, NW., Washington, DC 20419; (202) 653–8877.

Dated: July 11, 1985.

Herbert E. Ellingwood,

Chairman.

[FR Doc. 85–16953 Filed 7–16–85; 8:45 am]

BILLING CODE 7400–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the National Council on the Arts will be held on August 2–3, 1985, from 9:00 a.m.–5:30 p.m. and on August 4, 1985, from 9:00 a.m.–1:00 p.m. in room M–09 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on Friday, August 2, from 9:00 a.m.–4:00 p.m. and on Saturday, August 3, from 9:00 a.m.–11:30 a.m. The topics for discussion will include Program Review and Guidelines for Music Fellowships, Theater, Museums and Challenge Grant Programs; Policy discussions about Art Education, Musical Theater and Rural Arts Activity.

The remaining sessions of the meeting on Friday, August 2, from 4:00 p.m.–5:30 p.m.; on August 3, from 11:30 a.m.–5:30 p.m.; and on August 4, from 9:00 a.m.–1:00 p.m. are for the purpose of Council review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants, and for discussion and development of confidential budgetary projections and related plans to be submitted to the Office of Management and Budget and the Congress. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Dated: July 12, 1985.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 85–16978 Filed 7–16–85; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Reports, Availability of Reports Issued

Railroad Accident Report: Denver and Rio Grande Western Railroad Company, Train Yard Accident Involving Punctured Tank Car, Nitric Acid and Vapor Cloud, and Evacuation; Denver, Colorado, April 3, 1983. (NTSB/RAR–85/10) (NTIS Order No. PB85–916310.)

Railroad Accident Report: Derailment of New York City Transit Authority Subway Train in Joralemon Street Tunnel; New York, New York, March 17, 1984. (NTSB/RAR–85/07) (NTIS Order No. PB85–916307).

Railroad Accident Report: Seaboard System Railroad Freight Train FERHL Derailment and Fire; Marshville, North Carolina, April 10, 1984. (NTSB/RAR–85/05) (NTIS Order No. PB85–916305).

Special Investigation Report: Railroad Yard Safety-Hazardous Materials and Emergency Preparedness. (NTSB/SIR–85/02) (NTIS Order No. PB85–917005).

Highway Accident Report: Schoolbus Loss of Control; Accidents in Miami, Florida, September 28, 1983, and Birmingham, Alabama, April 12, 1984. (NTSB/HAR–85/03) (NTIS Order No. PB85–916204).

Reports may be ordered from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, for a fee covering the cost of printing, mailing, handling, and maintenance. For information on reports call 703–487–4650 and to order subscriptions to reports call 703–487–4630.

Catherine T. Kaputa,

Federal Register Liaison Officer.

July 11, 1985.

[FR Doc. 85–16909 Filed 7–16–85; 8:45 am]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-394]

Environmental Assessment and Finding of No Significant Environmental Impact Regarding Proposed Termination of Facility Operating License No. R-121, California Polytechnic State University

The Nuclear Regulatory Commission (the Commission) is considering issuance of an Order terminating Facility Operating License No. R-121 for the California Polytechnic State University, San Luis Obisbo, California.

The Order will terminate the Operating License in accordance with the licensee's request dated April 30, 1981, as supplemented.

Environmental Assessment

Identification of Proposed Action

The Order would terminate Operating License No. R-121, issued for the California Polytechnic State University AGN 201 Training Reactor in San Luis Obisbo, California.

Need for the Proposed Action

The California Polytechnic State University Training Reactor has been dismantled and component parts disposed of. The final inspection and termination approval have been completed and show that all relevant regulatory requirements have been satisfied. Therefore, there is no longer any need for the Operating License to be in effect.

Environmental Impacts of the Proposed Action

Since the reactor is completely dismantled and residual contamination has been decreased to acceptable levels, termination of the license is the next appropriate administrative action. This action will have no environmental impact.

Alternative Use of Resources

This action does not involve the use of resources beyond those needed for its administrative processing.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's dismantling plan and conducted the final inspection of the site. The State of California Radiological Health Branch was consulted with respect to termination of this license. (Letter F. A. Wenslawski, USNRC to D. Honey, State of California Radiological Health Branch, dated April 4, 1985).

Finding of No Significant Impact

On the basis of the Environmental Assessment, the Commission has concluded that termination of the license will have no significant environmental impact on the quality of the human environment. The Commission has determined not to prepare an Environmental Impact Statement for the proposed action.

For further details with respect to this action see the licensee's request for authorization to dismantle the facility and terminate operating license No. R-121 dated April 30, 1981, as supplemented September 8, 1981 and January 30, 1985, and the Commission's Order Authorizing Dismantlement of the Facility and Disposition of Component Parts dated October 6, 1981, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555.

Dated at Bethesda, Maryland, this 10th of July, 1985.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Assistant Director Division of Licensing.

[FR Doc. 85-16985 Filed 7-16-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-302]

Florida Power Corp. et al.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of exemptions from the requirements of 10 CFR Part 50 to the Florida Power Corporation (the licensee) for the Crystal River Unit No. 3 Nuclear Generating Plant (CR-3) located in Citrus County, Florida.

Environmental Assessment

Identification of Proposed Action

The exemptions are related to section III.G of Appendix R to 10 CFR Part 50. Section III.G calls for fire protection features to protect structures, systems, and components important to safe shutdown. This protection can be obtained by separation, utilization of fire barriers, installation of fire detection and suppression systems, enclosure of cable and equipment, and alternative or dedicated shutdown capability. The licensee requested exemptions for Crystal River Unit 3 in the areas of separation of redundant safe shutdown trains by 3-hour fire rated barriers, and alternative or dedicated shutdown capability with fire detection and suppression systems.

These exemptions are responsive to the licensee's letters requesting exemptions dated September 24, October 5, 1984 and December 11, 1984.

The Need for the Proposed Action: The proposed exemptions are needed because the features described in the licensee's request regarding the existing fire protection at their plant for these items are the most practical method for meeting the intent of Appendix R and literal compliance would not significantly enhance the fire protection capability.

Environmental Impacts of the Proposed Action

The proposed exemptions will provide a degree of fire protection that is equivalent to that required by Appendix R for other areas of the plant such that there is no increase in the risk of fires at this facility. Consequently, the probability of fires has not been increased and the post-fire radiological releases will not be greater than previously determined nor do the proposed exemptions otherwise affect radiological plant effluents. Therefore, the commission concludes that there are no significant radiological environmental impacts associated with the proposed exemptions.

With regard to potential non-radiological impacts, the proposed exemptions involve features located entirely within the restricted areas as defined in 10 CFR Part 20. They do not affect non-radiological plant effluents and have no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed exemptions.

Alternative Use of Resources

This action involves no use of resources not previously considered in the Final Environmental Statement (construction permit and operating license) for Crystal River Unit 3.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Findings of no Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemptions.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the letters requesting the exemptions dated September 24, 1984, October 5, 1984, and December 11, 1984, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555 and at the Crystal River Public Library, 668 NW. First Avenue, Crystal River, Florida.

Dated at Bethesda, Maryland, this 11th day of July, 1985.

For the Nuclear Regulatory Commission.

Gus C. Lainas,

Assistant Director for Operating Reactors, Division of Licensing.

[FR Doc. 85-16983 Filed 7-16-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-424 and 50-425]

Georgia Power Co., Oglethorpe Power Corp., Municipal Electric Authority of Georgia, City of Dalton, GA; Availability of Safety Evaluation Report for Vogtle Electric Generating Plant, Units 1 and 2

Notice is hereby given that the Office of Nuclear Reactor Regulation has published its Safety Evaluation Report on the proposed operation of the Vogtle Electric Generating Plant, Units 1 and 2, located in Burke County, Georgia. Notice of receipt of Georgia Power Company, et al., application to construct and operate the Vogtle Electric Generating Plant, Units 1 and 2, was published in the **Federal Register** on December 28, 1983 (48 FR 57183).

The report is being referred to the Advisory Committee on Reactor Safeguards and is being made available at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Burke County Library, 4th Street, Waynesboro, Georgia 30830 for inspection and copying for a fee. The report (Document No. NUREG-1137) can also be purchased, at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, and from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, D.C. 20013.

Dated at Bethesda, Maryland, this 8th day of July 1985.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 85-16984 Filed 7-16-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-54]

Issuance of Amendment To Transfer Facility Operating License From Union Carbide Subsidiary B, Inc., to Cintichem, Inc.

Correction

In FR Doc. 85-16407 appearing on page 28129 in the issue of Wednesday, July 10, 1985, make the following correction: In the heading, the docket number should read as it appears above.

BILLING CODE 1505-01-M

NRC Form 398, Personal Qualifications Statement—Licensee; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, revision, or extension: Extension
2. The title of the information collection: Personal Qualifications Statement—Licensee
3. The form number if applicable: NRC 398
4. How often the collection is required: On occasion and biennially
5. Who will be required or asked to report: Individual requiring a license to operate the controls at a nuclear facility.
6. An estimate of the number of responses: 2800 annually
7. An estimate of the total number of hours needed to complete the requirement or request: 5300
8. Section 3504(h), Pub. L 96-511 does not apply.
9. Abstract: NRC Form 398 requests detailed information that should be submitted by a licensing candidate when applying for a new or renewal license to operate the controls at a nuclear facility. This information, once collected, would be used for licensing actions and for providing statistical analyses on the Operator Licensing Program.

ADDRESSES: Copies of the submittal will be made available for inspection or copying for a fee at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

FOR FURTHER INFORMATION CONTACT: Comments and questions should be directed to the OMB reviewer Jefferson B. Hill, (202) 396-7340.

NRC Clearance Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Maryland, this 11th day of July 1985.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 85-16987 Filed 7-16-85; 8:45 am]

BILLING CODE 7590-01-M

Bi-Weekly Notice; Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (Pub. L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular bi-weekly notice. Pub. L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This bi-weekly notice includes all amendments issued, or proposed to be issued, since the date of publication of the last bi-weekly notice which was published on July 3, 1985 (50 FR 27502), through July 8, 1985.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

By August 16, 1985, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Branch Chief*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the local public document room for the particular facility involved.

Carolina Power and Light Company, Docket No. 50-261, H.B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: May 15, 1985.

Description of amendment request: The proposed amendment would change the Technical Specifications to add requirements for: (1) Shift manning overtime limits and (2) reporting of challenges and failures of the safety and relief valves.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance

concerning the application of its standards set forth in 10 CFR 50.92 for no significant hazards considerations by providing certain examples published in the **Federal Register** on April 6, 1983 (48 FR 14864). One of the examples of an amendment which will likely be found to involve no significant hazards considerations is a change that constitutes the additional limitation, restriction, or control not presently included in the TS; for example, a more stringent surveillance requirement. The proposed changes fall within the Commission's example (ii) of changes not likely to involve a significant hazards consideration because the change adds limitation and restrictions. Therefore, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Attorney for licensee: Shaw, Pittman, Potts, and Trowbridge, 1800 M Street NW., Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Commonwealth Edison Company, Docket No. 50–249, Dresden Nuclear Power Station, Unit No. 3, Grundy County, Illinois

Date of amendment request: May 30, 1985.

Description of amendment request: The amendment would delete License Condition 3.F from the Dresden Unit 3 license and change section 4.6.2 of the Technical Specification (TS) to indicate the removal of the equalizer line between the two recirculation loops and its two valves during a plant modification to be done during the refueling and maintenance outage scheduled to start in Fall, 1985. License Condition 3.F and section 4.6.2 reflect the requirement set out in Amendment 5 to the Dresden 3 license and TS that the valves in the equalizer line remain closed at all times during plant operation. Since there is never any flow in the line during plant operation, comlete removal of the line and valves does not effect operation of the unit.

Basis for proposed no significant hazards consideration determination: Operation of the unit in accordance with the changes proposed by the amendment is unchanged and, therefore, such operation does not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The staff, therefore, proposes to determine that this revision does not involve a significant hazards consideration.

Local Public Document Room Location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60451.

Attorney for licensee: Robert G. Fitzgibbons, Jr., Isham, Lincoln and Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

NRC Branch Chief: John A. Zwolinski.

Commonwealth Edison Company, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of amendment:T1: April 22, 1985.

Description of amendment request: The proposed amendments will put into place new Technical Specification requirements for the newly-installed sump pumps and double check valves in the residual heat removal (RHR) service water vault drain system. This new system replaces the old floor and equipment drains in the six RHR service water vault spaces and provides improved ability to drain these spaces.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for determining whether a license amendment is likely to involve a significant hazards consideration by providing examples (48 FR 14870, April 6, 1983). One example of an action not likely to involve a significant hazards consideration is (ii) a change that constitutes additional restrictions or controls not presently included in the Technical Specifications.

The residual heat removal service water vault drain system previously required that floor drains in the vault spaces be manually uncapped before the spaces could be drained. Automatic sump pumps have been installed in each of the six RHR service water vaults, with double check valves between the discharge side of each pump and its return to the service water system. With installation of the new drainage system, appropriate Technical Specifications are proposed to ensure continued operability of the system even under potential flooding conditions. The new system and the Technical Specifications for the system constitute an additional control over the potential for flooding of the vault spaces, so the change is similar to example (ii) of the Commission guidance. Therefore, the Commission proposes to determine that the proposed change involves no significant hazards consideration.

Local Public Document Room location: Moline Public Library, 504—17th Street, Moline, Illinois 61265.

Attorney for licensee: Mr. Robert G. Fitzgibbons, Jr., Isham, Lincoln, and Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

NRC Branch Chief: Domenic B. Vassallo.

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: May 29, 1985, superseding January 18, 1979 submittal.

Description of amendment request: This amendment request was originally noticed on July 20, 1983 (48 FR 33078). The proposed amendment would approve technical specifications for radiological effluent monitoring (RETS) which incorporate the requirements of Appendix I 10 CFR Part 50 into Appendix A, "Technical Specifications," and would delete Appendix B, "Environmental Technical Specifications."

Basis for proposed no significant hazards consideration determination: This amendment would incorporate Radiological Effluent Technical Specifications to meet the requirements of Appendix I of 10 CFR Part 50 into Appendix A Technical Specifications. The amendment would approve new Technical Specification sections defining limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring, for effluent concentrations and for treatment of liquid, gaseous and solid wastes. This action would also incorporate into the technical specifications the bases that support the operation and surveillance requirements.

The Commission, in a revision to Appendix I, 10 CFR Part 50, required licensees to improve and modify their radiological effluent systems in a manner that would keep releases of radioactive material to unrestricted areas during normal operation as low as is reasonably achievable. In complying with this requirement, it became necessary to add additional restrictions and controls to the technical specifications to assure compliance. This cause the proposed addition of the technical specifications described above.

The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870) of actions not likely to involve a significant hazards consideration. Example (ii) relates to changes that constitute additional restrictions or controls not presently

included in the technical specifications. The staff has reviewed the licensee's application and concludes that the proposed addition of the above technical specifications falls within the envelope of example (ii).

With regard to the deletion of Appendix B, the original submittal dated January 18, 1979, did not request that the effluent technical specifications be included in Appendix A but chose to add them to the existing appendix for effluent technical specifications, Appendix B. With the latest submittal, the licensee has proposed to incorporate the effluent technical specifications currently located in Appendix B into Appendix A, thus eliminating the need for a separate Appendix B to the license. This is purely an administrative change because it merely relocates existing technical specifications into Appendix A.

Example (i) (48 FR 14870) relates to purely administrative changes to technical specifications. The licensee's request to incorporate all radiological effluent technical specifications into Appendix A and to delete Appendix B falls within the envelope of example(i).

Therefore, the staff proposes to determine that the application does not involve a significant hazards consideration since the changes include both administrative changes and additional restrictions and controls that are not currently included in the technical specifications in order to meet the requirements of 10 CFR 50.34a and 50.36a that radioactive material in effluents released to unrestricted areas be kept as low as is reasonably achievable.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry and Howard, Counselors at Law, City Place, Hartford, Connecticut 06103–3499.

NRC Branch Chief: John A. Zwolinski.

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: April 1, 1985.

Description of amendment request: The proposed amendments would revise Technical Specification 3.7.10.1, "Fire Suppression System" and its associated bases to require that either fire suppression pumps A and C or pumps B and C be operable at all times, and to no longer permit an indefinite inoperability of fire suppression pump C. The existing specification requires at least two of the fire suppression pumps (pump A, B or C) be operable and allows any one of the three pumps to be indefinitely inoperable.

Basis for proposed no significant hazards consideration determination: Appendix R to 10 CFR Part 50 requires that a plant be able to recover from the effects of a fire and achieve cold shutdown with a loss of offsite power.

The proposed amendments would eliminate a concern under the present Technical Specification 3.7.10.1 that a fire could cause the loss of offsite power to pumps A and B simultaneously with an inoperable pump C, and therefore, the total loss of the fire suppression water system. The concern exists because fire suppression pumps A, B, and C are powered, respectively, by the Unit 2 switchgear in the main switchyard, the Unit 1 switchgear in the main switchyard, and the dedicated 44 kilowatt substation (which is independent of the McGuire Station Auxiliary Power System).

The Commission has provided guidance concerning the application of its standards set forth in 10 CFR 50.92 for no significant hazards consideration by providing certain examples published in the **Federal Register** on April 6, 1983 (48 FR 14870). One of the examples of an amendment likely to involve no significant hazards consideration relates to changes (ii) that constitute additional limitations, restrictions, or controls not presently included in the Technical Specifications. The proposed amendments of the Technical Specifications match the example because they would impose more restrictive conditions for operation with an inoperable fire pump than the current Specification 3.7.10.1. The proposed changes require the operability of either the A or B fire suppression pumps as well as the C pump at all times to eliminate the possibility of total loss of Fire Suppression Water System during a concurrent loss of offsite power with a plant fire. Therefore, the Commission proposes to determine that the proposed amendments do not involve a significant hazards consideration.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte, (UNCC Station), North Carolina 28223.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, P.O. Box 33189, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Branch Chief: Elinor G. Adensam.

Duke Power Company, Dockets, Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units Nos. 1, 2 and 3, Oconee County, South Carolina

Date of amendment request: May 31, 1985.

Description of amendment request: The proposed amendments would revise the Station's common Technical Specifications (TSs) to support the operation of Oconee Unit 3 at full rated power during the upcoming Cycle 9. The proposed amendment request changes the following areas:

1. Core Protection Safety Limits (TS 2.1);
2. Protective System Maximum Allowable Setpoints (TS 2.3);
3. Rod Position Limits (TS 3.5.2); and
4. Power Imbalance Limits (TS 3.5.2).

To support the license amendment request for operation of Oconee Unit 3, Cycle 9, the licensee submitted, as an attachment to the application, a Duke Power Company (DPC) Report, DPC–RD–2005, "Oconee Unit 3, Cycle 9 Reload Report." A summary of the Cycle 9 operating parameters is included in the report, along with safety analyses.

During the refueling outage, 146 fuel assemblies will be reinserted, similar to those previously used, and 31 fuel assemblies will be discharged and replaced by new but substantially similar assemblies of the Mark BZ type. Additionally, Cycle 9 will incorporate gray (less-absorbing) axial power shaping rods (APSRs) instead of the previously used black (highly-absorbing) APSRs.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). Example (iii) of the types of amendments not likely to involve significant hazards considerations is an amendment to reflect a core reload where:

(1) No fuel assemblies significantly different from those found previously acceptable to the Commission for a previous core at the facility in question are involved;

(2) No significant changes are made to the acceptance criteria for the Technical Specifications;

(3) The analytical methods used to demonstrate conformance with the Technical Specifications and regulations are not significantly changed; and

(4) The NRC has previously found such methods acceptable.

This particular reload involves the reinsertion of 146 fuel assemblies of a type previously approved and used and

the insertion of 31 fuel assemblies of the Mark BZ type. The Mark BZ fuel assemblies are the same as previously approved assemblies in terms of fuel rods, end grid, end fittings, and guide tubes and differ only slightly in the use of Zircaloy spacer grids rather than Inconel intermediate spacer grids. The use of the Mark BZ fuel assembly had been previously reviewed and approved by the Commission.

The Cycle 9 control rods differ from those of Cycle 8 in that gray APSRs are to be utilized instead of the previously used black APRSs. The gray APSRs have a greater absorber length than the APRSs used in previous reloads and utilize and Inconel absorber instead of the Ag-In-Cd alloy. According to the analyses described in DPC–RD–2005, "Oconee Unit 3, Cycle 9 Reload Report," the gray APSRs will not adversely affect Cycle 9 operation. The Commission has previously approved the use of gray APSRs.

Thus, this core reload involves the use of fuel assemblies and control rods that are not significantly different from those found previously acceptable to the Commission for previous core at this facility. The request for amendment changes the TSs to reflect new operating limits based on the fuel and control rods to be inserted into the core. These parameters are based on the new physics of the core and fall within the acceptance criteria.

In the analyses supporting this reload, there have been no significant changes in acceptance criteria for the Technical Specifications, the analytical methods used to demonstrate conformance with the Technical Specifications and the regulations were not significantly changed, and those analytical methods have been previously found acceptable. Thus, this reload and the proposed license amendments reflecting it appear to be encompassed by example (iii) of amendments not likely to involve significant hazards considerations. On this basis, the Commission proposes to determine that these amendments do not involve significant hazards considerations.

Local Public Document Room location: Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina

Attorney for licensee: J. Michael McGarry, III, Bishop, Liberman, Cook, Purcell, and Reynolds, 1200 17th Street, NW., Washington, D.C. 20036

NRC Branch Chief: John F. Stolz.

Duquesne Light Company, Docket No. 50–334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of amendment request: June 17, 1985.

Description of amendment request: The proposed amendment would remove specifications for the iodine sampler cartridge from Tables 3.3–13 and 4.3–13, both referring to radioactive gaseous effluent monitoring instrumentation.

The monitors specified in Tables 3.3–13 and 4.3–13 were incorporated into the technical specifications to reflect the guidelines contained in the NRC standard Radiological Effluent Technical Specifications (RETS). After the RETS were incorporated by Amendment 66, additional iodine sampling and analysis equipment has been installed. Therefore, the iodine sampler cartridge specifications are being removed from Tables 3.3–13 and 4.3–13 since charcoal filter sampling and analysis is performed by the effluent pathway monitors in accordance with Table 4.11–2, "Radioactive Gaseous Waste Sampling and Analysis Program".

Basis for proposed no significant hazards consideration determination: Based on the above discussion, there is no relaxation of effluent monitoring. While the iodine sampler cartridge requirements would be removed, their functions would be transferred to newly installed equipment. We conclude that the proposed amendment would not involve any significant increase in the probability or consequences of an accident previously evaluated, would not create the possibility of a new or different kind of accident from any accident previously analyzed, and would involve no reduction in the margin of safety. We, therefore, propose to characterize the proposed amendment as involving no significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW., Washington, DC 20036.

NRC Branch Chief: Steven A. Varga.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus, County, Florida

Date of amendment request: May 1, 1985, as revised June 14, 1985.

Brief description of amendment: The proposed amendment would modify the Technical Specifications (TSs) related to the High Pressure Injection (HPI) Flow Balance Testing, HPI Pump and Valve Test, and the Emergency Diesel Generator (EDG) Load Test to allow testing during appropriate operating modes. Specifically, the proposed amendment is needed to provide clarification and resolve conflicts between current TSs and commitments made to the Commission involving low temperature over-pressurization protection, as follows:

1. TS 4.5.2.g currently requires HPI flow balance testing of pump and discharge lines during shutdown. However, pressure-temperature considerations prevent testing during Modes 4, 5, or 6. Thus, Mode 3 is the most appropriate time to perform the test.

2. TS 4.5.2.f currently requires that the HPI valve manual actuation be performed during shutdown (Modes 4 and 5), which conflicts with low temperature overpressure commitments which require "racking out" of these valves in these modes. The TS amendment would allow actuation of valves during Mode 6.

3. TS 4.8.1.1.2.c. presently requires that tests be performed during shutdown (Modes 4 or 5) which, for TS 4.8.1.1.2.c.3 and 5, conflict with low temperature over-pressurization protection commitments. The amendment would permit those tests to be performed in Mode 3. In addition, the 18-month frequency requirement would be changed for this cycle only to permit performance of these tests during the startup for Cycle 6. The specification would also be changed to permit other tests in this section to be performed in Mode 6.

Date of publication of individual notice in **Federal Register:** June 21, 1985 (50 FR 25802).

Expiration date of individual notice: July 22, 1985.

Local Public Document Room location: Crystal River Public Library, 66 NW First Avenue, Crystal River, Florida.

Indiana and Michigan Electric Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendment request: May 31, 1985, supplemented by letter dated June 7, 1985.

Brief of amendment request: The proposed amendment would revise the Technical Specifications by deleting the program and records retention requirements pertaining to environmental qualification of equipment.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether license amendments involve no significant hazards consideration by providing certain examples (48 FR 14870, April 6, 1983). One of these examples (vii) is a change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations. The proposed change is directly related to this example in that 10 CFR 50.49 "Environmental Qualification of Electrical Equipment Important To Safety For Nuclear Power Plants" (48 FR 2733, January 21, 1983, as amended at 49 FR 45576, November 19, 1984) now contains the regulatory requirements for the environmental qualification program and retention of related records. The proposed change removes the duplicative and limited requirements from the license. On this basis, the Commission proposes to determine that the amendments involve no significant hazards consideration.

Local Public Document Room location: Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington, DC 20036.

NRC Branch Chief: Steven A. Varga.

Maine Yankee Atomic Power Company, Docket No. 50–309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of amendment request: March 5, 1985, as supplemented June 11, 1985 and modified June 20, 1985.

Description of amendment request: The proposed amendment would change the Technical Specifications to require more extensive inspection of steam generator tubes in critical areas. Critical areas are defined as areas of the steam generator where degraded and/or defective tubes exist due to a steam generator physical and/or operating characteristic which would promote tube degeneration in that area. The remainder of the steam generator tubes would be subjected to normal sampling inspection before being determined operable. The March 5, 1985 application was previously noticed on May 21, 1985 (50 FR 20969 at 20983).

Basis for proposed no significant hazards consideration determination: This proposed change to the Technical Specifications concerning Steam Generator Tube Surveillance Requirements provides for a more extensive inspection of steam generator tubes where degradation is expected with normal sampling of the remainder of the tubes. This meets example (ii) (48 FR 14870) of the Commission's examples of amendments considered not likely to involve a significant hazards consideration, because this change constitutes an additional limitation not presently in the Technical Specifications.

Therefore, the Commission proposes that the requested amendment involves no significant hazards consideration.

Local Public Document Room location: Wiscasset Public Library, High Street, Wiscasset, Maine.

Attorney for licensee: J. A. Ritscher, Esq., Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02210.

NRC Branch Chief: Edward J. Butcher, Acting.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: April 22, 1985.

Description of amendment request: The proposed amendment would revise the Technical Specifications to (1) consolidate requirements for refueling operations in one location and (2) clarify existing requirements and add new rquirements for conducting special plant tests.

(1) *Refueling Requirements.* The proposed change would consolidate in one section all the requirements relating to plant refueling operations. This change involves the verbatim transfer, into one section, limiting conditions of operation (LCOs) for the standby gas treatment system, diesel generators, core standby cooling systems and the control room air treatment system during refueling. At present, these requirements are located in the sections related to the individual systems. In addition, the proposed amendment would change references to Low Pressure Coolant Injection (LPCI) to read "LPCI mode of Residual Heat Removal System" to achieve consistency with plant usage. The two types of nomenclature are identical.

(2) *Special Tests.* The proposed amendment would change the location of existing requirements in the Technical Specifications and add new requirements for the performance of special tests where plant conditions are not in the normal modes of startup or shutdown. The existing and additional requirements would be grouped together in a new section 3/4.22 "SPECIAL TESTS/EXCEPTIONS".

Basis for proposed no significant hazards consideration determination:

(1) *Refueling Requirements.* The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples of actions involving no significant hazards considerations is example (i) which relates to purely administrative changes to the Technical Specifications, for example to achieve consistency throughout the Technical Specifications, correction of an error or a change in nomenclature. The changes proposed for refueling requirements involve a change in format in the Technical Specifications and the substitution of one type of nomenclature for another where both types have the identical meaning. These changes are purely administrative in nature and, as such, fall within the scope of example (i). On this basis, the Commission proposes to determine that these changes involve no significant hazards considerations.

(2) *Special Tests.* The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). Examples of actions not likely to involve significant hazards considerations include actions specified as (i) purely administrative changes to the Technical Specifications, and (ii) changes that constitute an additional limitation, restriction, or control not presently included in the Technical Specifications. Part of the changes related to Special Tests involve relocating existing requirements into a new section to clarify the requirements for the operator. This change would not result in a change to existing requirements and as such is administrative in nature and falls within the scope of example (i) above. The other part of the proposed change would add new LCOs and surveillance requirements not presently covered in the Cooper Technical Specifications. The addition of these controls and requirements is therefore similar to example (ii) above. On this basis, the Commission proposes to determine that these changes involve no significant hazards considerations.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Attorney for licensee: Mr. G. D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68601.

NRC Branch Chief: Domenic B. Vassallo.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: April 26, 1985.

Description of amendment request: The proposed amendment to the Technical Specifications would revise the surveillance requirements and bases for the station batteries to improve the demonstration of battery system operability. The existing battery system surveillance requirements lack sufficient detail to ensure full operability and verification that the batteries fully satisfy their design function. The proposed change would provide separate surveillance requirements for the 125 VDC unit batteries and 250 VDC unit batteries which would be more detailed than the single set of requirements for both types of batteries. The proposed surveillance requirements incorporate guidance from NRC Regulatory Guides, NRC-endorsed industry standards and battery manufacturer's recommendation and are more stringent than the current Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples of actions involving no significant hazards considerations, i.e. example (ii), relates to a change that constitutes an additional limitation, restriction or control not presently in the Technical Specifications. The proposed change would result in more stringent requirements for station battery surveillance and is, therefore, similar to this example. The Commission therefore proposes to determine that this action involves no significant hazards considerations.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Attorney for licensee: Mr. G.D. Waston Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68601.

NRC Branch Chief: Domenic B. Vassallo.

Nebraska Public Power District , Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: May 15, 1985.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) to (1) reduce the frequency of diesel generator surveillance testing, (2) increase the load to be applied to the diesel generators during monthly operability testing, and (3) achieve consistency in the nomenclature applied to the standby gas treatment system (SGTS).

(1) *Diesel Generator Surveillance Test Frequency.* This proposed change was submitted in response to NRC Generic Letter (GL) 84–15, "Proposed Staff Actions to Improve and Maintain Diesel Generator Reliability," dated July 2, 1984. In this Generic Letter, the NRC staff identified cold fast starts of diesel-generator sets as contributing to premature diesel engine degradation due to unnecessary wear. The NRC has concluded that the frequency of diesel generator fast start tests from ambient conditions should be reduced. Specifically, GL 84–15 states the NRC position that requirements for testing diesel generators while emergency core cooling equipment is inoperable be deleted from Technical Specifications. Accordingly, the license proposed to deleted from Cooper Nuclear Station TS requirements for diesel generator testing when it is determined that a core spray subsystem, residual heat removal (RHR) pump, low pressure coolant injection (LPCI) subsystem, or containment cooling subsystem is inoperable. The Bases sections for the core spray and containment spray system would also be modified to reflect the above proposed TS changes.

In addition, the licensee has proposed other TS modifications that would reduce the frequency of diesel generator testing in accordance with the findings of GL 84–15. That is, the licensee proposed to modify the surveillance requirements for the standby gas treatment system (SGTS) to make it clear that the diesel generator associated with an operable SGTS need not be demonstrated operable when the other SGTS is determined to be inoperable. The licensee also proposed to reduce the number of required diesel generator tests when a diesel generator is determined to be inoperable. At present, the Technical Specifications require a diesel generator to be tested immediately and daily thereafter when the other diesel generator is determined to be inoperable. The licensee proposes to retain the requirement for an immediate test but delete the requirement for subsequent daily test starts.

(2) *Diesel Generator Test Load.* The proposed change would increase the minimum percent of rated load that must be carried to show operational readiness during the monthly diesel generator surveillance test. The purpose of the proposed change is to enhance diesel generator reliability. The licensee proposed to modify the surveillance requirements of section 4.9.A.2.a to increase the diesel generator test load from 35 percent to rated load to 50 percent of rated load. The Bases on section for the diesel generators would be modified accordingly.

(3) *SGTS Nomenclature.* The licensee proposed to change section 4.7.B.4.c of the TS to make this section consistent with the rest of the TS with regard to nomenclature of the SGTS. This change involves changing the word "circuit" to "standby gas treatment system" when referring to each of the redundant standby gas treatment equipment safety divisions.

Basis for proposed no significant hazards consideration determination:

(1) *Diesel Generator Surveillance Test Frequency.* The licensee submittal of May 15, 1985 provided an evaluation of the proposed change and a basis for a proposed no significant hazards consideration determination. The licensee has stated that the proposed change does not delete diesel generator operability requirements when components of an emergency core cooling system, emergency containment cooling system, SGTS or one diesel generator is determined to be inoperable. Diesel generator fast start operability is still present to mitigate the consequences of a large loss of coolant accident coincident with a loss of offsite power. Diesel generator operability will still be demonstrated by monthly routine tests and immediately after one diesel generator is determined to be inoperable. The NRC staff has determined that excessive diesel generator testing contributes to premature engine degradation and that an overall improvement in reliability and availability can be gained by eliminating excessive fast starts. The licensee has stated that the proposed change that reduces the frequency of diesel generator testing is consistent with the objectives expressed in GL 84–15 and may therefore result in enhanced reliability.

Based on the above, the staff concludes that the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because, although some diesel generator tests would be eliminated, operability is still demonstrated by other required surveillance tests. The reduced number of fast starts may, in fact, increase the probability of a diesel generator availability in the event of an accident.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed change introduces no new mode of plant operation and no physical modifications are required to be performed to the plant.

(3) Involve a significant reduction in the margin of safety. It is anticipated that any reduction in the margin of safety would be insignificant since the purpose of the proposed change is to conform to the NRC guidelines of GL 85-15. The recommendations in GL 84-15 were promulgated to increase diesel generator reliability and thereby cause an increase in the overall margin of safety in the plant.

Based on the above evaluation, the staff finds that the criteria for a no significant hazards consideration determination, as set forth in 10 CFR 50.92(c), are met. The staff has, therefore, made a proposed determination that the proposed amendment involves no significant hazards consideration.

(2) *Diesel Generator Test Load.* The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples of actions involving no significant hazards considerations, i.e., example (ii), relates to a change that constitutes an additional limitation, restriction or control not presently in the Technical Specifications. The proposed change, by increasing the load that must be applied during diesel generator testing, results in more stringent requirements for the test. The proposed change is, therefore, encompassed by example (ii) cited above. The Commission therefore proposes to determine that this action involves no significant hazards considerations.

(3) *SGTS Nomenclature.* The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples of actions involving no significant hazards considerations, i.e., example (i), relates to purely adminstrative changes to the Technical Specifications, for example to achieve consistency throughout the Technical Specifications, correction of an error or a change in nomenclature. The proposed substitution of "standby gas treatment system" for "circuit" in the SGTS surveillance requirements does not change the meaning or intent of the TS. In this case the two terms are interchangeable and the proposed term will result in greater consistency in the TS. The proposed change is, therefore, purely administrative in nature and is encompassed by example (i) cited above. On this basis, the Commission proposes to determine that this change involves no significant hazards considerations.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Attorney for licensee: Mr. G. D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68601.

NRC Branch Chief: Domenic B. Vassallo.

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: June 11, 1985.

Description of amendment request: the amendment would change the testing frequency of the auxiliary feedwater pumps from quarterly to monthly.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples, (ii), of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the technical specifications. The proposal to increase the testing frequency of the auxiliary feedwater pumps comes under this example. On this basis, the staff proposes to determine that the application does not involve a significant hazards consideration.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Attoney for licensee: LeBoeuf, Lamb, Leiby, and MacRae, 1333 New Hampshire Avenue, N.W., Washington, D.C., 20036.

NRC Branch Chief: Edward J. Butcher, Acting.

Pennsylvania Power & Light Company, Docket No. 50-388, Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of amenment request: April 9, 1985.

Description of amendment request: The proposed amendment change to the Technical Specification would permit Susquehanna SES refueling operations (fuel loading and unloading) to take place without using Fuel Loading Chambers (FLCs). This change would allow up to eight fuel assemblies to be loaded in order to attain the required Technical Specification count rate on the source range monitors (SRMs) without creating any safety concern.

During the Susquehanna SES Unit 1 end-of-cycle defueling, the FLCs, which were being used to provide neutron monitoring, produced anomalous readings which were attributed to a detector saturation condition caused by the high gamma flux from the irradiated fuel. The need to revise the Unit 2 Technical Specifications is based on the fact that for the Unit 2 first refueling outage the licensee will again need to off load the entire core and as a result experience the same problems experienced during the Unit 1 first refueling outage. The FLCs are B-10 lined proportional detectors which are connected to the SRM circuitry, while the SRMs are miniature fission chambers. The B-10 lined detectors are prone to degraded and unpredictable response in a high gamma flux, whereas the SRMs are not as susceptible to the same phenomena. Furthermore, although the energy deposited by a gamma in a B-10 detector is less than that deposited by a neutron, in a large gamma flux a pulse "pile-up" condition occurs which results in several gammas being counted together thereby producing about the same signal as a neutron; and if the detector electronics are set to reduce the pulse pile-up effect, a reduction in neutron detection efficiency occurs. In comparison the energy deposited by a neutron in a fission chamber is much greater than that of a gamma, thus making the neutron counts easily distinguished from the gammas. Therefore the SRM circuitry can more easily discriminate the gamma flux and thus the SRMs provide a more reliable, well characterized signal than the FLCs in a high gamma environment (i.e., in the presence of irradiated nuclear fuel).

The licensee has stated that based on previous SRM response calculations one irradiated fuel assembly adjacent to a SRM should provide at least 0.7 cps, and two assemblies around a SRM would assure at least 0.7 cps. Therefore although the proposed Technical Specification changes will allow loading of up to eight fuel assemblies before requiring the necessary SRM counts, no loss of neutron monitoring capability is expected to occur.

In order to assure a safe subcritical condition during the loading of the first eight fuel assemblies the licensee performed calculations assuming maximum reactivity conditions (i.e., cold, clustered, uncontrolled, peak reactivity) which concluded that eight fuel assemblies, as analyzed, would remain subcritical. These calculations

were bounding for all the fuel to be used during Susquehanna SES Unit 2 Cycle 2.

The licensee has stated that during a typical core reloading, two irradiated fuel assemblies will be loaded around each SRM to produce greater than the minimum required count rate. In addition the loading schemes will be selected to provide for a continuous multiplying medium to be established between the required operable SRMs and the location of the core alteration to enhance the ability of the SRMs to respond to the loading of each fuel assembly. During a core unloading, the last fuel to be removed is that fuel adjacent to the SRMs.

Basis for Proposed No Significant Hazards Consideration Determination: A review of the licensee's submittal dated April 9, 1985 in accordance with the standard of 10 CFR 50.92 provides sufficient information to conclude that the proposed amendment to allow up to eight fuel assemblies to be loaded to attain the required Technical Specification count rate on the SRMs does not involve a significant hazards consideration. Based on the above safety assessment the Commission agrees with the licensee that the proposed Technical Specification change will result in improved safety because: The SRMs are more reliable in detecting neutrons than the FLCs in the presence of irradiated nuclear fuel; conservative analyses have shown that criticality is not a problem during the loading of the first eight fuel assemblies; and the risk of dropping loose objects into the reactor is reduced by eliminating the use of the FLCs. The proposed change does not involve a significant increase in the probability or consequences of a previously analyzed accident, does not create the possibility of a new or different kind of accident from any accident previously evaluated, and does not significantly reduce a safety margin. Therefore, based on these considerations and the three criteria given above, the Commission has made a proposed determination that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Attorney for Licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Walter R. Butler.

Public Service Co. of Colorado, Docket No. 50–267, Fort St. Vrain Nuclear Generating Station, Platteville, Colorado

Date of amendment request: June 10, 1985.

Description of amendment request: The proposed changes to the Administrative Controls Technical Specifications reflect recent organizational changes within the Public Service Company of Colorado. The proposed changes involve further revision of a position title which was proposed in the January 14, 1985 application which was noticed on February 27, 1985 (50 FR 8004) and propose an additional requirement for a Fuel Surveillance Program.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14970). The examples of actions that are considered not likely to involve significant hazards considerations include a purely administrative change to Technical Specifications (TS): For example, a change to achieve consistency throughout the TS, correction of an error, or a change in nomenclature; and changes that constitute an additional limitation, restriction or control not presently included in the TS. Based on an initial review of the application, the staff considers the proposed changes to be administrative changes and additional limitations of the types referred to above.

Therefore, we propose to determine that this is an action which would involve no significant hazards considerations.

Local Public Document Room Location: Greeley Public Library, City Complex Building, Greeley, Colorado.

Attorney for licensee: Bryant O'Donnell, Public Service company of Colorado, P.O. Box 840, Denver, Colorado 80201.

NRC Branch Chief: Eric H. Johnson.

Public Service Electric and Gas Company, Docket No. 50–272, Salem Nuclear Generating Station, Unit No. 1, Salem County, New Jersey

Date of amendment request: October 15, 1985.

Description of amendment request: The proposed amendment would add Mode 2 to APPLICABLE MODES column on Table 3.3–3 for Item 8e, Emergency Trip of Steam Generator Feed Pumps—start Motor Driven (Auxiliary Feedwater) Pumps. This Applicability requirement was inadvertently listed as MODE 1 for Unit No. 1.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions which involve no significant hazards consideration include administrative changes to the technical specification (Example i): for example changes that achieve consistency or correct errors. Therefore, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room Location: Salem Free Library, 122 West Broadway, Salem, New Jersey 08079.

Attorney for licensee: Conner and Wetterhann, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, D.C. 20006.

NRC Branch Chief: Steven A. Varga.

Public Service Electric and Gas Company, Docket No. 50–311, Salem Nuclear Generating Station, Unit No. 2, Salem County, New Jersey

Date of amendment request: October 15, 1985.

Description of amendment request: The proposed amendment would correct a referenced specification in LCO 3.1.2.1a and 3.1.2.1b. These limiting conditions for operation reference LCO 3.1.2.7a and 3.1.2.7b which do not exist. The correct LCOs to be referenced are 3.1.2.5a and 3.1.2.5b, respectively.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions which involve no significant hazards consideration include administrative changes to the technical specification (Example i): for example changes that achieve consistency or correct errors. the requested change corrects and error. Therefore, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room Location: Salem Free Library, 122 West Broadway, Salem, New Jersey 08079.

Attorney for licensee: Conner and Wetterhann, Suite 1050, 1717

Pennsylvania Avenue, NW., Washington, D.C. 20006.

NRC Branch Chief: Steven A. Varga.

Public Service Electric and Gas Company, Docket No. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: September 21, 1985.

Description of amendment request: The amendments request would modify the existing fire protection systems technical specifications pages and add new pages for both units. The proposed changes would:

(1) Unify the requirements and language of surveillance testing and action statements for both units.

(2) Provide technical specifications which reflect completion and implementation of the fire protection requirements as given in Amendment 21.

(3) Eliminate those portions of the existing technical specifications that are not applicable to the Salem Units, such as references to motor driven fire pumps and water system automatic valves.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain example (48 FR 14870). The examples of actions which involve no significant hazards consideration include administrative changes to the technical specification (Example i); for example changes to achieve consistency or correct errors; and changes that constitute additional limitations and controls not presently included in the technical specifications (Example ii). All the proposed actions in the amendments request either (1) achieve consistency between the two basically indentical units, (2) constitute additional limitations and controls not presently included in the technical specifications, or (3) correct several errors where equipment reference in the technical specifications do not exist in the Salem Units. Therefore, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room Location: Salem Free Library, 122 West Broadway, Salem, New Jersey 08079.

Attorney for licensee: Conner and Wetterhann, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, D.C. 20006.

NRC Branch Chief: Steven A. Varga.

Public Service Electric and Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: October 15, 1985.

Description of amendment request: The proposed amendments request would: (1) Change limitng condition for operation 3.4.1.2b to read as follows:

b. At least one of the above coolant loops shall be in operation* when the rod control system is de-energized**.

(2) Add limiting condition for operation 3.4.1.2C as follows:

c. At least two of the above coolant loops shall be in operation when the rod control system is energized**.

(3) Change the note with the single asterisk (*) to read as follows: *All reactor coolant pumps may be de-energized for up to 1 hour provided: (1) No operations are permitted that would cause dilution of the reactor coolant system boron concentration (2) core outlet temperature is maintained at least 10°F below saturation temperature, and (3) the rod control system is de-energized**.

(4) Add the following note with a double asterisk (**): (**)The rod control system shall be considered de-energized when one or more of the following conditions exist:

(1) Both Rod Drive MG set motor breakers are open.

(2) Both Rod Drive MG set generator breakers are open.

(3) A combination of at least three of the Reactor Trip and/or Reactor Trip Bypass Breakers are open.

If none of the above conditions for de-energizing the rod control system are met; the system shall be considered energized.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions which involve no significant hazards consideration include changes that constitute additional limitations and controls not presently included in the technical specifications (Example ii). Since the amendments request would add new limitations and controls, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Salem Free Library, 122 West Broadway, Salem, New Jersey 08079.

Attorney for licensee: Conner and Wetterhann, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, D.C. 20006.

NRC Branch Chief: Steven A. Varga.

Public Service Electric and Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendments request: December 7, 1984.

Description of amendments request: The proposed amendments would add Section 6.8.4(e) to existing Salem Unit 1 and 2 Technical Specifications to incorporate Post Accident Sampling Program requirements.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions which involve no significant hazards consideration include changes that constitute an additional limitation, restriction, or control not presently included in the technical specification (Example ii). The requested change adds requirements regarding the Post Accident Sampling System. Therefore, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Salem Free Library, 122 West Broadway, Salem, New Jersey 08079.

Attorney for licensee: Conner and Wetterhann, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, D.C. 20006.

NRC Branch Chief: Steven A. Varga.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of amendment request: April 9 and May 20, 1985.

Description of amendment request: The amendment would delete Technical Specification 3/4.5.4, "Boron Injection System," modify bases section B 3/4.5.5, "Refueling Water Storage Tank," and incorporate the necessary administrative changes to the index and page numbering that result from the Technical Specification deletion. These changes will allow for the removal of the boron injection (BIT) and other piping and components related to BIT operation.

Basis for proposed no significant hazards consideration determination: The boron injection system ensured that sufficient negative reactivity was injected into the core to counteract any positive increase in reactivity caused by reactor coolant system (RCS) cooldown. RCS cooldown can be caused by inadvertant depressurization, a loss-of-coolant accident or a steam line break.

Of these three accidents, the steam line break is the only one in which the analysis depends on boron to terminate a return to power. The other accident scenarios produce boiling in the core, which introduces negative reactivity and assures the reactor will not become critical and return to power. The re-evaluation of the steam line break demonstrates that sufficient negative reactivity exists in the system without the BIT to prevent an inadvertent return to power in the event of this accident.

Removal of the BIT was determined not to decrease the departure from nucleate boiling ratio (DNBR) below the limit of 1.3 for the steam line break scenario. Removal of the BIT does not affect the other accident scenario conclusions involving DNBR and fuel damage because the presence of the BIT is not a factor in those resulting accident conditions.

The containment mass and energy releases for postulated main steam line breaks with the BIT removed do not vary significantly from the original release data. This new containment analysis based on BIT removal indicates energy release rates have in fact decreased. The mass and energy release calculations for outside containment are not significantly affected by the presence or absence of the BIT

To remove the BIT requires piping changes which introduce new pipe fittings and alter the calculated loads of present piping and supports. Therefore new pipe break and pipe whip analyses were performed as required of all high energy piping systems. These new analyses demonstrated that surrounding equipment required to safely shut down the plant is not compromised by the addition of the new piping.

The Commission has provided certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations. The request involved in this case does not match any of those examples. However, the staff has reviewed the licensee's request for the above amendment and has determined that should this request be implmented, it will not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because the pipe break and whip analyses are acceptable for the new piping, sufficient negative reactivity exists to prevent return to power, DNBR remains above 1.3, and containment mass and energy releases are not increased. Also, it will not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the pipe break and whip analyses show that the new pipe does not compromise the surrounding equipment required to safely shut down the plant, or (3) involve a significant reduction in a margin of safety because DNBR remains above 1.3 and pressure/temperature response is less severe than the original analysis results. Accordingly, the Commission proposes to determine that this change does not involve significant hazards considerations.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Attorney for licensee: Randolph R. Mahan, South Carolina Electric & Gas Company, P.O. Box 764, Columbia, South Carolina 29218.

NRC Branch Chief: Elinor G. Adensam.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of amendment request: June 10, 1985.

Description of amendment request: The amendment would revise Technical Specification 3/4.8.1, "A.C. Sources," and its bases. This proposed revision is based on NRC Generic Letter 84–15, "Proposed Staff Actions to Improve and Maintain Diesel Generator Realiability." The proposed revision will reduce the number of severity of diesel generator starts, thereby decreasing engine wear and increasing reliability. The proposed revision also restructures the action and surveillance statements for clarity and useability.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations. The request involved in this case does not match any of those examples. However, the staff has reviewed the licensee's request for the above amendment and determined that should this request be implemented, it will not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because the change is a reduction in frequency and severity of diesel generator test starts which will result in less wear and stress on engine parts. This will decrease the probability of an accident due to failure of engine parts, and the consequences of an accident will not change. Also, it will not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the design and function of the diesel generators is not changed. Finally, it will not (3) involve a significant reduction in a margin of safety because there will be no change in diesel generator automatic response times or emergency loads assumed from that used in the accident analyses. Accordingly, the Commission proposes to determine that this change does not involve significant hazards considerations.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Attorney for Licensee: Randolph R. Mahan, South Carolina Electric and Gas Company, P.O. Box 764, Columbia, South Carolina 29218.

NRC Branch Chief: Elinor G. Adensam.

Southern California Edison Company, Docket No. 50–206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of amendment request: May 9, 1985.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 3.6.2, Containment Isolation Valves, and Table 3.6.2–1, Power Operated or Automatic Containment Isolation Valve Summary. The proposed change to TS 3.6.2 consist of four parts; (1) a revision to the page format, (2) clarification of the applicability of required actions under Action A in the event of inoperability of a closed system containment penetration that is open and is provided with only one isolation valve, (3) the addition of a specific exception to TS 3.0.4 that would allow operational mode changes with inoperable containment isolation valves under certain specific conditions, and (4) an addition that would permit temporary reactivation of a power-operated valve, that is secured closed under the Action statements, in order to perform valve position verification and testing. The proposed changes to Table 3.6.2–1 would (1) change the title of the table to reflect the fact that certain valves have remote manual controls and modify how the remote manual valves are identified on the table, (2) delete the references to the source of electrical control and operating power in order to

simplify the table, (3) delete references to solenoid valves that control the compressed air to pneumatically operated containment valves which were included on the table for informational purposes only, (4) delete containment isolation valves CV–948 and CV–949 which are no longer needed to provide a containment isolation function because the Pressurizer Relief Tank Gas Sample pentration has been removed from service by the installation of pipe caps inside and outside of containment, (5) add automatic containment isolation valves SV–3004 and SV–2004 which provide isolation to a new hydrogen calibration gas pentration, (6) add an outboard containment isolation valve (SV–3302) to the reactor coolant loop sample penetration, (7) remove the objective portion of the footnote regarding manual valves CVS–301 and CVS–313 because the objective is covered in the Basis, and (8) add a new item 29 which adds an automatic check valve outside of containment (SV–3303) and a check valve inside containment to provide isolation for a new reactor coolant sample return penetration.

Basis for proposed no significant hazards consideration determination: Item (1) of the proposed change to TS 3.6.2 and Items 1, 2, 3 and 7 of the proposed changes to Table 3.6.2–1, discussed above, are administrative changes. Change (1) of TS 3.6.2 reformats this TS to be consistent with the format of other TS; there is no substantive change involved. Change (1) to Table 3.6.2–1 modifies the title of the table to reflect the fact that some of the valves listed have remote manual controls. In addition, the double asterisk footnote indicating remote manual valves is deleted and replaced with an RM indication for the applicable valves. Change (2) to the Table would delete all references to the source of electrical control and operating power ("alignment"). The references to valve "alignment" have no bearing on the operability of the isolation valves. Consistent with these changes, the single asterisk footnote describing the logic nest alignment would also be deleted. Change (3) to the table would delete the references to the solenoid valves that control the compressed air to pneumatically operated containment valves. These solenoid valve references were included for informational purposes only and their deletion from the table has no safety impact. Change (7) to Table 3.6.2–1 discussed above, would remove the objective portion of the footnote regarding manual valves CVS–301 and CVS–313. The objective of locking these valves closed in Modes 1, 2, 3, and 4 is discussed in the Basis Section and there is no reason to include it on the table. The Commission has provided guidance concerning the application of standards in 10 CFR 50.92 by providing certain examples (48 FR 14870, April 6, 1983) of amendments not likely to involve significant hazards considerations. One of the examples (i) is a purely administrative change to TS such as a change in nomenclature. Because these proposed changes involve changes of the types specified in example (i) of the Commission guidance, the staff proposes to determine that these changes would not involve a significant hazards consideration.

Another example (ii) in the Commission guidance is a change that constitutes an addtional limitation, restriction or control not presently included in the TS. Proposed changes 5, 6, and 8 to Table 3.6.2–1, discussed above, would add valves to this table which are not currently included. Therefore, these changes are added restrictions of the type in example (ii) of the Commission's guidance and the staff proposes to determine that these proposed changes would not involve a significant hazards consideration.

Proposed change (2) to TS 3.6.2, discussed above, would clarify the required actions under Action A for closed systems. General Design Criterion 57 states that each line that penetrates primary reactor containment and is neither part of the reactor coolant pressure boundary nor connected directly to the containment atmosphere shall have at least one containment insolation valve which shall be either automatic, locked closed, or capable of remote manual operation. For these closd systems, the system pressure boundary provides an insolation boundary. The current TS requires that with one or more insolation valves specified in Table 3.6.2–1 inoperable, at least one insolation valve be maintained operable in each penetration that is open. For these closed systems for which only one isolation valve is required, this requirement of the current specification cannot be satisfied. Application of TS 3.0.3 in such cases would require that either the inoperable valve be closed or shutdown be initiated within 1 hour. The licensee has proposed a clarification of Action A of the TS that would allow a 4 hour time limit to complete the required actions for such closed systems that have only one isolation valve. This time limit is consistent with the time limit where two isolation valves are required. The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazards consideration exists. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. Each of the three criteria is met in relation to the proposed change as follows: (1) The clarification of Action A regarding closed systems with a single isolation value would not involve a significant increase in the probability or consequences of an accident previously evaluated because the pressure boundary of the closed system provides an isolation boundary in addition to the isolation provided by the valve and the 4 hour limit for entering the Action statement is consistent with the time limit where two isolation values are required; (2) The operation of the facility in accordance with the proposed change would not create the possibility of a new or different kind of accident from any accident previously evaluated because the plant would be operated in essentially the same manner and this proposal change would not result in any change to the plant components or configuration; (3) The proposed change would not cause a significant reduction in a margin of safety. As previously stated, the closed system pressure boundaries provide as isolation boundary. This boundary assures that there would not be a significant reduction in a margin of safety should the single isolation value become inoperable and entry into the Action statement became necessary (4–hour limit).

Proposed change (3) to TS 3.6.2 would add a specific exception to TS 3.0.4 which would allow operational mode changes with inoperable containment isolation values under certain specific conditions. Without this exception, the current TS do not permit operational mode changes when an Action statement is entered because of an inoperable isolation value. The licensee has proposed that the TS be modified to permit mode changes with an inoperable containment isolation value under the conditions that (1) within 4 hours, the affected penetration is isolated by a secured closed automatic isolation value, closed manual valve, or blind flange, and (2) the system with an

inoperable containment isolation valve be declared inoperable and the applicable Action statements for that system be satisfied. Each of the three criteria for determining that the proposed change involves no significant hazards consideration is met as follows: (1) The operation of the facility in accordance with the proposed change would not involve a significant increase in the probability or consequences of an accident previously evaluated because a secured closed automatic isolation valve, closed manual valve, or blind flange would proved at least an equivalent degree of containment isolation as an operable containment isolation value.

In addition, the system containing the inoperable isolation value would be declared inoperable and the appropriate Action statement would be entered for this system; (2) the operation of the facility in accordance with the proposed change would not create the possibility of a new or different kind of accident from any accident previously evaluated because, as stated earlier, the required isolation of the penetration affected by the inoperable isolation valve would provide at least an equivalent degree of containment isolation as an operable isolation valve. In addition, the system containing the inoperable isolation valve would be declared inoperable; (3) the proposed change would not involve a significant reduction in a margin of safety because the requirement to have a secured closed automatic isolation value, closed manual valve, or blind flange will provide at least an equivalent margin of safety with regard to containment isolation as an operable isolation valve.

Proposed change (4) to TS 3.6.2 would add a provision that would permit the temporary reactivation of deactivated power operated valves to conduct (1) surveillance which may be essential for verification of valve position, and (2) valve testing which would be prerequisite to returning the valve to operable status. Because the addition to the TS would also require that Action statement A.1 be applied during this temporary reactivation, the valve would have to be declared operable within 4 hours or the affected penetration would have to be isolated or plant shutdown commenced as indicated by Action statements A.2, A.3, or A.4. Each of the three criteria for determining that the proposed change involves no significant hazards consideration is met as follows: (1) The operation of the facility in accordance with the proposed change would not involve a significant increase in the probablity or consequences of accident previously evaluated because the temporary reactivation of deactivated power valves would (a) verify that the valve position is correct, and (b) permit testing of the valve prior to returning the value to operable status. Both of these surveillance items will verify that the valves are either positioned properly or are in an operable condition; (2) the operation of the facility in accordance with the proposed change would not create the possibility of a new or different kind of accident from any accident previously evaluated because the verification of valve position would provide confirmation that the appropriate Action statements have been satisfied for the valve and would permit testing of a valve as a prerequisite to returning the valve to operable status. These surveillance tasks would not create the possibility of a new or different kind of accident from any accident previously evaluated; (3) the proposed change would not involve a significant reduction in a margin of safety because the change would permit surveillance tasks to verify correct valve position and testing prior to declaring a valve operable.

Finally, proposed change (4) to Table 3.6.2–1 would delete valves CV–948 and CV–949 which currently are listed as performing the isolation function for the Pressurizer Relief Tank Gas Sample penetration. The licensee has indicated that this penetration has been removed from service by the installation of a pipe cap inside the penetration and also outside of containment. Accordingly, valves CV–948 and CV–949 no longer provide a containment isolation function. Each of the three criteria for determining that the proposed change involves no significant hazards consideration is met as follows: (1) The operation of the facility with the penetration capped and the isolation valves removed would not involve a significant increase in the probability or consequences of an accident previously evaluated because the caps on the penetration would provide the containment isolation function; (2) the operation of the facility in accordance with the proposed change would not create the possibility of a new or different kind of accident from any accident previously evaluated because the plant would be operated in essentially the same manner and this change would result in the containment isolation function for the penetration being performed by the installed caps; (3) the proposed change would not involve a significant reduction in a margin of safety because, as stated above, the caps on the penetration provide the containment isolation function.

Based on the licensee's submittal and the above discussion which demonstrate that the three criteria specified in 10 CFR 50.92 have been met, the staff proposes to determine that the proposed change would not involve a significant hazards consideration.

Local Public Document Room location: San Clemente Public Library, 242 Avenida Del Mar, San Clemente, California 92672.

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NRC Branch Chief: John A. Zwolinski.

Southern California Edison Company, et al, Docket Nos. 50–361 and 50–362 San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of Amendment Request: April 28, 1984, January 29, 1985, (Reference PCN–114 and 130).

Introduction: The proposed changes would revise Technical Specification ¾.6.1.6, "Containment Structural Integrity," and License Condition 2.C (4), "Containment Tendon Surveillance," as follows: (1) PCN–114 would clarify the containment tendon surveillance requirements to be consistent with the current surveillance program and to reduce surveillance requirements based on tendon anchorage accessibility. (2) PCN–130 would delete License Condition 2.C (4), since submittal of the currently implemented containment tendon surveillance program meets the intent of the license condition.

Basis for Proposed No Significant Hazards Determination: The Commission has provided guidance concerning the application of standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870) of amendments that are considered not likely to involve significant hazards considerations. Example (i) relates to a purely administrative change to the technical specifications; for example, a change to achieve consistency throughout the technical specifications, a change in nomenclature, or correction of an error. Example (vi) relates to a change which either may result in some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptance criteria

with respect to the system or component specified in the Standard Review Plan (SRP). Each of the specific proposed changes included in PCN–114 and PCN–130 is similar to one of these examples from 48 FR 14870. Therefore it is proposed that these changes do not involve significant hazards considerations. A description of each proposed change to the technical specifications ad a discussion of how each change is similar to these examples from 48 FR 14870 follows.

Specific Changes Requested and Basis for Proposed No Significant Hazards Determination: (1) *PCN–114*— The proposed change would revise Surveillance Requirement 4.6.1.6, "Containment Tendons," of Technical Specification 3/4.6.1.6, "Containment Structural Integrity," for both Units 2 and 3. The purpose of this technical specification is to ensure that containment structural integrity will be maintained for the life of the facility. T.S. 4.6.1.6. specifically concerns the steel containment tendons which reinforce the containment structure by maintaining it in compression. There are two types of containment tendons: hoop tendons, which extend horizontally around the circumference of the cylindrical part of the containment structure, and U tendons, which extend vertically through the cylindrical part of the containment structure and arc through the containment structure hemispherical dome. T.S. 4.6.1.6. defines specific tests which must be performed at reagular intervals in orfer to ensure the structural integrity of the tendons and, therefore, of the containment structure. The proposed change to T.S. 3/4.6.1.6. consists of the following four parts:

(a) T.S. 4.6.1.6 for both Units 2 and 3 currently states, as part of the requirement for demonstrating containment structural integrity, that tendon lift-off force and tendon detensioning tests and material tests and inspections must be performed at the end of one, five, and ten years following the initial structural integrity test (ISIT) and every ten years thereafter. These tests assure that tendons are properly tensioned and free of damage (i.e., corrosion, cracks, etc.). The proposed Unit 3 change will correct the wording in T.S. 4.6.1.6 to be consistent with the existing Table 4.6–1 to state that test intervals are at the end of one and five years following the ISIT and every ten years thereafter. The specified tests will be performed at one, five, fifteen, twenty-five, etc. years following the ISIT, rather than at one, five ten, twenty, thirty, etc. years. Visual inspections will continue to be performed at five-year intervals.

The proposed change described above will revise the statement of when tendon lift-off force and tendon detensioning tests and material tests must be performed for Unit 3. For Unit 3 this proposed change will bring the wording in T.S. 4.6.1.6. into compliance with Table 4.6–1, "Tendon Surveillance," of T.S. 3/4.6.1.6, which currently sets the intervals for performance of these tests at one, five, fifteen, twenty-five, etc. years following the ISIT. Because the proposed change will achieve consistency within the technical specifications, it is administrative and, therefore, is similar to Example (i).

(b) T.S. 4.6.1.6a assures that tendons are properly tensioned by requiring that the lift-off force of tendons specified in this T.S. be determined periodically. The tendons specified in Table 4.6–1 were chosen generally at random during the development of this T.S. The tendons chosen for detensioning and material tests were chosen at random from those with long tails and shims which provide for retensioning. The proposed change to T.S. 4.6.1.6a consists of the following three parts:

(i) T.S. 4.6.1.6a currently implies that the tendon lift off force must be maintained between the maximum and minimum values specified in Table 4.6–2, "Tendon Lift-off Force." The proposed change clarifies that the values specified in Table 4.6–2 are not limits to be strictly adhered to, but are upper and lower tolerance band values which reflect the normal range of variability in long term stress loss predictions and are provided only for comparison with tendon lift-off forces determined by test. This proposed change will more appropriately reflect the intent of the maximum and minimum values listed in Table 4.6–2, which is to provide a normal range of variability for long term stress loss predictions. Because the proposed change provides a change in nomenclature which clarifies T.S. 4.6.1.6a, it is administrative and is similar to Example (i) of 48 FR 14870.

(ii) T.S. 4.6.1.6a states that if the lift-off force for any tendon is found to lie between the prescribed lower limit and 90% of the prescribed lower limit, the tendons on either side of the unacceptable tendon must be detensioned to determine that they have acceptable lift-off forces. If each adjacent tendon is found acceptable, the technical specification currently states that the adjacent tendons must then be restored to the required level of integrity (i.e., retensioned) and that the unacceptable tendon may be considered a single unique and acceptable deficiency. T.S. 4.6.1.6a also currently provides specific criteria for retensioning tendons: If a tendon is tested and found acceptable, it must be retensioned to obtain a lift-off force equal to +0, −5% of the prescribed maximum tendon lift-off force. The proposed change will replace the ambiguous wording which requires acceptable tendons to be restored to the required level of integrity with the previously stated, specific requirement that acceptable tendons be retensioned such that the lift-off force is equal to +0, −5% of the prescribed upper tolerance band value.

The proposed change described above will provide the specific retensioning requirements for tendons which are tested and found acceptable to replace the current general and vague statement of restoring these tendons to "the required integrity." Because the proposed change clarifies T.S. 4.6.1.6a, it is administrative and, therefore, is similar to Example (i) of 48 FR 14870.

(iii) T.S. 4.6.1.6a currently specifies that abnormal tendon degradation is exhibited when more than one tendon in the original sample population is found to have a lift-off force below the prescribed minimum lift-off force or when any selected tendon is found to have a lift-off force below 90% of the prescribed lift-off force lower limit. The proposed change will clarify that the sample population of tendons are those which were previously randomly selected for testing and are specified in Table 4.6–2. Because the proposed change is administrative, it is similar to Example (i) of 48 FR 14870.

(c) T.S. 4.6.1.6c requires that visual inspections of the containment structure be performed periodically. T.S. 4.6.1.6.c.3 relates specifically to the inspection of concrete surfaces. It currently requires that the concrete surfaces adjacent to the end anchorages of tendons specified by T.S. 4.6.1.6a be demonstrated by visual examination of the crack patterns to exhibit no abnormal material behavior. The proposed change will revise T.S. 4.6.1.6.c.3 to state that only the exposed concrete surfaces adjacent to the end anchorages of hoop tendons specified by T.S. 4.6.1.6a must be visually inspected.

This proposed change will require visual inspection of only the exposed concrete surfaces adjacent to the end anchorages of hoop tendons specified by T.S. 4.6.1.6a rather than all concrete surfaces adjacent to both the hoop and U-tendon end anchorages. The concrete surfaces adjacent to the U-tendon end anchorages cannot be visually inspected, because they are covered by

3/8-inch thick plates which are welded to the end anchorages and to steel channels embedded in the concrete. Removal of the plates by such methods as grinding and flame cutting is not desirable, because these methods are likely to damage the concrete surfaces underneath the plates. It is not necessary to visually inspect the concrete surfaces near the U-tendon end anchorages because these prestress loads result only in compressing stresses on the adjacent concrete.

For acceptance criteria for inservice testing and surveillance of containment tendons, SRP Section 3.8.1 "Concrete Containments" references Regulatory Guide 1.35, "Inservice Testing of Ungrouted Tendons in Prestressed Concrete Containment Structures." Regulatory Guide 1.35 recommends visual inspection of concrete adjacent to tendon anchorages where practical without dismantling the load-bearing components of the anchorage. It is impractical to remove the plates welded to the end anchores of the U-tendons because this removal method may result in damage to the concrete surface under the plates. This would be counter to the intended purpose of the surveillance. Although this change reduces the existing visual inspection requirements which may result in some decrease in a margin of safety, it meets the visual inspection requirements of R.G. 1.35 and the SRP acceptance criteria. Therefore the propsed change is similar to Example (vi) of 48 FR 14870.

(d) Table 4.6–1 "Tendon surveillance," lists the containment tendons specified to be inspected and tested at the required intervals. The proposed change would correct the designation of one U-tendon in Table 4.6–1 in the Technical specifications of each unit.

The U-tendons are listed in Table 4.6–1 using a two number designation to indicate the tendon end cap numbers for that tendon. In the Unit 2 Table 4.6–1 during the 30 year inspection the designation 69–178 is corrected to 64–178, and in the Unit 3 Table 4.6–1 during the 3 year inspection, the designation 23–139 is corrected to 23–129. Because the propsed change corrects typographical errors, it is administrative and, therefore, is similar to Example (i) of 48 FR 14870.

(2) *PCN/130*—The proposed change would delete License Condition 2.C(4), "Containment Tendon Surveillance," from the San Onofre Nuclear Generating Station Units 2 and 3 Facility Operating Licenses NPF–10 and NPF–15, respectively. The purpose of this license condition is to ensure the implementation of an acceptable tendon surveillance program for both Units 2 and 3. License Condition 2.C(4) states that the Southern California Edison Company (SCE) must provide for Nuclear Regulatory Comission (NRC) approval and implement a tendon surveillance test program which will ensure full conformance with the provisions of Regulatory Guide 1.35, "Inservice Inspection of Ungrouted Tendons in Prestressed Concrete Containments," which provides an NRC accepted basis for developing a tendon surveillance program, and Regulatory Guide 1.35.1, "Determining Prestressing Forces for Inspection of Prestressed Concrete Containments" which provides additional guidance concerning the NRC position in determining tendon prestressing forces. The tendon surveillance test program is required to include a specific program and commitments for tendon retensioning, such that the predicted prestressing force of each tendon will be greater than the required design prestressing force of each tendon for the entire plant life. In accordance with License Condition 2.C(4), SCE has submitted a tendon surveillance test program, "Tendon Surveillance Requirements for the San Onofre Nuclear Generating Station, Units 2 and 3," dated February, 1984, which was implemented in January, 1982, for Unit 2 and in February, 1983, for Unit 3. SCE has submitted Reference 5 to the tendon surveillance test program, "Experimental Determination of the Influence of Individual Tendon Stressing Upon Containment Post-Tensioning Strain, San Onofre Nuclear Generating Station, Units 2 and 3." In addition, the tendon surveillance test program required by License condition 2.C(4) has been incorporated into the Final Safety Analysis Report, Section 3.8.1.7.2 "(Concrete Containment Testing and Inservice Inspection Requirements) Long-Term Surveillance," and into Technical Specification 3/4.6.1.6, "Containment Structural Integrity." The licensee's program does not include retensioning tendons to maintain the prestressing force of each tendon greater than the required design prestressing force for the entire plant life. However, this program satisfies all regulatory requirements including full conformance with the requirements of Regulatory Guide 1.35, Revisioin 2 and Draft Revision 3, and the April 1979 draft of Regulatory Guide 1.35.1, and maintains the average prestress at all locations within the containment above the minimum design prestress.

Therefore, the need for retensioning of tendons, unless required by failure to satisfy program requirements during the life of the plant, is eliminated. Because an acceptable tendon surveillance program has been submitted and implemented, the intent of License Condition 2.C(4) has been met. Therefore, the proposed change would delete License Condition 2.C(4) from Facility Operating Licenses NPF–10 and NPF–15.

This proposed change (PCN–130) is similar to Example (vi) of 48 FR 14870 in that it may in some way reduce a margin of safety but where the results are clearly within the acceptance criteria specified in the Standard Review Plan. In this case, the acceptance criteria are specified in SRP section 3.8.1 "Concrete Containments." SRP section 3.8.1 states that the testing and inservice surveillance program is acceptable if it meets the requirements of Regulatory Guide 1.35. The proposed change will require that the average prestress at all locations within the containment be maintained above the minimum design prestress requirements rather than maintaining the prestressing force of individual tendons greater than the required design prestressing force as is required by the existing license condition. Although this may in some way reduce a margin of safety, the tendon surveillance program is in conformance with Regulatory Guide 1.35. Therefore the proposed change satisifes the SRP acceptance criteria and is similar to Example (vi) of 48 FR 14870.

Local Public Document Room Location: San Clemente Library, 242 Avenida Del Mar, San Clemente, California 92672.

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NCR Branch Chief: George W. Knighton.

Virginia Electric and Power Company, Docket No. 50–339, North Anna Power Station, Unit No. 2, Louisa County, Virginia

Date of amendment request: February 11, 1985.

Description of amendment request: The proposed change would revise the NA–2 Technical Specification 3/4.4.7, Table 4.4–3 by eliminating the requirement for sampling chlorides and fluorides when the Reactor Coolant System (RCS) is drained below the reactor pressure vessel nozzles and the reactor internals and/or head are in place. Currently, chlorides and fluorides in the NA–2 RCS require surveillance at least once per 72 hours. To perform

refueling and maintenance activities, the RCS is drained below the nozzle, the Reactor Heat Removal System (RHRS) is drained and the upper internals are in place. To obtain the required chloride and fluoride samples on a continuing frequency of 72 hours would require personnel ingress to the area of the upper core internals. Entry into this area, which currently has a radiation field of 10 roentgens per hour, would result in excessive radiation exposure. Prior to fully draining the RCS, the required sampling of chlorides and fluorides would be conducted in accordance with specified sampling procedures. Also, when the RCS and the RHRs are in a drained condition, the inventory of chlorides and fluorides will not change. When the RCS is refilled, the chloride and fluoride sampling will recommence in accordance with the specified sampling requirements. Finally, it is noted that the proposed change was previously reviewed and approved by the NRC for NA-1 as stated in Amendment No. 41 dated August 4, 1982.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The probability of occurrence or the consequences of a malfunction of equipment important to safety and previously evaluated in the FSAR is not increased because the chloride and fluoride inventory in the reactor coolant system will not change since the reactor coolant system and the RHR System are drained and the inventory was known at the last sample. Also, the possibility of a different type of accident or malfunction than was previously evaluated in the FSAR has not been created because the sampling of chlorides and fluorides will resume when the reactor coolant system is refilled to show that the samples are below their required limits. In addition, the margin of safety as described in the BASES section of any part of the Technical Specifications is not reduced because sampling of chlorides and fluorides will resume when the reactor coolant system is refilled and the chloride and fluoride inventory was within specifications at the time of drain down. Additional makeup could be detected.

Finally, the proposed change has been previously reviewed and approved by the NRC as stated in Amendment No. 41 dated August 4, 1982.

Therefore, based on the above, the proposed amendment will not result in a significant increase in the probability or consequences of an accident previously considered, will not create the possibility of a new or different accident from any evaluated previously, and will not significantly reduce a safety margin. Therefore, the NRC staff proposes to determine that the standards for determining that a license amendment involves no significant hazards consideration are met, and that operation of the facility in accordance with the proposed amendment would not involve a significant hazards consideration.

Local Public Document Room locations: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

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NRC Branch Chief: Edward J. Butcher, Acting.

Washington Public Power Supply System, Docket No. 50-397, WNP-2 Richland Washington

Date of amendment request: April 25, 1985.

Description of amendment request: The proposed amendment to Operating License NPF-21 would revise the WNP-2 Technical Specifications to change the Surveillance Requirement 4.6.1.1. The change, if approved, will allow certain containment isolation valves to be excluded from routine surveillance requirements while the plant is at power. The purpose of the proposed change is to avoid unnecessary personnel hazards from both a safety and ALARA standpoint.

During normal operations there are areas within the plant that are subject to high radiation levels and/or very high temperatures either of which make personnel access hazardous. Some of the containment isolation valves are located in these areas or require personnel to pass through these areas in order to perform the 31 day surveillance, currently required by the Technical Specifications, thus creating personnel safety hazards. Surveillance is used to ensure containment integrity by verification of penetration closures.

The amended Technical Specifications would eliminate the requirement to expose personnel to high radiation and temperature hazards while continuing to ensure containment integrity by administratively controlling access to the areas which house the closed valves and blind flanges. The area in which the closures are located will be locked and posted as high radiation areas which require Radiation Work Permits (RWP) for access. An RWP is granted only on an "as need basis." In addition, the valves themselves are locked or otherwise secured in the closed position and sealed. Appropriate authorization is required to break the seal. The integrity of the containment is thus assured.

The Supply System has reviewed this change per 10 CFR 50.59 and determined that no unreviewed safety questions will result from this amendment.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.82(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Supply System has reviewed this change per 10 CFR 50.59 and determined that it does not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because there is no change to the valves or their positions. This change reflects only access restrictions which prevent position verification while at power; or

(2) Create the possibility of a new or different kind of accident than previously evaluated because this is an administrative change only and does not impact system operation; or

(3) Involve a significant reduction in a margin of safety because it does not change any leakage paths or rates.

The licensee has determined and the NRC staff agrees that these changes have little safety significance and that the proposed amendment will not alter any of the accident analyses.

Based on staff review of the proposed modification, we find that there is reasonable assurance that the proposed exclusion of the containment isolation valves from the 31 day routine surveillance requirements will have little or no impact on the public health and safety.

Accordingly, the Commission proposes to determine that the proposed changes to the Technical Specifications involve no significant hazards considerations.

Local Public Document Room location: Richland Public Library, Swift and Northgate Street, Richland, Washington 99352.

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NRC Branch Chief: Walter R. Butler.

Yankee Atomic Electric Company, Docket No. 50–29, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of amendment request: May 7, 1985.

Description of amendment request: The proposed change would add Technical Specifications (TS) to define limiting conditions for operation and surveillance requirements for emergency core cooling (ECC) subsystem leakage.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for making a no significant hazards consideration determination by providing certain examples (April 6, 1983, 48 FR 14870). Example (ii) of actions involving no significant hazards consideration involves a change that constitutes an additional limitation, restriction, or control not presently included in the TS. As a result of staff review of SEP Toxic XV–19, "Loss-of-Coolant Accidents Resulting from Spectrum of Postulated Piping Breaks within the Reactor Coolant Pressure Boundary," the licensee proposed TS to limit leakage from ECC subsystems outside containment to ensure offsite dose remained within the limits of 10 CFR Part 100. The proposed change adds limitations and controls on ECCS subsystem leakage not currently provided in TS.

Based on this discusson, the staff proposes to determine that the requested action would not involve a significant hazards consideration.

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

Attorney for licensee: Thomas Dignan, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110.

NRC Branch Chief: John A. Zwolinski.

Notice of Issuance of Amendment to Facility Operating License

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Documents Room, 1717 H Street NW., Washington, D.C., and at the local pubic document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Baltimore Gas & Electric Company, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: October 11, 1984.

Brief description of amendments: The amendments provide Radiological Effluent Technical Specifications (TS), administrative TS, and changes to the environmental monitoring programs TS. In addition, the remainder of the Appendix B TS are deleted.

Date of issuance: July 1, 1985.

Effective date: July 1, 1985.

Amendment Nos.: 105 and 86.

Facility Operating License Nos. DPR–53 and DPR–69. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 31, 1984 (49 FR 50794 at 50799).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 22, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Carolina Power & Light Company, Docket No. 50–325, Brunswick Steam Electric Plant, Unit 1, Brunswick County, North Carolina.

Date of application for amendment: February 13, 1985, as supplemented April 4, 1985.

Brief description of amendment: The amendment changes the Technical Specifications to permit postponement of a flow test of the core spray system until within 48 hours after restoration of the suppression chamber to operable status but, in any case, no later than October 30, 1985.

Date of issuance: June 21, 1985.

Effective date:

Amendment No.: 84.

Facility Operating License Nos. DPR–71. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register.** April 23, 1985 (50 FR 15999) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 21, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Commonwealth Edison Company, Docket Nos. 50-237/249, Dresden Nuclear Power Station, Unit Nos. 2 and 3, Grundy County, Illinois

Date of application for amendments: October 10, 1984.

Brief description of amendments: They add limiting conditions for operation and surveillance requirements to the Technical Specifications for certain plant modifications required for TMI Action Plan Items included in Generic Letter 83-36. They are Containment High Range Radiation Monitor (II.F.1.3), Containment Pressure Monitor (II.F.1.4), Containment Water Level Monitor (II.F.1.5) and Containment Hydrogen Monitor. Of the five others mentioned in GL 83-36, one, Reactor Coolant System Vents (II.B.1) does not require TS and two, Noble Gas Effluent Monitors (II.F.1.1) and Sampling and Analysis of Plant Effluents (II.F.1.2) have suitable TS. However, two more, Post-Accident Sampling (II.B.3) and Control Room Habitability (III.D.3.4), require further staff review.

Date of issuance: June 24, 1985.

Effective date: June 24, 1985.

Amendment Nos. 90 and 83.

Provisional Operating License No. DPR-19 and Facility Operating License No. DPR-25. The amendments revise the Technical Specifications.

Date of initial notice in **Federal Register:** May 21, 1985 (50 FR 20972). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 24, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450.

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of application for amendment: November 7, 1984.

Brief description of amendment: The amendment revises the completion date for Item III.D.3.4, Control Room Habitability, specified in the Commission's March 14, 1983 Confirmatory Order, to (1) remove the required completion date of December 1984, (2) replace the completion date with "To Be Determined," and (3) indicate that Item III.D.3.4 is no longer considered part of the Confirmatory Order.

Date of issuance: July 1, 1985.

Effective date: July 1, 1985.

Amendment No. 63.

Facility Operating License No. DPR-61. Amendment revised the license and the Commission's March 14, 1983 Confirmatory Order.

Date of initial notice in **Federal Register:** December 4, 1984 (49 FR 47463). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 1, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Russell Library, 124 Broad Street, Middletown, Connecticut 06457.

Consumers Power Company, Docket No. 50-155, Big Rock Point Plant, Charlevoix County, Michigan

Date of application for amendment: January 30, 1985, as revised February 1, 1985 and June 7, 1985.

Brief description of amendment: This amendment changes the Big Rock Point Administrative Controls Technical Specifications to reflect offsite corporate reorganizations of the Consumers Power Company Quality Assurance Organization and the Nuclear Activities Plant Organization.

Date of issuance: July 1, 1985.

Effective date: July 1, 1985.

Amendment No. 76.

Facility Operating License No. DPR-6. This amendment revised the license and the Technical Specifications.

Date of initial notice in **Federal Register:** May 21, 1985 (50 FR 20974). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 1, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: North Central Michigan College, 1515 Howard Street, Petoskey, Michigan 49770.

Duke Power Company, Dockets Nos. 50-269, 50-270, and 50-287, Oconee Nuclear Station, Units Nos. 1, 2, and 3, Oconee County, South Carolina

Date of application for amendments: April 30, 1984.

Brief description of amendments: These amendments revise the TSs to incorporate monitoring and control limits of hydrogen concentration in the Waste Gas Holdup Tanks. Other changes requested in the April 30, 1984 submittal have been addressed by a separate Safety Evaluation and approved by license Amendment Nos. 133, 133 and 130 dated January 9, 1985.

Date of issuance: June 24, 1985.

Effective date: June 24, 1985.

Amendments Nos.: 140, 140 and 137.

Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 22, 1984 (49 FR 33363) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 24, 1985

No significant hazards consideration comments received: No.

Local Public Document Room location: Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina.

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of application for amendment: March 21, 1985.

Brief description of amendment: The amendment changes the Technical Specifications for Beaver Valley Unit No. 1 to clarify the reactor plant component cooling pump and river water pump surveillance requirements. The new surveillance requirements specify that each pump develops the required differential pressure and flow rate when tested in accordance with Specification 4.0.5, which in turn requires that certain pumps and valves be tested in accordance with ASME Code Section XI.

Date of issuance: July 5, 1985.

Effective date: July 5, 1985.

Amendment No. 94.

Facility Operating License No. DPR-66. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 21, 1985 (50 FR 20976) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 5, 1985.

No significant hazards consideration comments received: No

Local Public Document Room location: B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: May 31, 1984.

Brief description of amendment: This amendment changes the Technical Specifications such that the restriction to mode changes is no longer applicable to the Containment Purge and Exhaust Isolation System and the Spent Fuel Storage Pool. The remaining request contained in the May 31, 1984, application pertaining to the Reactor Coolant Vent System will be addressed by separate action.

Date of issuance: June 26, 1985.

Effective date: June 27, 1985.

Amendment No.: 74.

Facility Operating License No. DPR-72. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 21, 1984 (49 FR 45949) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 27, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Crystal River Public Library, 668 NW. First Avenue, Crystal River, Florida.

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: January 28 and March 28, 1985, as supplemented on May 31 and June 11, 1985.

Brief description of amendments: These amendments will modify the current Technical Specifications to allow breaching of the containment integrity of an operating unit to allow surveillance testing of The Post Accident Sampling System valves during plant operation under required administrative controls. The amendments also include changes in format and definitions to be consistent with the licensee's overall program for conversion to the format and content of the Standard Technical Specifications for Westinghouse Pressurized Water Reactors (NUREG-0452). The proposed changes reflect the current Turkey Point Plant design and analytical basis.

Date of issuance: June 27, 1985.

Effective date: June 27, 1985.

Amendment Nos. 114 and 108.

Facility Operating Licenses Nos. DPR-31 and DPR-41: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 21, 1985 (50 FR 20977) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 27, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Florida Power and Light Company, Docket Nos. 50-250 and 5-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: February 15, 1985 and supplemented on April 17 and May 8, 1985.

Brief description of amendments: These amendments revise the Technical Specifications (TS) relating to the Moderator Temperature Coefficient (MTC). The current TS allow operation with a positive MTC of $+5 \times 10^{-5}$ delta k/k/°F (change in reactivity per degree Fahrenheit) from zero to 70 percent of rated power and requires a step change at 70 percent of rated power to an MTC of 0 delta k/k/°F. The TS change allows a required linear rampdown from the allowable MTC of $+5 \times 10^{-5}$ delta k/k/°F to zero between 70 percent and 100 percent of rated power in place of the current requirement for a step change at 70 percent of rated power. The change will remove the restrictive requirement for a step change by requiring the linear rampdown.

Date of issuance: June 27, 1985.

Effective date: June 27, 1985.

Amendment Nos. 115 and 109.

Facility Operating Licenses Nos. DPR-31 and DPR-41: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 21, 1985 (50 FR 20978) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 27, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Dockets Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units Nos. 1 and 2, Appling County Georgia

Date of application for amendments: December 21, 1978, as supplemented October 30, 1979, August 1, 1984, and October 1, 1984.

Brief description of amendments: The amendments revise the Technical Specifications for both Hatch Unit 1 and Hatch Unit 2 to add new radiological effluent Technical Specifications to Appendix A to the license and to delete the radiological Technical Specifications for Appendix B to the license.

Date of issuance: June 28, 1985.

Effective date: June 28, 1985.

Amendments Nos.: 110 and 48.

Facility Operating Licenses Nos. DPR-57 and NPF-5. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 26, 1983 (48 FR 49585) and December 31, 1984 (49 FR 50804).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 28, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Dockets Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units Nos. 1 and 2, Appling County Georgia

Date of amendment request: July 9, 1982, October 24 and December 20, 1983, and April 24, 1984.

Brief description of amendments: The amendments revise the Technical Specifications to reflect corporate and plant staff reorganization to change the composition of the Plant Review Board, to delete the Senior Reactor Operator license requirement for the Plant Manager, to change the level of approval for plant procedures, and to clarify procedures for review by the Plant Review Board.

Date of issuance: June 27, 1985.

Effective date: June 27, 1985.

Amendments Nos.: 109 and 47.

Facility Operating Licenses Nos. DPR-57 and NPF-5. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 26, 1984 (49 FR 3347); and February 27, 1985 (50 FR 7987).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 27, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

GPU Nuclear Corporation, Docket No. 50-219 Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: October 24, 1984.

Brief description of amendments: Authorizes Appendix A Technical Specifications changes pertaining to Fire Protection and Quality Assurance which will decrease the frequency of required audits on the plant Fire Protection Program and Operational Quality Assurance Plan, consistent with NRC Generic Letter 82-21.

Date of issuance: July 2, 1985.

Effective date: July 2, 1985.

Amendments No.: 89.

Provisional Operating License No. DPR-16. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 27, 1985 (50 FR 7990).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 2, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Ocean County Library, 101 Washington Street, Toms River, New Jersey 08753.

GPU Nuclear Corporation, Docket No. 50-219 Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: March 21, 1985.

Brief description of amendments: The proposed amendment authorizes changes to the Appendix A Technical Specifications (TS) pertaining primarily to the drywell-suppression chamber differential pressure. The changes are to sections 3.5 and 4.5, Containment, of the TS to (1) correct two typographical errors on TS page 3.5-2, (2) delete the existing requirements on the drywell-suppression chamber differential pressure in TS 3.5.A.9, page 3.5-3/3a, and Figures 3.5-1 (3) revise the Bases for TS Section 3.5 to add references to the Mark I Containment Long Term Program and delete the section and references to the Mark I Containment Short Term Program and (4) delete the requirements on the drywell-suppression chamber differential pressure in TS 4.5.P.5, page 4.5-6a.

Date of issuance: July 1, 1985.

Effective date: July 1, 1985.

Amendment No.: 87.

Provisional Operating License No. DPR-16. Amendment revised the Amendment A Technical Specifications.

Date of initial notice in **Federal Register:** May 21, 1985 (50 FR 10980).

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated July 1, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Ocean County Library, 101 Washington Street, Toms River, New Jersey 08753.

Indiana and Michigan Electric Company, Docket No. 50-316, Donald C. Cook Nuclear Plant, Unit No. 2, Berrien County, Michigan

Date of application for amendment: February 14, 1985.

Brief description of amendment: The amendment revises the Technical Specifications by updating the plant heatup and cooldown curves to reflect the recent reactor vessel material surveillance capsule examination and analysis.

Date of issuance: June 27, 1985.

Effective date: June 27, 1985.

Amendment No.: 69.

Facility Operating License No. DPR-74. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 27, 1985 (50 FR 12146).

The Commission's related evaluation of the amendment is contained in a Safey Evaluation dated June 27, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Northeast Nuclear Energy Company (NNECO), Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of application for amendment: November 7, 1984.

Brief description of amendment: The amendment revises the completion date for Item III.D.3.4, Control Room Habitability, specified in the Commission's March 14, 1983 Confirmatory Order, to (1) remove the required completion date of December 1984, (2) replace the completion date with "To be Determined," and (3) indicate that item III.D.3.4 is no longer considered part of the Confirmatory Order.

Date of issuance: July 1, 1985.

Effective date: July 1, 1985.

Amendment No. 03.

Provisional Operating License No. DPR-21. Amendment revised the license and the Commission's March 14, 1983 Confirmatory Order.

Date of initial notice in **Federal Register:** December 4, 1984 (49 FR 47462).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 1, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Northern States Power Company, Docket Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of application for amendments: July 11, 1984, supplemented April 26, 1985.

Brief description of amendments: The amendments revised the Technical Specifications in the areas of (1) reporting requirements, (2) Table of Contents, (3) Refueling Boron Concentration, (4) radioactive source leakage tests, (5) senior reactor operator shift requirements, (6) deletion of snubber table, (7) spray additive tank requirements, (8) discharge canal flow monitoring, (9) radioactive effluent monitoring instrumentation surveillance requirements, (10) radiation environmental monitoring program sample collection and analysis, and (11) changes in management titles. By letter dated January 21, 1985, the licensee withdrew the request associated with the peaking factor limit functions.

Date of issuance: June 25, 1985.

Effective date: June 25, 1985.

Amendment Nos.: 73 and 66.

Facility Operating License Nos. DPR-42 and DPR-60. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 24, 1984 (49 FR 42814 at 42827). The licensee's proposed change dealing with the refueling boron concentration was modified in order that it would be consistent with the requirements specified in the Standard Technical Specifications. Specifically, the modification merely expressed the terms of the reactor shutdown margin in the same manner as shown in the Standard Technical Specifications. The modification in no way alters the previous determination regarding the no significant hazards consideration. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 25, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Northern States Power Company, Docket Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of application for amendments: December 21, 1984 as revised March 14, 1985.

Brief description of amendments: The amendments changed Technical Specifications 3.8.B.1 and 5.6.A, B, and C to permit the use of the spent fuel shipping cask over spent fuel pool No. 1.

Date of issuance: June 26, 1985.

Effective date: June 26, 1985.

Amendment Nos.: 74 and 67.

Facility Operating License Nos. DPR-42 and DPR-60. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 23, 1985 (50 FR 15997 at 16007).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 26, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Pennsylvania Power and Light Company, Docket No. 50–388, Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of application for amendment: February 7, 1985.

Brief description of amendment: This amendment to the Technical Specifications (TSs) revises the trip setpoint for isolation of the Reactor Core Isolation Cooling (RCIC) system on high steam line differential pressure. The current value for this trip setpoint was initially based on engineering judgement and operating experience. The proposed revised trip setpoint value is based on actual test data obtained using the startup test program. Technical Specification Table 3.3.2–2 trip function 5a has been revised to reflect the Startup Test data.

Date of issuance: July 2, 1985.

Effective date: Upon issuance.

Amendment No. 13.

Facility Operating License No. NPF–22: Amendment revised the Technical Specifications.

Dates of initial notices in **Federal Register**: March 27, 1985 (50 FR 12156).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 2, 1985.

No comments on the proposed no significant hazards consideration determination were received.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Pennsylvania Power and Light Company, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of application for amendments: October 1, 1984.

Brief description of amendments: The proposed amendments would incorporate controls in the form of limiting condition for operation (LCO) into the Technical Specifications on equipment needed to insure proper functioning of the isolated 480 volt swing busses. The NRC staff has reviewed the Technical Specification changes proposed by the licensee and determined that they are acceptable.

Date of issuance: July 2, 1985.

Effective date: July 2, 1985.

Amendment Nos.: 48 and 14.

Facility Operating License Nos. NPF–14 and NPF–22: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 27, 1985 (50 FR 12156).

The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated July 2, 1985.

No comments on the proposed no significant hazards consideration determination were received.

Local Public Document Room Location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Power Authority of The State of New York, Docket No. 50–286, Indian Point Unit No. 3, Westchester County, New York

Date of application for amendment: June 4, 1982, March 8, 1983, May 3, 1983, June 1, 1983 and April 3, 1984.

Brief description of amendments: The amendment revises the Administrative Controls Section (Chapter 6) of the Technical Specifications to allow organizational changes, both on-site and off-site, to include notification specifications required by NUREG–0737, to amend reporting requirements to be consistent with 10 CFR Parts 50.72 and 50.73, and to include editorial changes.

Date of issuance: July 1, 1985.

Effective date: July 1, 1985.

Amendment Nos.: 59.

Facility Operating License No. DPR–64: Amendment revised the Technical Specifications.

Dates of initial notice in **Federal Register:** August 23, 1983 (48 FR 38419), November 22, 1983 (48 FR 52823), June 20, 1984 (49 FR 25371).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 1, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room Location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Power Authority of The State of New York, Docket No. 50–286, Indian Point Unit No. 3, Westchester County, New York

Date of application for amendment: May 3, 1983.

Brief description of amendment: The amendment will revise and update Table 3.6–1 and Table 4.4–1 of the Technical Specifications to reflect installation of containment isolation valves, deletion of containment isolation valves due to supersession by the installation of other containment isolation valves, and modifications to certain valves to add automatic isolation features.

Date of issuance: June 24, 1985.

Effective date: July 24, 1985.

Amendment No.: 58.

Facility Operating License No. DPR–64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 27, 1985 (50 FR 12158).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 24, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room Location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Power Authority of The State of New York, Docket No. 50–286, Indian Point Unit No. 3, Westchester County, New York

Date of application for amendment: September 15, 1983.

Brief description of amendment: The amendment incorporates provisions that would require inservice inspections to be performed in accordance with the requirements for ASME Code Class 1, 2 and 3 components contained in section XI of the ASME Boiler and Pressure Vessel Code and applicable Addenda as required by 10 CFR 50.55a(g), except where relief had been granted by the NRC.

Date of issuance: June 24, 1985.

Effective date: June 24, 1985.

Amendment No.: 57.

Facilities Operating License No. DPR–64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 10, 1985 (50 FR 1286).

The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated June 24, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room Location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Public Service Electric and Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: December 7, 1984.

Brief description of amendments: The amendments add a surveillance requirement for the Containment Pressure-Vacuum Relief Isolation valves on Salem Units 1 and 2 and removes a

footnote from the Unit 2 Technical Specification.

Date of issuance: June 25, 1985.

Effective date: June 25, 1985.

Amendment Nos.: 65 and 39.

Facility Operating License Nos. DPR-70 and DPR-75: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 27, 1985 (50 FR 8003).

The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated June 25, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Salem Free Library, 112 West Broadway, Salem, New Jersey 08079.

Rochester Gas and Electric Corporation, Docket No. 50-244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of application for amendment: December 3, 1984.

Brief description of amendment: The amendment changes the Technical Specifications by relaxing the restriction on the auxiliary building crane travel when a non-heavy load is being transported.

Date of issuance: June 25, 1985.

Effective date: June 25, 1985.

Amendment No. 6.

Facility Operating License No. DPR-18. Amendment revised the Technical Specifications.

Date of intitial notice in **Federal Register:** May 21, 1985 (50 FR 20987).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 25, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of application for amendment: April 9, 1985.

Brief description of amendment: The amendment modifies Technical Specification 3/4.1.3, "Movable Control Assemblies," and its bases to permit 72 hours for evaluation and repair when more than one full length rod is inoperable due to a rod control urgent failure alarm or obvious electrical problem in the rod control system before requiring orderly shutdown.

Date of issuance: June 24, 1985.

Effective date: July 1, 1985.

Amendment No. 43.

Facility Operating License No. NPF-12. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 21, 1985 (50 FR 20989).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 24, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Dates of applications for amendments: (1) August 19 and October 24, 1983 (2) December 10, 1981 (3) February 22, 1985.

Brief description of amendments: The amendments change the Technical Specifications related to subcooling margin monitors, fire hose hydrostatic testing requirements and Bases statements for operational limits associated with the pressurizer spray nozzles.

Date of issuance: June 25, 1985.

Effective date: June 25, 1985.

Amendment Nos. 40 and 32.

Facility Operating License Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 26, 1984 (49 FR 3357); September 28, 1984 (49 FR 38410); December 31, 1984 (49 FR 50826).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 25, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendment: October 24, 1983.

Brief description of amendments: The amendments change the Technical Specifications to delete tables related to hydraulic snubbers.

Date of issuance: June 20, 1985.

Effective date: June 20, 1985.

Amendment Nos. 39 and 31.

Facility Operating License Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 26, 1984 (49 FR 3357).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 20, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: June 13, 1984, and March 27, 1985.

Brief description of amendments: The amendments change license conditions related to the Physical Security Plan.

Date of issuance: June 11, 1985.

Effective date: June 11, 1985.

Amendment Nos. 38 and 30.

Facility Operating License Nos. DPR-77 and DPR-79. Amendments revised the licenses.

Date of initial notice in **Federal Register:** September 10, 1984 (49 FR 36947) and April 26, 1985 (50 FR 16574).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 11, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Virginia Electric and Power Company, et al., Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: June 3, as supplemented June 9, 1983.

Brief description of amendments: The amendments revised the NA-1&2 TS in response to NRC Generic Letter 83-37 which provided guidance on the scope of TS for NUREG-0737. The amendments specifically address the following TMI action items: (1) Reactor Coolant System Vents (II.B.1); (2) Noble Gas Effluent Monitors (II.F.1.1); (3) Containment High-Range Radiation Monitor (II.F.1.3); (4) Containment Pressure Monitor (II.F.1.4); (5) Containment Water Level Monitor (II.F.1.5); (6) Containment Hydrogen Monitor (II.F.1.6); and (7) Instrumentation for Detection of Inadequate Core Cooling (II.F.2).

Date of issuance: June 28, 1985.

Effective date: Within 7 days from the date of issuance.

Amendment Nos. 64 and 49.

Facility Operating License Nos. NPF-4 and NPF-7. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 20, 1983 (48 FR 333076 at 33089)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 28, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room locations: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093, and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: August 24, 1983 (as supplemented June 29, 1984), March 30, 1984 and March 19, 1985.

Brief description of amendment: Miscellaneous Technical Specification changes including definition of Operable and decay heat removal.

Date of issuance: July 5, 1985.

Effective date: 60 days after date of issuance.

Amendment No. 63.

Facility Operating License No. DPR-43: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 26, 1983 (48 FR 49598), reissued November 21, 1984 (49 FR 45981) and May 23, 1984 (49 FR 21850).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 5, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Wisconsin, Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Yankee Atomic Electric Company, Docket No. 50-29, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of application for amendment: May 26, 1981, as revised January 23, 1984 and February 26, 1985.

Brief description of amendment: The amendment changes the facility technical specifications (TS) to incorporate NUREG-0737 requirements, Integrated Plant Safety Assessment items, Radiological Effluent TS changes; to remove reference to 3-loop operation, to incorporate various other individual TS changes, corrections, and clarifications. Additional proposed requests contained in these submittals will be addressed in separate correspondence.

Date of issuance: July 1, 1985.

Effective date: July 1, 1985.

Amendment No. 83.

Facility Operating License No. DPR-3. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 27, 1985 (50 FR 12168).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 1, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 910301.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before, issuance, its usual 30-day Notice of consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing. For exigent circumstances, a press release seeking public comment as to the proposed no significant hazards consideration determination was used, and the State was consulted by telephone. In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant, a shorter public comment period (less than 30 days) has been offered and the State consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By August 16, 1985, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic

Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the basis for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Branch Chief*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Commonwealth Edison Company, Docket No. 50-374, La Salle County Station, Unit No. 2 La Salle County, Illinois

Date of application for amendment: June 14, 1985.

Brief description of amendment request: This amendment revised the La Salle Unit 2 Technical Specifications, Table 3.3.2-2, to change the response time for the Main Steam Line Low Pressure isloation switches from 1 to 2 seconds.

Date of Issuance: June 20, 1985.

Amendment No.: 12.

Effective Date: June 20, 1985.

Facility Operating License No. NPF-18: Amendment revised the Technical Specifications.

Press release issued requesting comments as to proposed no significant hazards consideration: No.

Comments received: No.

The Commission's related evaluation is contained in a Safety Evaluation dated July 1, 1985.

Local Public Document Room location: Pubic Library of Illinois Valley Community College, Rural Route No. 1, Ogelsby, Illinois 61348.

Attorney for licensee: Isham, Lincoln and Burke, Suite 840, 1120 Connecticut Avenue N.W., Washington, D.C. 20036.

NRC Branch Chief: Walter R. Butler.

GPU Nuclear Corporation, Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: June 28, 1985.

Brief description of amendment: This amendment authorizes changes to Tables 3.13-1 and 4.13-1, Accident Monitoring Insutrumentation, to the Appendix A Technical Specifications to allow thermocouples on the relief values' common discharge headers to be substituted for an inoperable backup relief value position indicator thermocouple.

Date of issuance: July 1, 1985.

Effective date: July 1, 1985.

Amendment No: 88.

Provisional Operating License No. DPR-16. Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

Comments received: No.

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated July 1, 1985.

No significant hazards consideration comments received: No.

Attorney for licensee: G. F. Trowbridge, Esquire, Shaw, Pittman, Potts, and Trowbridge, 1800 M Street NW., Washington, D.C. 20036.

Local Public Document Room location: Ocean County Library, 101 Washington Street, Toms River, New Jersey 08753.

NRC Branch Chief: John A. Zwolinski.

Dated at Bethesda, Maryland, this 11th day of July 1985.

For the Nuclear Regulatory Commission.

Edward J. Butcher,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 85-16988 Filed 7-16-85; 8:45 am]

BILLING CODE 7590-01-M

POSTAL SERVICE

Deletion of E-COM Provisions From the Domestic Mail Classification Schedule and Rate Schedules

AGENCY: Postal Service.

ACTION: Deletion of E-COM provisions from the domestic mail classification schedule and rate schedules.

SUMMARY: Pursuant to its authority under 39 U.S.C. 3625, the Postal Service is deleting the E-COM provisions from the Domestic Mail Classification Schedule and Rate Schedules.

EFFECTIVE DATE: September 3, 1985.

FOR FURTHER INFORMATION CONTACT: Edward W. Senft, (202) 245–5780.

SUPPLEMENTARY INFORMATION: On July 6, 1984, the Postal Service filed, pursuant to Chapter 36, Title 39, United States Code, a request with the Postal Rate Commission for a recommended decision on changes to the Domestic Mail Classification Schedule and the Rate Schedules to delete all provisions concerning E-COM service. An explanation of the Postal Service's proposals and an invitation to participate in Commission Docket No. MC84–2 was published in the **Federal Register** by the Postal Rate Commission on July 17, 1984 (49 FR 28953).

On December 21, 1984, the Postal Rate Commission issued its Opinion and Recommended Decision in Docket No. MC84–2. The Commission recommended that the E-COM provisions be deleted from the Domestic Mail Classification Schedule and the Rate Schedules.

On July 10, 1985, pursuant to 39 U.S.C. 3625, the Governors of the Postal Service decided to approve the Commission's recommended decision and order it into effect. The Board of Governors concurrently determined that the changes would become effective at 12:01 a.m. on September 3, 1985. (The Governors' decision, the Record of the Commission's hearings, and the Commission's Recommended Decision may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20002–4231. The Governors' decision and the Commission's Recommended Decision are available for inspection in the Library at Headquarters, United States Postal Service, 475 L'Enfant Plaza West SW., 20260–1641.)

In accordance with these actions by the Governors and the Board of Governors, the Postal Service hereby gives notice that the classification and rate changes listed below as Appendix A become effective at 12:01 a.m. on September 3, 1985.

(39 U.S.C. 3625)

Fred Eggleston,

Assistant General Counsel, Legislative Division.

Appendix A.—Amendments to the Domestic Mail Classification Schedule and the Rate Schedules

1. Sections 100.024, 100.045, 100.046, 100.051, 100.052, 100.0521, 100.0522, and 100.101 of the DMCS are deleted.

2. Sections 100.020, 100.080 and 100.090 of the DMCS are amended to read as follows:

100.020 REGULAR MAIL

Regular First-Class Mail consists of mailable matter posted at First Class regular rates, weighing 12 ounces or less, and not mailed or eligible for mailing under sections 100.0201, 100.021, 100.0211, 100.022, 100.0221, or 100.023.

* * * * *

100.08 ANCILLARY SERVICES

100.080 First-Class Mail, except as otherwise noted, will receive the following additional services upon payment of appropriate fees:

	Classification schedule
a. Address correction	SS–1
b. Business reply mail (except ZIP + 4 rate category mail).	SS–2
c. Certificates of mailing	SS–4
d. Certified mail	SS–5
e. C.O.D.	SS–6
f. Insured mail	SS–9
g. Registered mail (except ZIP + 4 rate category mail).	SS–14
h. Special delivery	SS–17
i. Merchandise return	SS–20

* * * * *

100.09 RATES AND FEES

100.090 The rates and fees for First-Class Mail are set forth in the following rate schedules:

	Rate schedule
a. Regular	100
b. Postal and post cards	101
c. Presorted	102
d. Zone rated (priority)	103
e. Fees	1000

3. Rate Schedule 104 is deleted.

4. Rate Schedule 1000 is amended to read as follows:

Description	Dollars
First-Class Presorted Mailing Fee	$.50
Second-Class Mailing Fees:	
A. Original Entry	220
B. Additional Entry (all zones)	60
Second-Class Reentry Fee	35
Second-Class Registration for News Agents	35
Third-Class Bulk Mailing Fee	50
Fourth-Class Special Mail Presorted Mailing Fee	50
Authorization to Use Permit Imprint	50
Merchandise Return (per facility receiving merchandise return labels)	50

[FR Doc. 85–17002 Filed 7–16–85; 8:45 am]

BILLING CODE 7710–12

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–14624; (812–5833) Administrative Proceeding File No. 3–6539]

Narragansett Capital Corp. et al.; Notice of and Order for Hearing on Application

July 10, 1985.

On February 15, 1985, the Commission issued a notice (Investment Company Release No. 14380) of an application filed by Narragansett Capital Corporation ("Narragansett") and Narragansett Venture Corporation ("NVC") (both registered under the Investment Company Act of 1940 ("Act") as closed-end non-diversified management investment companies, and jointly referred to hereinafter as the "Corporate Applicants"), Arthur D. Little, Robert D. Manchester, William P. Lane, Gregory P. Barber, Roger A. Vandenberg, and Paul A. Giusti (collectively, the "Individual Applicants"), Narragansett Capital Associates, Narragansett Capital Partners ("Partners"), Narragansett Acquisition Corporation, Inc., Narragansett General Partners, Narragansett Venture Partners ("Venture"), and Narragansett Management Company (collectively referred to as the "Management Partners' Companies"), Narragansett Administration Corporation, Narragansett Management Partners, Narragansett First Fund, NFF Investments, Inc., and Cable Investments, Inc. (the "Other Applicants") (the Corporate Applicants, Individual Applicants, Management Partners' Companies, and the Other Applicants are hereinafter collectively referred to as the "Applicants"), all of 40 Westminster Street, Providence, RI 02903, requesting an order of the Commission (1) pursuant to sections 17(b) and 57(c) of the Act and Rule 17b–1 thereunder exempting from Sections 17(a) and 57(a) and permitting under sections 17(d) and 57(a)(4) and Rule 17d–1 thereunder transactions by which the Individual Applicants, Narragansett's senior management, would take over Narragansett in a leveraged buyout (the "Purchase") that ultimately would result in a privately-held firm not subject to the Act; (2) pursuant to section 6(c) exempting

Partners, a Rhode Island limited partnership, from all of the provisions of the Act except sections 9, 17, 30, 31, 36(a), 37, 42 and 44; (3) pursuant to sections 6(c) and 17(b) and Rule 17d–1 exempting certain transactions from sections 17(a) and 17(e) and permitting certain transactions under Rule 17d–1; and (4) pursuant to section 6(c) exempting Venture from all provisions of the Act in the event Venture assumes certain obligations of NVC. That notice, which is incorporated herein by reference, gave interested persons until March 11, 1985, to file a request in writing for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for the request, and the issues of fact or law proposed to be controverted.

On March 5 and 6, 1985, requests for a hearing were filed with the Commission by Messrs. Benjamin Stein and Richard Lessler (the "Objectors"), both shareholders of Narragansett. Those requests were supplemented by letters dated March 11, and March 22. Counsel to Narragansett on April 19, 1985, filed a letter responding to the contentions made by the Objectors in their hearing requests, to which Mr. Stein filed a response dated May 1, 1985. The Objectors contend that the terms of the Purchase are unfair to Narragansett's shareholders in regard to the adequacy of the consideration to be paid, the difference in treatment between the Individual Applicants and the shareholders of Narragansett, and the failure to afford Narragansett shareholders who qualify as "accredited investors" under Regulation D the opportunity to invest in Partners. The Objectors contend that the Purchase, therefore, does not meet the standards for exemptive reflief set forth in sections 17(b), 17(d), 57(a)(4) and 57(c), and Rule 17d–1.[1]

It appears to the Commission that it is appropriate in the public interest and in the interest of investors that a hearing be held with respect to the application. Accordingly,

It is ordered, pursuant to section 40(a) of the Act, that a hearing on the application under the applicable provisions of the Act and Rules of the Commission thereunder be held at a time and place to be fixed by further order as provided by Rule 6 of the Commission's Rules of Practice (17 CFR 201.6), and that an Administrative Law Judge to be designated by further order preside at said hearing. Any person, other than the Applicants, desiring to be heard or otherwise wishing to participate in this proceeding is directed to file with the Secretary of the Commission, on or before August 5, 1985, an application as provided by Rule 9(c) of the Commission's Rules of Practice (17 CFR 201.9(c), setting forth the nature and extent of his interest in the proceeding and any issues of fact or law which he desires to controvert, or any additional issues which he deems raised by this Notice and Order or by said application. A copy of that request shall be served personally upon the Applicants at the address noted above, and proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. Persons filing an application to participate or to be heard will receive notice of the date and place of the hearing, and any adjournments thereof, as well as other actions of the Commission involving the subject matter of this proceeding.

The Division of Investment Management has advised the Commission that it has made an examination of the application, the request for hearing, and the response to such request by counsel to Applicant and that, upon the basis thereof, the following matters and questions are presented for consideration without prejudice to its specifying additional matters and questions upon further examination:

(1) Whether the Purchase, including the consideration to be paid for the assets of Narragansett, is fair and reasonable and free and overreaching on the part of any person concerned, consistent with the policies of Narragansett and NVC as stated in their registration statements, and consistent with the provisions, policies and purposes of the Act;

(2) Whether the Individual Applicants are participating in the Purchase on a basis more advantageous than that on which the shareholders of Narragansett are participating, and, if so, whether that difference is fair and reasonable; and

(3) Whether the offer of interests in Partners only to some Narragansett shareholders is fair.[2]

It is further ordered that at the aforesaid hearing attention should be given to the foregoing matters.

It is further ordered that the Division of Investment Management shall be a party to the proceeding.

It is further ordered that the Secretary of the Commission shall give notice of the aforesaid hearing by mailing a copy of this Notice and Order by certified mail to the Applicants at the address noted above and to the Objectors and various other persons who have written to the Commission expressing their views on this matter; that notice to all other persons be given by publication of this Notice and Order in the **Federal Register**; that a copy of this Notice and Order shall be published in the "SEC Docket"; and that an announcement of the aforesaid hearing shall be included in the "SEC News Digest".

By the Commission.

John Wheeler,

Secretary.

[FR Doc. 85–17007 Filed 7–16–85; 8:45 am]

BILLING CODE 8010–01–M

[File No. 22–13802]

Application and Opportunity for Hearing; Union Tank Car Co.

July 10, 1985.

Notice is hereby given that Union Tank Car Company (the "Applicant") has filed an application under Clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of The First National Bank of Chicago under five existing indentures, two of which were qualified under the Act, and the proposed trusteeship of The First National Bank of Chicago under a new indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the First National Bank of Chicago from acting as trustee under any of such indentures.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in such Section), it shall within ninety days after ascertaining that it has

[1] The Objectors also raise a number of other questions. For example, Mr. Stein's hearing request questions the underlying rationale for the Purchase as set out in the application: Narragansett's difficulties in operating as a regulated investment company under the Internal Revenue Code. Mr. Stein also questions whether the negotiations between the Individual Applicants and the Special Committee over the terms of the Purchase were in fact conducted, insofar as possible, in a truly arm's length fashion. The Applicants point to the arm's length nature of the negotiations as supporting the fairness of the Purchase. The Objectors' letters also raise questions concerning possible breaches of fiduciary duty by Narragansett's officers and directors.

[2] As noted in footnote 1, above, the Objectors also raise a number of other questions. The Administrative Law Judge assigned to the hearing will have discretion to allow any of those issues that he deems relevant to be considered.

such conflicting interest either eliminate such conflicting interest or resign. Subsection (1) of such Section provides that, with certain exceptions, a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which other securities of the same obligor are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the same obligor are outstanding, if the obligor shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that the trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under any of such indentures.

The applicant alleges that:

(1) The First National Bank of Chicago is presently acting as trustee under the Company's Series 4 Equipment Trust Agreement dated as of April 1, 1969, Series 16 Equipment Trust Agreement dated as of June 1, 1979, Series C–1 Deed of Trust and Mortgage dated as of September 15, 1974, Series P–1 Equipment Trust Agreement dated as of April 1, 1974 and Series P–2 Equipment Trust Agreement dated as of December 1, 1978. The aggregate principal amount outstanding as of February 28, 1985, was as follows:

Series and Principal Amount

4—$4,990,000
16—$48,935,000
C–1—$13,938,000
P–1—$2,967,052
P–2—$49,410,000

(2) The Equipment Trust Certificates (or, in the case of Series C–1, the First Mortgage Sinking Fund Equipment Notes) issued under the Series 4, Series 16, Series C–1, Series P–1 and Series P–2 Trust Agreements are each secured by a separate lot of identified railraod cars as will be the Equipment Trust Certificates issued under the proposed Series P–4 Agreement, so that, should The First National Bank of Chicago have the occasion to proceed against the security of any of these Equipment Trusts, such action would not affect the security, or the use of any security, under the other Equipment Trusts. Thus, the existence of the other trusteeships should in no way inhibit or discourage the trustee's action.

(3) The Applicant is not in default under any of its Equipment Trust obligations.

(4) Such differences as exist between the Series P–4 indenture and the existing indentures for which The First National Bank of Chicago is presently acting as trustee are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify The First National Bank of Chicago from acting as trustee under any of said indentures.

The Applicant has waived hearing, notice of hearing, and any and all rights to specify procedures under the Rules of Practice of the Commission with respect to the application.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the Office of the Commission at 450–5th Street, NW., Judiciary Plaza, Washington, D.C. 20549

Notice is further given that any interested person may, not later than August 5, 1985, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon.

Any such request should be addressed: Secretary, Securities and Exchange Commission, 450–5th Street, N.W., Judiciary Plaza, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–17008 Filed 7–16–85; 8:45am]

BILLING CODE 8010–01–M

[Release No. 22223; File No. SR–CBOE–85–10]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc. ("CBOE"); Order Approving Proposed Rule Change

The Chicago Board Options Exchange, Inc. ("CBOE") submitted on March 22, 1985, copies of proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder, to provide that stop and stop limit orders in the Standard and Poors 100 Index ("OEX") become effective when either a transaction has occurred at the stop price or the market quotation on the same side of the market equals the price on the order.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Release No. 21926, April 8, 1985) and by publication in the **Federal Register** (50 FR 14482, April 12, 1985). No comments were received with respect to the proposed rule filing.

The CBOE states that the proposed rule change is intended to make the handling of stop and stop limit orders in OEX options more manageable than they are under the current rule. Due to the noise level and size of the OEX trading pit, it may not be possible for a floor broker to hear a trade causing a stop or stop limit order to become effective. Because current market quotations are displayed on screens, however, a floor broker can see the relationship of the current market quoatation with stop and stop limit orders in his desk. Therefore, in order to permit the use of stop and stop limit orders in OEX on a workable basis, the proposed rule change would cause stop and stop limit orders to become effective based upon relationships with transactions or quotations.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to as self-regulatory organization and, in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(1) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 11, 1985.

John Wheeler,

Secretary.

[Fr Doc. 85–17005 Filed 7–16–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–22228; SR–CBOE–85–29]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

The Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted

on July 5, 1985, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder, to amend CBOE Rule 21.25, Interpretation .02 regarding margin requirements for Treasury note ("T-note") options. The rule as amended provides that CBOE approved T-notes, other than T-notes which underlie the T-note option, may collateralize a Treasury security escrow receipt, provided that the notes have a maturity date in excess of one year but less than five years, three months.

The CBOE submitted the proposal in connection with its proposal to trade options on five-year Treasury notes.[1] The Exchange anticipates that options writing programs on T-note contracts will be affected on a covered basis through the use of escrow receipts issued by a bank. The CBOE believes that institutions will use options strategies to hedge portfolios composed of various T-notes, not all of which specifically underlie the T-note options. Under the proposal, notes of a single coupon/maturity could be held in escrow against one specific T-note option contract. The CBOE believes that this approach will provide institutional investors flexibility in managing their investments as well as provide for liquidity in the note options market.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days from the date of publication of the submission in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Reference should be made to File No. SR–CBOE–85–29.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available at the principal office of the CBOE.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a self-regulatory organization and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the Commission recently approved the CBOE's proposal to trade a five-year T-note option contract, and trading in the contract commenced on the CBOE on July 8, 1985. In addition, the Commission previously has approved the use of escrow receipts collateralized by Treasury bonds in connection with the CBOE's Treasury bond option contract [2] and no comments were directly received by the Commission regarding that proposal.[3]

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 11, 1985.

John Wheeler,

Secretary.

[FR Doc. 85–17004 Filed 7–16–85; 8:45 am]

BILLING CODE 8010–01–M

[1] The CBOE's T-note contract recently was approved by the Commission in Securities Exchange Act Release No. 22215 (July 5, 1985).

[2] Securities Exchange Act Release No. 21888 (March 25, 1985), 50 FR 12671 (March 29, 1985).

[3] The CBOE did, however, forward to the Commission a letter from the staff of the Board of Governors of the Federal Reserve Systems indicating that they did not object to the proposal. *See* letter from Laura Homer, Securities Credit Officer, Board of Governors of the Federal Reserve System, to Mary Bender, Assistant Vice President, CBOE, dated November 16, 1984.

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

July 11, 1985.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Ahmanson (H.F.) & Co. (Delaware)
Common Stock, $1.00 Par Value (File No. 7–8481)
Alaska Air Group Inc. (Delaware)
Common Stock, $1.00 Par Value (File No. 7–8482)
American Water Works Co., Inc.
Common Stock, $2.50 Par Value (File No. 7–8483)
AZP Group Inc.
Common Stock, $2.50 Par Value (File No. 7–8484)
Crane Co. (Delaware)
Common Stock, $6.25 Par Value (File No. 7–8485)
Holiday Corp. (Delaware)
Common Stock, $1.50 Par Value (File No. 7–8486)
Staley Continental Inc.
Common Stock, $0.01 Par Value (File No. 7–8487)
Texscan Corp. (Delaware)
No Par Value Common (File No. 7–8488)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 1, 1985, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–17010 Filed 7–16–85; 8:45 am]

BILLING CODE 8010–01–m

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

July 11, 1985.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

SunTrust Banks, Inc.
Common Stock, $1.00 Par Value (File No. 7-8489)
Castle & Cooke, Inc.
$.90 Convertible Preferred Stock, No Par Value (File No. 7-8490)
British Telecommunications PLC
Secondary Interim American Depository Receipts (File No. 7-8491)
M.D.C. Holdings, Inc. (Delaware)
Common Stock, $.01 Par Value (File No. 7-8492)
CNW Corporation (Holding Company)
Common Stock, $.028 Par Value (File No. 7-8493)
Green Tree Acceptance Inc.
Common Stock, $.01 Par Value (File No. 7-8494)
Lorimar
Common Stock, No Par Value (File No. 7-8495)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 1, 1985, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-17012 Filed 7-16-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22218; File No. SR-MSE-85-6]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Stock Exchange, Incorporated Relating to the MSE Trading Floor Manual (Rules and Procedures for Trading on the MSE Floor)

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 21, 1985, the Midwest Stock Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Attached to the filing as Exhibit A are proposed amendments to MSE's Trading Floor Manual (Rules and Procedures for Trading on the Midwest Stock Exchange, Incorporated Floor, "Blue Book") and Article XXX, Rule 6 and Article XXXIV, Rule 9 of the Rules of the Midwest Stock Exchange, Inc.

II. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

Proposed Amendments to MSE Trading Floor Manual Blue Book Section C, Rule 1—Quoting the Market Before the Opening of an Issue—The current Blue Book rule states that if quotations were given on the MSE Floor before the opening of an issue in the primary market, such quotations would be approximate quotations. Pursuant to the Firm Quote Rule, any quote disseminated must be a firm quote. The Blue Book change will adopt new language which would allow a MSE Specialist to disseminate a quote prior to the opening of an issue as long as such quote is firm and available to any order seeking execution at the disseminated price.

Blue Book Section C, Rule 2—Independent Dual Issue Openings—The proposed rule change will make it a requirement for a MSE Specialist to display a continuous two-sided after-market when such MSE Specialist independently opens a dually listed issue, even if a floor firm fails to provide subsequent orders as may have been previously negotiated.

Blue Book Section C, Rule 10—Limit Orders at the Opening—The intent of the current Blue Book rule is that the MSE Specialist should not be required to fill a limit order only on the basis that the issue opened in the primary market at the same price of the limit order in the MSE Book, but would require price or quote penetration of the price of the order. The proposed change codifies this interpretation and explicitly provides that the Specialists will not have to execute a limit order unless the bid or offer at the limit price is exhausted in the primary market.

Blue Book Section C, Rule 18—Business Hours—The proposed change is designed to insure that the Specialist's Book is properly represented by the Specialist, Co-Specialist or Relief Specialist during the trading session. The proposed rule change also provides that the Post should be adequately staffed during the designated non-trading hours by personnel authorized to check, adjust and correct trades. The change also authorizes the Committee on Floor Procedure to adjust the time requirements in unusual trading periods.

Cabinet Procedures—The Midwest Stock Exchange has reviewed the procedures and practices followed on the MSE Floor with regard to trading in issues designated in the Cabinet Post. The proposed procedures will be incorporated into the MSE Trading Floor Manual when approved.

Proposed Amendments to MSE Rules

Article XXX, Rule 6—Opening the Market Where Unusual Conditions Exist—The proposed change will provide for two members of the Committee on Floor Procedure to be called to rule on the opening of an issue on the MSE Floor where unusual conditions exist. The rule also includes a procedure to break a possible impass by the two members originally called to rule on the matter. This proposed amendment will be incorporated into the proposed Blue Book amendment to Section C, Rule 2, when approved.

Article XXXIV, Rule 9—Openings—The proposed change will codify the current interpretation that Market Makers may participate in the net Midwest Stock Exchange imbalance of purchase and sales orders on the Exchange.

Basis

The proposed rule change is consistent with section 6(b) of the Securities Exchange Act of 1934 in that it is designed to promote just and

equitable principles of trade and will foster cooperation among persons engaged in regulating and facilitating transactions in securities.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Stock Exchange, Incorporated does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The proposed changes were developed by a subcommittee of the Floor Procedure Committee and subsequently endorsed by the full Committee.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, 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 NW., Washington, D.C. Copies of the filing will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to the caption above and should be submitted by August 7, 1985.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-17013 Filed 7-16-85; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Pacific Stock Exchange, Inc.

July 11, 1985.

The above named national securities exchange has filed application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stock:

Hasbro, Inc.
Common Stock, $0.50 Par Value (File No. 7-8467)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 1, 1985, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-17009 Filed 7-16-85; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

July 11, 1985.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Prime Motor Inns, Inc.
Common Stock, $0.05 Par Value (File No. 7-8476)
Telerate, Inc.
Common Stock, $0.01 Par Value (File No. 7-8477)
Torchmark Corporation
Common Stock, $2 Par Value (File No. 7-8478)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 1, 1985, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-17006 Filed 7-16-85; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review of Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Revision

Rule 15Ba2-1, Form MSD
No. 270-88

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission has submitted for OMB approval revised Rule 15Ba2-1 (17 CFR 240.15Ba2-1) and Form MSD, 17 CFR 249.1100 under the Securities and Exchange Act of 1934 (15 U.S.C. 78 et seq.), which require that an application in the form of Form MSD be filed by bank municipal securities dealers with the Commission. The

potential affected persons are approximately 24 bank municipal securities dealers per year.

Submit comments to OMB Desk Officer: Ms. Katie Lewin, (202) 395-7231, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

John Wheeler,

Secretary.

July 10, 1985.

[FR Doc. 85-16950 Filed 7-16-85; 8:45 am]

BILLING CODE 8010-01

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

July 10, 1985.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities and Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following security: Pulte Home Corporation.

Common Stock, $.01 par value, per share, (File No. 7-8466) This security is listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 31, 1985, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-16947 Filed 7-16-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22220; File No. SR-PHLX 85-21]

Self-Regulatory Organization; Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Deletion of ROT Attendance Requirement

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 27, 1985 the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("Exchange" or "PHLX") proposes to amend its Rule 1014, Commentary .14, as follows:

[Brackets] indicate material proposed to be deleted:

Within each quarter an ROT [shall spend 50% of the business days on the trading floor of the Exchange and] shall trade as principal a specified number of contracts, such number to be determined from time to time by the Committee on Options. [To meet the percentage requirement of this provision, a member registered as an ROT must spend, for each business day that such member is present, a substantial portion of that business day on the PHLX option floor.]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of the proposed rule change is to delete what the Exchange now considers an outdated and unnecessary attendance requirement from an Exchange market-maker's various obligations. It should be noted that this provision was not a requirement under Exchange Rule 1014 as originally adopted. Rather, it was made a part of such rule in 1978 in an attempt to make Exchange options markets deeper, more liquid and more competitive. The Exchange established this attendance requirement to serve as an impetus to market-makers for spending substantial amounts of their time present and trading on the options floor.

Since then, fortunately, the liquidity and activity on the options floor has so grown that this attendance requirement is now believed to be entirely unnecessary.

Moreover, staff have found it difficult to monitor compliance with, and enforce, this requirement daily. Staff, recently, have monitored compliance by having market surveillance department personnel take daily attendance, which has proved to be cumbersome. The benefits of implementing a more effective system of monitoring compliance, such as automated ticket-punching, are believed to be outweighed by the costs of perpetuating a requirement unsuited to present business circumstances.

B. Self-Regulatory Organizations Statement on Burden on Competition

The Exchange believes the proposed rule change will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments were neither solicited nor received from the Exchange membership.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and

publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, 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, NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by August 7, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

July 10, 1985.

[FR Doc. 85-16949 Filed 7-16-85; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-85-17]

Petition for Exemption; Summary of Petitions Received, Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: July 29, 1985.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on July 10, 1985.

Richard C. Beitel,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
23994-1	Atlantic Richfield	14 CFR § 91.303	To allow petitioner to operate one Stage 1 B707-123B aircraft until hush kits are installed.
24032-1	Aerolineas Nacionales Del Ecuador, S.A.	14 CFR § 91.303	To allow petitioner to operate one Stage 1 DC-8-33F until a replacement aircraft is available.

[FR Doc. 85-16893 Filed 7-16-85; 8:45 am]

BILLING CODE 4910-13-M

Research and Special Programs Administrations

High Pressure Composite Hoop Wrapped Cylinders 4500 p.s.i.g. Marked Service; Cylinders-85-3

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: DOT-E 7235, Exemption related notice.

SUMMARY: On August 11, 1983 (48 FR 36559), the MTB published a notice that Luxfer USA Limited (Luxfer) had initiated a recall of cylinders manufactured in 1982 under exemption DOT-E 7235 and bearing serial numbers WA43160 through WA50178 and WF 20321 through WF21548. A number of cylinders remain in service and may present a serious safety problem.

FOR FURTHER INFORMATION CONTACT: Arthur J. Mallen, Office of Hazardous Materials Regulation, Materials Transportation Bureau (DMT-22), 400 Seventh Street, SW., Washington, D.C. 20590, (202) 755-4906. Office hours are: 8:30 a.m. to 5:00 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION: It was the opinion of Luxfer that cylinder failures which prompted the recall were probably caused by a higher than normal composition of lead and bismuth in one cast of material. The **Federal Register** notice (48 FR 36559) required all such cylinders to be removed from service and recommended that they be returned for replacement to the company or distributor from whom they were purchased.

A June 11, 1985 status report from Luxfer indicates that 176 affected cylinders are still unaccounted for and are assumed to be still in service. It is imperatiave that these remaining cylinders be located and removed from service. The 176 unaccounted for cylinders bear the following serial numbers:

WA43189	WA43252
WA43191	WA43260
WA43208	WA43276
WA43218	WA43291
WA43242	WA43294

WA43330 WA44650
WA43349 WA44707
WA43368 WA44717
WA43372 WA44763
WA43375 WA44765
WA43376 WA44788
WA43380 WA44951
WA43381 WA45108
WA43382 WA45152
WA43383 WA45168
WA43385 WA45182
WA43388 WA45195
WA43391 WA45438
WA43392 WA45454
WA43398 WA45514
WA43410 WA45558
WA43417 WA45581
WA43451 WA45840
WA43456 WA45854
WA43476 WA45906
WA43507 WA45952
WA43520 WA46049
WA43549 WA46069
WA43550 WA46168
WA43556 WA46240
WA43571 WA46357
WA43573 WA46359
WA43598 WA46504
WA43622 WA46587
WA43625 WA46724
WA43627 WA46747
WA43628 WA46772
WA43629 WA46812
WA43634 WA47241
WA43644 WA47424
WA43657 WA47608
WA43668 WA47784
WA43716 WA47109
WA43724 WA47321
WA43725 WF20322
WA43732 WF20334
WA42758 WF20438
WA43759 WF20497
WA42763 WF20500
WA43784 WF20545
WA43785 WF20556
WA43796 WF20573
WA43807 WF20614
WA43887 WF20620
WA43894 WF20631
WA43928 WF20644
WA43984 WF20647
WA44113 WF20654
WA44147 WF20659
WA44150 WF20662
WA44156 WF20663
WA44171 WF20743
WA44190 WF20744
WA44193 WF20751
WA44195 WF20765
WA44219 WF20758
WA44230 WF20756
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WA44255 WF20769
WA44256 WF20776
WA44259 WF20788
WA44278 WF20799
WA44292 WF20877
WA44293 WF20891
WA44302 WF20927
WA44317 WF21383
WA44337 WF21410
WA44351 WF21421
WA44373 WF21423
WA44399 WF21439
WA44405 WF21445
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WA44428 WF21470
WA44433 WF21491
WA44457 WF21513
WA44464 WF21528
WA44540 WF21546
WA44590

Users of these cylinders should be advised that serious personal injury, death or property damage could result from the rupture of a cylinder. Accordingly, all persons owning, using or having access to the cylinders subject to the recall should immedaitely take the following precautions:

1. If a cylinder has been filled, its entire contents should be vented in order to relieve internal pressure.

2. The vented cylinders should be segregated from all other cylinders by being placed in a secure place and marked conspicuously with a tag bearing the notation "Do Not Use" or similar warning.

3. Under no circumstances should any of the cylinders in question be sold or otherwise transferred, filled, refilled or used for any purpose.

Once the above procedures have been implemented, all cylinders bearing the serial numbers indicated should be returned for replacement to the company or distributor from whom they were purchased.

(49 U.S.C. 1804(c), 1805(a) and 1808(d)(3))

Issued in Washington, D.C. on July 12, 1985, under authority delegated in 49 CFR Part 106, Appendix A.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 85-16972 Filed 7-16-85; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

[General Counsel Order No. 21 (Rev. 5)]

Appointment of Members of the Legal Division to the Performance Review Board

Under the authority granted to me as General Counsel of the Department of the Treasury by 31 U.S.C. 301 and 26 U.S.C. 7801, Treasury Department Order No. 101-5 (Revised), and pursuant to the Civil Service Reform Act, I hereby appoint the following persons to the Legal Division Performance Review Board:

(1) For the General Panel—
- Chairperson, Margery Waxman
- Richard V. Fitzgerald
- Selig S. Merber
- Walter T. Eccard
- Richard A. Abbey
- Marvin J. Dessler

(2) For the IRS Panel—
- Chairperson, the Deputy Chief Counsel, Internal Revenue Service
- Deputy General Counsel
- An Associate Chief Counsel for the Internal Revenue Service
- A rotating Regional Counsel
- A rotating Division Director of the Internal Revenue Service and such other SES officials as designated by the Chief Counsel

I hereby delegate to the Chief Counsel for the Internal Revenue Service the authority to make the appointments specified in this Order to the IRS Panel and to make the publication required by section 4314(c)(4) of 5 U.S. Code of the members of the IRS Panel.

Effective Date: July 11, 1985.

Robert M. Kimmitt,

General Counsel.

[FR Doc. 85-16923 Filed 7-16-85; 8:45 am]

BILLING CODE 4810-25-M

Fiscal Service

Ideal Mutual Insurance Co.; Surety Companies Acceptable on Federal Bonds: Liquidation

Ideal Mutual Insurance Company, a New York corporation, formerly held a Certificate of Authority as an acceptable surety on Federal bonds and was last listed as such at 48 FR 30535, July 1, 1983. The company's authority was terminated by the Department of the Treasury effective July 20, 1984. Notice of the termination was published in the **Federal Register** of August 3, 1984, on page 31190.

There is printed below a copy of a notice dated February 7, 1985, issued by the New York Insurance Department, indicating the company is now being liquidated. Please note the notice stipulates liabilities are fixed as of February 7, 1985 and that all claims against the company must be filed on or before February 7, 1986.

Government agencies involved in Federal surety bonding operations where third parties such as subcontractors, materialmen, and suppliers may have a claim against the company are requested to use their best efforts to notify such third parties of the liquidation, assist them in filing claims, inform them of their priority status based on section 3713 of the United States Code and provide them with copies of the Notice of Liquidation, if priority status is not being granted, please notify the Department of the Treasury at the address indicated below.

Government agencies should be aware that, where reinsurance was obtained on a bond, the reinsuring company may be liable to the United States Government for the full amount of the reinsurance or the full amount of the default, whichever is less.

Questions concerning claims against the company may be directed to Joseph A. La Monte, Special Deputy Superintendent of Insurance at the address given in the Liquidation Notice. Copies of the Proof of Claim form may be obtained from the same office.

Questions concerning this notice may be directed to the Surety Bond Branch, Finance Division, Financial Management Service, Department of the Treasury, Washington, D.C. 20226, telephone (202) 634–2319. An information notice containing additional information concerning the filing of claims will be distributed by this office to Federal agencies.

Dated: July 2, 1985.

W. E. Douglas,

Commissioner, Financial Management Service.

BILLING CODE 4810-35-M

NOTICE OF LIQUIDATION

STATE OF NEW YORK
INSURANCE DEPARTMENT
LIQUIDATION BUREAU
116 JOHN STREET, NEW YORK, NEW YORK 10038 (212) 285-0500

To the Debtors, Creditors, Policyholders
Stockholders, Persons having claims
against Policyholders, and all other Persons
Interested in the affairs of
IDEAL MUTUAL INSURANCE COMPANY

Notice Is Hereby Given:

I. JAMES P. CORCORAN, Superintendent of Insurance of the State of New York has been directed by an Order of the Supreme Court, New York County, entered on February 7, 1985 to take possession of the property of IDEAL MUTUAL INSURANCE COMPANY and to liquidate its business pursuant to Article 74 of the Insurance Law of the State of New York. The undersigned has, pursuant to said Article, appointed JOSEPH A. LA MONTE, Special Deputy Superintendent of Insurance, as his agent to liquidate the business of said company at the office of the said Deputy, 116 John Street, Borough of Manhattan, City and State of New York, 10038.

II. JAMES P. CORCORAN, Superintendent of Insurance of the State of New York has been directed by an Order of the Supreme Court, New York County, entered on December 26, 1984 to rehabilitate IDEAL MUTUAL INSURANCE COMPANY pursuant to Article 74 of the Insurance Law of the State of New York. Pursuant to this Order the rights and liabilities of said Company and of all persons under insurance obligations of said Company will cease and are fixed as of January 26, 1985, 12:01 A.M. Eastern Standard Time. To have continuing coverage, all persons whose policies are now in force are required to replace such policies in another Company before January 26, 1985.

III. The Liquidation Order further provides that all other subsisting contracts and other obligations of the Company terminate and all other liability thereunder cease and be fixed as of February 7, 1985.

IV. All persons indebted to or having any property of said Company in their possession are hereby required forthwith to render an account of said indebtedness and to pay the same and deliver such property to the Liquidator at his office above stated.

V. All creditors of IDEAL MUTUAL INSURANCE COMPANY and all persons having any unsatisfied claims or demands against it or its policyholders are hereby required to present the same in writing duly subscribed and affirmed by him as true to JOSEPH A. LA MONTE at his office above stated ON OR BEFORE FEBRUARY 7, 1986 WHICH IS THE LAST DAY SET BY THE COURT ORDER FOR THE FILING OF CLAIMS IN THE LIQUIDATION PROCEEDING. A form of proof of claims is furnished herewith.

VI. ALL POLICYHOLDERS ARE REQUIRED TO FILE A CLAIM FOR THEIR POLICY PROTECTION WHETHER OR NOT A CLAIM HAS BEEN FILED AGAINST THE POLICYHOLDER IN THE SAME FORM AS SET FORTH IN PARAGRAPH V OF THIS NOTICE.

VII. All persons and policyholders against whom actions are now pending who do not come within the provisions of Sections 7601, 7603, 7604 of the New York Insurance Law, concerning which the Company may be liable on its policies or contracts and which have been defended up to the date of the order of liquidation by an attorney employed or retained by the Company, are advised that the employment or retention of said attorney has been terminated by the entry of the Order of Liquidation. EACH SUCH PERSON IS THEREFORE ADVISED TO CONTACT THE INSURANCE DEPARTMENT, GUARANTY FUND OR ASSOCIATION IN YOUR STATE, RETAIN THE SAID ATTORNEY AS YOUR ATTORNEY TO CONTINUE TO REPRESENT YOU IN THE ACTION, OR SUBSTITUTE AN ATTORNEY OF YOUR CHOICE, AT YOUR OWN EXPENSE. Reasonable and necessary expenses in relation thereto may be included and be the part of the subject matter of your claim in the liquidation proceeding, if not provided by a State Guaranty Fund or Association.

VIII. Liabilities will be determined as to all claims duly presented and all assets will be distributed in accordance with the Insurance Law of the State of New York without further notice to persons failing to present claims within the aforesaid time.

IX. All communications and transactions relating to the Company and to the liquidation thereof should be addressed to said JOSEPH A. LA MONTE at his office above stated.

Dated: New York, New York, February 7, 1985.

JAMES P. CORCORAN
Superintendent of Insurance
of the State of New York, as Liquidator

JOSEPH A. LA MONTE
Special Deputy Superintendent of Insurance,
as Agent for the Superintendent, as Liquidator

[FR Doc. 85-16918 Filed 7-16-85; 8:45 am]
BILLING CODE 4810-35-C

Sunshine Act Meetings

Federal Register
Vol. 50, No. 137
Wednesday, July 17, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:18 p.m. on Friday, July 12, 1985, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to adopt a resolution making funds available for the payment of insured deposits made in The Crossroads State Bank, Oklahoma City, Oklahoma, which was closed by the Bank Commissioner for the State of Oklahoma on Thursday, July 11, 1985.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director H. Joe Selby (Acting Comptroller of the Currency), 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 the public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: July 12, 1985.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[FR Doc. 85-17056 Filed 7-15-85; 1:38 pm]
BILLING CODE 6714-01-M

2

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. No. 50, Page No.—None at this time. Date Published—Thursday, July 11, 1985.

PLACE: In the Board Room, 6th Floor, 1700 G St., NW., Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravlee (202-377-6679).

CHANGES IN THE MEETING: The meetings scheduled for Thursday, July 18th, at 10:00 a.m. and Friday, July 19th, at 10:30 a.m. have been canceled.

Jeff Sconyers
Secretary.

No. 16, July 12, 1985.

[FR Doc. 85-17014 Filed 7-12-85; 5:13 pm]
BILLING CODE 6720-01-M

3

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 11:00 a.m., Monday, July 22, 1985.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed purchase of computers within the Federal Reserve System.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202)452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: July 12, 1985.
James McAfee,
Associate Secretary of the Board.
[FR Doc. 85-17000 Filed 7-12-85; 4:53 pm]
BILLING CODE 6210-01-M

4

FEDERAL RESERVE SYSTEM

(Board of Governors)

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 50 FR 28060, July 9, 1985.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11:00 a.m., Monday, July 15, 1985.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added: Implementation of the Board's Program Improvement Project. (This item was originally announced for a closed meeting on July 1, 1985.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: July 15, 1985.
James McAfee,
Associate Secretary of the Board.
[FR. Doc. 85-17099 Filed 7-15-85; 3:57 p.m.]
BILLING CODE 6210-01-M

5

NATIONAL MEDIATION BOARD

TIME AND DATE: 2:00 p.m., Wednesday, August 7, 1985.

PLACE: Board Hearing Room, 8th Floor, 1425 K. Street, NW., Washington, DC

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of the Board actions taken by notation voting during the month of July 1985.
2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Secretary's office following the meeting.

CONTACT PERSON FOR MORE INFORMATON: Mr. Rowland K. Quinn, Jr., Executive Secretary, Tel: (202) 523-5920.

DATE OF NOTICE: July 11, 1985.

Rowland K. Quinn, Jr.

Executive Secretary, National Mediation Board.

[FR Doc. 85-17098 Filed 7-15-85; 3:57pm]

BILLING CODE 7550-01-M

6

PACFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Notice of Cancellation of Previously-Announced Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 50 FR 28303, July 11, 1985.

PREVIOUSLY ANNOUNCED TIME, DATE AND PLACE OF THE MEETING: 9:00 a.m., July 17-18, 1985, Council Offices, 850 SW. Broadway, Suite 1100, Portland, Oregon.

CHANGE IN THE MEETING: The Northwest Power Planning Council has cancelled the July 17-18 meeting it has previously announced. Public notice of this cancellation is being issued at the earliest practicable time. The possibility of such cancellation was indicated in the **Federal Register** notice published on July 11, and further notice of the cancellation is being provided to interested parties throughout the region by other means as well. The Council's next meeting will be held August 7-8 at the Council's office in Portland, Oregon.

FOR FORTHER INFORMATION CONTRACT: Ms. Bess Atkins, (503) 222-5161, or toll-free 1-800-222-3355 (Montana, Idaho or Washington) or 1-800-452-2324.

William R. Cook,

Associate Counsel.

[FR Doc. 85-17015 Filed 7-15-85; 9:44 am]

BILLING CODE 0000-00-M

7

POSTAL SERVICE

(Board of Governors)

Notice of Vote To Close Meeting

At its meeting on July 8, 1985, the Board of Governors of the United States Postal Service unanimously voted to close to public observation its meeting scheduled for August 5, 1985, in Anchorage, Alaska. The meeting will involve a discussion of personnel matters.

The meeting is expected to be attended by the following persons: Governors Camp, Griesemer, McKean, Peters, Ryan, Sullivan and Voss; Postmaster General Carlin; Deputy Postmaster General Strange; Secretary to the Board Harris; General Counsel Cox; and Counsel to the Governors Califano.

The Board of Governors has determined that, pursuant to section 552b(c)(6) of Title 5, United States, Code and § 7.3(f) of Title 39, Code of Federal Regulations, the discussion of personnel matters is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552b(b)), because it is likely to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. The Board also determined that the public interest does not require that the Board's discussion of this matter be open to the public.

In accordance with section 552b(f)(1) of Title 5, United States Code, and § 7.6(a) of Title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the meeting to be closed may properly be closed to public observation, pursuant to section 552b(c)(6) of Title 5 United States Code, and § 7.3(f) of Title 39, Code of Federal Regulations.

David F. Harris,

Secretary.

[FR Doc. 85-7003 Filed 7-15-85; 8:56 am]

BILLING CODE 7710-12-M

8

RAILROAD RETIREMENT BOARD

Public Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on July 23, 1985, 9:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611. The agenda for this meeting follows:

(1) Proposed Changes in the RUIA Regulations
(2) Canadian Service
(3) Part 261 of the Board's Regulations—Reopening Final Decisions Under the Railroad Retirement Act

The entire meeting will be open to the public. The person to contact for more information is Beatrice Ezerski, Secretary to the Board, COM No. 312-751-4920, FTS No. 387-4920.

Dated: July 12, 1985.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 85-17055 Filed 7-15-85; 1:38 pm]

BILLING CODE 7905-01-M

federal register

Wednesday
July 17, 1985

Part II

Environmental Protection Agency

40 CFR Parts 414 and 416

Organic Chemicals and Plastics and Synthetic Fibers; Point Source Category Effluent Limitations Guidelines Pretreatment Standards; and Standards of Performance for New Sources; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 414 and 416

[OW-FRL-2863-6]

Organic Chemicals and Plastics and Synthetic Fibers; Point Source Category Effluent Limitations Guidelines Pretreatment Standards; and Standards of Performance for New Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability and Request for Comments.

SUMMARY: The EPA proposed regulations on March 21, 1983, to limit effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works from organic chemicals, plastics and synthetic fibers (OCPSF) manufacturing facilities (48 FR 11828). The comment period on the proposed regulations, originally scheduled to close on June 19, 1983, was extended to August 3, 1983, by the Agency to allow increased participation by interested parties (48 FR 24138). EPA announces today the availability for public review and comment of technical and economic data and related documentation received after proposal of the regulations. Pertinent portions of the public record include: (1) Definition and Subcategorization of the Organic Chemicals, Plastics and Synthetic Fibers Point Source Category, (2) Technology Basis for BPT Regulatory Options and Derivation of Effluent Limitations, (3) Technology Basis for BAT Regulatory Options and Derivation of Effluent Limitations, (4) Technology Basis for PSES Regulatory Options and Derivation of Effluent Standards, (5) Costing Documentation and Notice of New Information Report, (6) Evaluation of the Validity of Using Form 2C Data to Characterize Process Wastewater, and (7) Calculation of Priority Pollutant Waste Loads.

Based upon this new information, EPA has conducted new analyses and presents the results of these analyses and several sets of regulatory options. The final regulations may incorporate any of these options, any of the options previously set forth in the notice of proposed regulations, or any combination of these options. EPA solicits comments on these regulatory options.

DATES: Comments must be submitted on or before October 15, 1985.

ADDRESS: Comments may be mailed to E.H. Forsht, Industrial Technology Division (WH-552), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, Attention: ITD Docket Clerk, Organic Chemicals, Plastics and Synthetic Fibers (OCPSF) Rules; or delivered to the Docket Clerk, Room 911, East Tower, Waterside Mall, between the hours of 9:00 a.m. and 4:00 p.m. The Agency requests that commenters submit their comments and supporting documentation in triplicate. The supplementary information and data received and the revised technical and economic data evaluation summaries will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2402 (Rear), Waterside Mall, 401 M Street, SW., Washington, DC 20460. The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: E.H. Forsht (202) 382-7124 for information regarding the technical data, and Renee Rico (202) 382-5386 for information regarding the economic data. Copies of the draft economic analysis may be obtained by writing or calling Ms. Renee Rico, Analysis and Evaluation Division (WH-586), U.S. EPA, 401 M Street, SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

Organization of This Notice

I. Summary of Proposed Regulations

On March 21, 1983, EPA proposed regulations to control the discharge of wastewater pollutants from organic chemicals, plastics and synthetic fibers manufacturing operations to navigable waters and to publicly owned treatment works (POTWs) (48 FR 11828). The proposed regulations included effluent limitations based upon the best practicable control technology currently available (BPT), the best conventional pollutant control technology (BCT), the best available technology economically achievable (BAT), new source performance standards (NSPS), pretreatment standards for existing sources (PSES), and pretreatment standards for new sources (PSNS).

The notice of proposed rulemaking and the supporting technical development document explain the proposal fully. Below is a brief summary of key aspects of the proposal.

The proposed regulation separated the OCPSF industry into four subcategories for BPT, based predominately on the types of product/processes contributing to a plant's wastewater discharge. For BAT, proposed regulations were developed for two categories: one for the discharges from the manufacture of plastics and synthetic fibers (corresponding to the BPT Plastics Only subcategory) and the second for discharges from the manufacture of organic chemicals (corresponding to the other three BPT subcategories). The factors considered for subcategorization included raw materials used; products manufactured; production processes employed; wastewater characteristics and treatability; plant size, location and age; and treatment cost. Further discussion of the subcategorization scheme is presented in section IV(B) of this notice, Subcategorization.

The preamble to the proposed regulation and the development document presented a number of available control and treatment technologies which were generally practiced in the industry and considered in developing the proposed regulations. These technologies include in-process and end-of-pipe physical/chemical treatment systems and end-of-pipe biological treatment systems, as well as post-biological polishing ponds and physical/chemical treatment.

A. BPT

EPA based the proposed limitations on two technologies. The predominant technology used in the OCPSF industry, and thus the primary technology used as a basis for the proposed limitations, was biological treatment preceded by the necessary controls to protect the biota and otherwise assure that the biological system functions effectively and consistently. Activated sludge and aerated lagoons are the primary examples of such biological treatment. Other biological systems, such as aerobic lagoons, rotating biological contractors, and trickling filters, are also used effectively at a few plants and data from such plants were also used to develop the proposed BPT limitations.

The second BPT technology option considered in the proposed BPT regulations for the OCPSF industry was a biological system followed by a polishing pond or filter. This biological/polishing combination achieves effective treatment of BOD and TSS. In some cases, plants originally installed biological systems that had inadequate retention times or were otherwise not designed and operated to optimally treat conventional pollutants. When these plants were required in the late 1970s to upgrade to meet BPT permit limits (established by permit writers in the absence of guidelines on a case-by-case basis, using their best professional judgment), some chose to add polishing ponds or filters rather than to enlarge or otherwise improve their existing biological systems. EPA concluded that the biological/polishing combination thus constitutes an alternative method to meet the proposed BPT limitations.

B. BCT

The proposed BCT limitations are equivalent to BPT.

C. BAT

EPA refrained from specifying a particular set of controls as the basis for the BAT concentration-based limitations. Instead, the proposed BAT limitations were based on the levels of priority pollutant control that were actually achieved at various OCPSF plants using differing treatment configurations.

It was thus infeasible to specify that any particular technology is or is not a "BAT" technology or a "priority pollutant control" technology in the OCPSF industry. Rather, each plant wishing to control its priority pollutant discharges would employ a combination of controls and technologies that result in the desired reduction (see Section IV(D) of this notice for additional details).

D. NSPS

The proposed NSPS are equivalent to BPT for conventional pollutants and BAT for toxic pollutants.

E. PSES

EPA concluded for the OCPSF industry that the toxic metals and organic pollutants that would be regulated under the proposed PSES pass through publicly owned treatment works (POTWs). The proposed PSES are equivalent to BAT for these pollutants.

F. PSNS

The proposed PSNS are equivalent to PSES.

G. Pollutants Excluded From Regulation

Eighteen toxic pollutants were proposed for exclusion from these regulations (see 48 FR 11853, March 21, 1983, Appendix C) because they are pesticides which are not produced as products or co-products and are unlikely to appear as raw contaminants in OCPSF product/processes. Therefore, they are unlikely to be present in OCPSF process wastewater discharges.

Twenty-eight additional toxic pollutants were excluded from the PSES and PSNS regulations because they were determined not to pass through or interfere with, and are not otherwise incompatible with the operation of POTWs (see 48 FR 11853, March 21, 1983, Appendix D).

H. Cost and Economic Impacts

The methodology used to perform the economic assessment for the proposed regulation is presented in the document entitled *Economic Analysis of Proposed Effluent Standards and Limitations for the Organic Chemicals and Plastics, Synthetics, and Fibers Industry*, EPA 440/2–83–004. This report details the investment and annual costs for the industry as a whole and for typical plants covered by the proposed regulation. Compliance costs are based on engineering estimates of incremental capital requirements above the water pollution control equipment already in-place. The report assesses the impact of effluent control costs in terms of plant closures, employment effects, balance of trade effects and impacts on small businesses. These impacts are discussed for each of the regulatory levels examined by the Agency.

The economic analysis projected total capital costs, needed for about 1500 existing plants to comply with the proposed regulation, to be about $1.7 billion with annual costs of approximately $750 million, including depreciation and interest (1982 dollars). Twenty-one product/process closures were projected to occur as a result of the compliance cost projections. EPA estimated that eight plants may close. These shut-downs and closures were expected to cause a decrease of 493 jobs, less than 0.2 percent of a total employment of 295,000.

I. Non-Water Quality Impacts and Other Aspects of Proposed Regulations

Discussion of factual and policy findings supporting the proposal are presented at 48 FR 11847–50 and in the development document, and will not be repeated here.

J. Solicitation of Comments

The Agency also solicited additional comments and information on 30 specific issues as part of the notice of proposed rulemaking (refer to Section XIX, 38 FR 11850–51, March 21, 1983). These specific issues related to several general topics, including: (1) the generic process chemistry/unit operation basis for the subcategorization scheme, (2) the use of post-biological polishing ponds and filters as the technology basis for the BPT total suspended solids limitations, (3) the difficulty of meeting BPT limitations due to high or low ambient temperatures, (4) the methodology devised to determine which priority pollutants are likely to be discharged from particular product/processes (5) the technical and economic achievability of meeting the proposed BAT limitations for individual plants, (6) the suitability of not regulating all priority pollutants, (7) the methodology for excluding selected priority pollutants from PSES standards, (8) the unit costs and costing models used for developing BPT and BAT engineering compliance costs, (9) the analytical methods utilized to develop the priority pollutant data base, and (10) the economic impact analysis methodology.

II. Major Issues Raised in Comments

The Agency received numerous comments on the proposed regulation.

These comments criticized data and analyses that were fundamental to the regulation and prompted the Agency to reassess its data based and to reconsider many aspects of the regulation. Interested persons are advised to review the rulemaking record for a complete understanding of the many issues raised in comments. Listed below are those issues that appeared to be of greatest concern to commenters and that warranted further study by the Agency.

A. Adequacy of the Existing Data Base

Many comments disagreed with the Agency's conclusion that the existing data at the time of proposal could be considered representative of the entire industry for the purposes of establishing regulations, assessing costs of treatment required and resulting economic impacts or for assessing the scope of priority pollutant discharges. Some industry representatives questioned the validity of Agency models and assumptions used to extrapolate priority pollutant discharges, costs of additional treatment, and economic impacts from the existing data to the rest of the industry.

A few industry representatives asserted that the data were too old. Although some information was more current, the existing survey data generally characterized the industry in 1976 to 1977. Industry argued that significant advances in wastewater treatment practices have occurred since 1977. Most plants were issued NPDES permits during the period 1976–1977. Since national guidelines were not promulgated, these permits were based on State or EPA regional staffs exercising best professional judgment of limitations required by the Act. Any treatment installed to come into compliance with these permits was not reflected in the existing survey data. Industry argued that, if that treatment were considered, regulation of priority pollutants would not be necessary. However, commenters were also concerned that too much of the BPT data base was post-1977 and suggested that the more current data reflects better treatment than BPT.

B. Subcategorization

The proposed four-subcategory scheme was based on OCPSF generic process chemistry/chemical engineering unit operations and their potential to generate BOD_5 loadings. Industry commented that the proposed scheme is unworkable and arbitrarily groups chemical processes into non-homogeneous groups with respect to effluent treatability. They noted that the scheme is based on highly complex process chemistry and that minor changes in production or product mix could shift the applicable discharge subcategory. Industry commented that the within-subcategory variability was just as large as the between-subcategory variability. Many specific comments questioned whether specific product/processess or product groups were properly placed within the subcategorization scheme.

C. Treatment Effectiveness Data Base and Editing Rules

Many commenters disagreed with the Agency's technology and performance basis for BPT. They claimed that Congress intended BPT limitations to be developed ten to twelve years ago and implemented before 1977. Therefore, they argued that the current BPT data base should not include performance data from treatment systems that were installed or upgraded to meet NPDES permit requirements based upon best professional judgment of BPT technology and water quality considerations. Since many companies utilized various combinations of in-plant waste reduction techniques, water conservation programs, sewer segregation programs, and end-of-pipe biological treatment to meet "BPT" permit requirements, they claim the Agency penalized the OCPSF industry by continuing to use the "average of the best" treatment methodology. Many commenters believe that EPA unreasonably screened the data base for establishing "average of the best" by retaining only plants with 95 percent or better BOD_5 removal or plants with effluent BOD_5 of 50 mg/l or less. They suggested that the Agency should establish a more liberal indicator of BPT performance and should base BPT on biological treatment only.

Many commenters also disagreed with the Agency's technology and performance basis for toxic pollutant control. They suggested that the Agency relied on limited, unrepresentative, and inadequate data; did not accommodate the complexity and diversity of the OCPSF industry; ignored the toxic pollutant reduction progress made to date by treatment systems installed to meet best professional judgment BPT permit limitations; did not adequately accommodate the toxic pollutant analytical uncertainty inherent in part per billion measurements; and proposed too stringent limitations in many cases given available wastewater treatment technology.

D. Compliance Costs

Many commenters criticized the Agency's use of the CAPDET computer model for costing biological treatment systems. They suggested that since the CAPDET model is based on historic costs for municipal sewage treatment facilities, it should not be utilized for costing industrial wastewater treatment systems. They stated that the CAPDET default values and constants were not adequately modified to reflect OCPSF process wastewater characteristics and design parameters. Industry comments also criticized the Agency's methodology for extrapolating BPT costs for 169 individual plants to the entire industry.

Many commenters also criticized the Agency's use of the "55 generalized plant configurations" (GPCs) to model and characterize the industry as a whole for developing engineering costs for toxic pollutant control. Industry comments claim that few primary manufacturing facilities were characterized adequately by the 55 GPCs and they disagreed with the Agency's methodology of extrapolating GPC costs based on relationships among costs, flow and sales.

E. Economic Impact Methodology

EPA received numerous comments on the data base, methodology, and analysis used to estimate the economic impacts resulting from the proposed rules. The comments focused on the following major areas: quality of the plant data used to estimate plant effects, the method used to estimate plant closures, and the methods used in the small business analysis.

EPA received substantial comments that the economic data base used at proposal was inadequate and incomplete. Many dischargers who requested EPA's economic profile data told EPA that the data used were in error. Furthermore, commenters insisted that secondary producers of organics and plastics products also must be included in the analysis to properly evaluate the effect of these rules.

At proposal, EPA based its plant impact analysis on a treatment-cost-to-sales ratio to indicate whether a plant would close as a result of the proposed requirements. A plant's sales value was used to estimate wastewater flow (based on an algorithm developed from a subset of plants), and flow was used to estimate treatment costs (also based on an algorithm). Commenters properly noted that this analysis inevitably underestimated plant closures overall. Commenters also criticized EPA's four

percent cost-to-sales benchmark for plant closure.

Commenters also stated that the Small Business Analysis at proposal was inadequate in capturing the relative economic effects of the regulation among small and large manufacturers.

III. Data Gathering Efforts

A. Technical

In the preamble to the proposed regulation, the Agency recognized the need to gather additional data to assure that the regulation is based upon information that represents the entire industry and to assess wastewater treatment installed since 1977. Therefore, the Agency has conducted an extensive data gathering program to improve the coverage of all types of OCPSF manufacturers. This effort included mailing Section 308 surveys to all manufacturers of OCPSF products and conducting toxic pollutant sampling at 12 additional OCPSF facilities.

For the purposes of the survey, the OCPSF industry was defined generally as all establishments that manufacture: (1) Organic chemical products included within the U.S. Department of Commerce Bureau of the Census Standard Industrial Classification (SIC) major groups 2865 and 2869 and/or (2) plastics and synthetic fibers products included in SIC major groups 2821, 2823, and 2824. However, organic chemical compounds that are produced solely by extraction from natural materials, such as parts of plants and animals, or by fermentation processes are not included in this definition of the OCPSF industry even if classified in one of the OCPSF SIC classifications. Thus, any such products were considered non-OCPSF products for the purposes of the survey.

The questionnaire mailing list was compiled from many references that identify manufacturers of OCPSF products. These sources included the Economic Information Service, SRI Directory, Dun and Bradstreet, Moody's Industrial Manual, Standard and Poor's Index, Thomas Register, and Plastics Red Book as well as internal Agency sources such as the NPDES Permit Compliance System and the TSCA Inventory.

In October 1983, the Agency sent the General Questionnaire to 2,829 facilities to obtain information regarding individual plant characteristics, wastewater treatment efficiency, and the statutory factors expected to vary from plant to plant. The General Questionnaire consisted of three parts: Part I (General Profile), Part II (Detailed Production Information), and Part III (Wastewater Treatment Technology, Disposal Techniques, and Analytical Data Summaries).

Some plants that received the questionnaire had OCPSF operations that were a minor portion of their principal production activities and related wastewater streams. The data collected from these facilities allows the Agency to characterize properly the impacts of ancillary (secondary) OCPSF production. Generally, if a plant's 1982 OCPSF production was less than 50 percent of the total facility production (secondary manufacturer), then only Part I of the questionnaire was completed.

Part I identified the plant, determined whether the plant conducted activities relevant to the survey, and solicited general data (plant age, ownership, operating status, permit numbers, etc.). General OCPSF and non-OCPSF production and flow information was collected for all plant manufacturing activities. This part also requested economic information including data on shipments and sales by product groups, as well as data on plant employment and capital expenditures.

Part I determined whether a respondent needed to complete Parts II and III (i.e. whether the plant is a primary or secondary producer of OCPSF products, whether the plant discharges wastewater, and, for secondary producers, whether the plant segregates OCPSF process wastewaters). For those plants returning only the General Profile, Part I identified the amounts of process wastewater generated, in-place wastewater treatment technology, wastewater characteristics, and disposal techniques. Part II requested detailed 1980 production information for 249 specific OCPSF products, 99 specific OCPSF product groups, and any OCPSF product that constituted more than one percent of total plant production. Less detailed information was requested for the facility's remaining OCPSF and non-OCPSF production. Part II also requested information on the use or known presence of the priority pollutants for each OCPSF product/process or product group. Part III requested detailed information on plant wastewater sources and flows, treatment technology installed, treatment system performance and disposal techniques.

Responses to economic and sales items in Part I pertain to calendar year 1982, which were readily available since the plants were required to submit detailed 1982 information to the Bureau of the Census. This reduced the paperwork burden for responding plants. The rest of the questionnaire, however, requested data for 1980—a more representative production year. The Agency believed that treatment peformance in 1982 would be unrepresentative of treatment during more typical production periods. This is because decreased production normally results in decreased wastewater generation. With lower volumes of wastwater being treated, plants in the industry might be achieving levels of effluent quality that they could not attain during periods of higher production. The year 1980 was selected in consultation with industry as representative of operations during more normal production periods but recent enough to identify most new treatment installed by the industry since 1977. The industry representatives did not assert that significant new treatment had been installed since 1980.

The 2,829 section 308 questionnaires were mailed in October 1983. In February 1984, section 308 follow-up letters were sent to 914 nonrespondents.

A total of 981 OCPSF manufacturers were used in the analysis: 1,529 responses were from facilities not covered by the regulation (sales offices, warehouses, chemical formulators, etc.); 162 were returned by the Post Office; and 159 did not respond. A follow-up telephone survey of 52 nonrespondents concluded that less than 10 percent would be covered by the OCPSF regulations.

In addition, a Supplemental Questionnaire was sent to 84 facilities known to have installed selected wastewater treatment unit operations. Detailed design and cost information was requested for four major treatment components commonly used to treat OCPSF wastewaters (biological treatment, steam stripping, solvent extraction, and granular activated carbon) and summary design and cost information for other wastewater and sludge treatment components. The questionnaires also collected available treatment system performance data for in-plant wastewater control or treatment unit operations, influent to the main wastewater treatment system, intermediate wastestream sampling locations, and final effluent from the main wastewater treatment system. Unlike the General Questionnaire, it asked for individual daily data rather than summary data. Sixty-four plants responded with useful data and information.

The Agency conducted toxic pollutant field sampling activities at 12 OCPSF manufacturing plants between March 1983 and May 1984. Eight plants were sampled between 15 to 20 days each;

three plants, between 10 to 12 days; and one plant for one day. The analytical protocols used to measure the organic priority pollutants were Method 1624 for volatile organic compounds by purge and trap isotope dilution GC–MS and Method 1625 for semivolatile organic compounds by isotope dilution GC–MS. The field sampling program expands the coverage of priority pollutants, provides an additional basis for estimating wastewater treatment system variability, and increases the candidate toxic pollutant wastewater treatment technologies. In-plant controls sampled included steam stripping, coagulation/flocculation, metals precipitation, activated carbon and extended aeration biological systems; end-of-pipe controls sampled included activated sludge, extended aeration, pure oxygen, and powdered activated carbon (PAC) biological systems; and polishing ponds, filtration and activated carbon units.

B. Economic and Financial

In addition to the economic and financial data collected in the Section 308 questionnaires, EPA also gathered data on the industry from a number of public and private sources. The major efforts are described below. (See *Economic Impact for Notice of Data Availability for the Organic Chemicals, Plastics and Synthetic Fibers Industry* for full citing of sources.)

Macroeconomic and chemical industry profiles were obtained from Data Resources, Inc. Information from 1982 was collected to compare with survey responses received from the industry. Forecasts for 1988 were also obtained from Data Resources, Inc. These forecasts come from the Trendlong macro forecast, linked to the linear programming model for the chemicals and plastics industry. Other macroeconomic and industry profile data were obtained from the International Trade Commission, the Federal Trade Commission, and the Bureau of the Census. Further profile data on the chemical industry were obtained from the *Kline Guide*.

EPA also developed a corporate financial database by purchasing selected data from SEC 10k financial reports for the survey population from Compustat Services, by examining State Industrial Guides and the Moody Corporate Directory. Financial data from Robert Morris Associates and the FINSTAT database developed by the Small Business Administration were used to model plant financial characteristics.

IV. Preliminary Data Analysis—Technical

A. Industry Profile

The OCPSF Industry is large and diverse, and many plants in the industry are highly complex. The industry includes approximately 1000 facilities which generally manufacture products under the OCPSF SIC Groups—SICs 2821, 2823, 2824, 2865, and 2869.

Some plants produce chemicals in large volumes, while others produce only small volumes of "specialty" chemicals. Large-volume production tends toward continuous processes, while small volume production tends toward batch processes. Continuous processes are generally more efficient than batch processes in minimizing water use and optimizing the consumption of raw materials in the process.

Different products are made by varying the raw materials, chemical reaction conditions, and the chemical engineering unit processes. The products being manufactured at a single large chemical plant can vary on a weekly or even daily basis. Thus, a single plant may simultaneously produce many different products in a variety of continuous and batch operations, and the product mix may change frequently.

For the 981 facilities in the OCPSF industry data base, approximately 76 percent of the facilities are designated as primary OCPSF manufacturers (over 50 percent of their total plant production includes OCPSF products) and approximately 24 percent of the facilities are secondary OCPSF manufacturers. Approximately 32 percent of the plants are direct dischargers, approximately 42 percent are indirect dischargers (plants that discharge to a publicly owned treatment works) and the remaining facilities use zero or alternative discharge methods. The estimated average daily process wastewater flow per plant is 1.22 MGD (millions of gallons per day) for direct dischargers and 0.24 MGD for indirect dischargers. The remainder use dry processes, reuse their wastewater, or dispose of their wastewater by deep well injection, incineration, contract hauling, or evaporation or percolation ponds.

As a result of the wide variety and complexity of raw materials and processes used and of products manufactured in the OCPSF industry, an exceptionally wide variety of pollutants are found in the wastewaters of this industry. This includes conventional pollutants (pH BOD, TSS and oil and grease); toxic pollutants (both metals and organic compounds); and a large number of nonconventional pollutants (including the organic compounds produced by the industry for sale). EPA focused its attention on the conventional pollutants and on the 65 toxic pollutants and classes of pollutants required to be addressed in accordance with the court order in *NRDC* v. *Ruckelshaus*.

To control the wide variety of pollutants discharged by the OCPSF industry, OCPSF plants use a broad range of in-plant controls, process modifications and end-of-pipe treatment techniques. Most plants have implemented programs that combine elements of both inplant control and end-of-pipe wastewater treatment. The configuration of controls and technologies differs from plant to plant, corresponding to the differing mixes of products manufactured by different facilities. In general, direct dischargers treat their waste more extensively than indirect dischargers.

The predominant end-of-pipe control technology for direct dischargers in the OCPSF industry is biological treatment. The chief forms of biological treatment are activated sludge and aerated lagoons. Other systems, such as extended aeration and trickling filters, are also used, but less extensively. All of these systems reduce BOD and TSS loadings, and, in many instances, incidentally remove toxic and nonconventional pollutants. Biological systems biodegrade some of the organic pollutants, remove bio-refractory organics and metals by sorption into the sludge, and strip some volatile organic compounds into the air.

Other end-of-pipe treatment technologies used in the OCPSF industry include neutralization, equalization, polishing ponds, filtration and carbon adsorption. While most direct dischargers use these physical/chemical technologies in conjunction with end-of-pipe biological treatment, some direct dischargers use only physical/chemical treatment.

In-plant control measures employed at OCPSF plants include water reduction and reuse techniques, chemical substitution and process changes. Techniques to reduce water use include the elimination of water use where practicable and the reuse and recycling of certain streams, such as reactor and floor washwater, surface runoff, scrubber effluent and vaccum seal discharges. Chemical substitution is utilized to replace process chemicals possessing highly toxic or refractory properties by others that are less toxic or more amenable to treatment. Process change include various measures that reduce water use, waste discharges,

and/or waste loadings while improving process efficiency. Replacement of barometric condensers with surface condensers; replacement of steam jet ejectors with vacuum pumps; recovery of product or by-product by steam stripping, distillation, solvent extraction or recycle, oil-water separation and carbon adsorption; and the addition of spill control systems are examples of process changes that have been successfully employed in the OCPSF industry to reduce pollutant loadings while improving process efficiencies.

Another type of control widely used in the OCPSF industry is physical/chemical in-plant control. This treatment technology is generally used selectively on certain process wastewaters to recover products or process solvents, to reduce loadings that may impair the operation of the biological system or to remove certain pollutants that are not removed sufficiently by the biological system. In-plant technologies widely used in the OCPSF industry include sedimentation/clarification, coagulation, flocculation, equalization, neutralization, oil/water separation, steam stripping, distillation, and dissolved air flotation.

Many OCPSF plants also use physical/chemical treatment after biological treatment. Such treatment is used in the majority of situations to reduce solids loadings that are discharged from biological treatment systems. The most common post-biological treatment systems are polishing ponds and multimedia filtration.

At approximately 9 percent of the direct discharging plants surveyed, either no treatment or no treatment beyond equalization and neutralization is provided. At another 14 percent, only physical/chemical treatment is provided. The remaining 77 percent utilize biological treatment. Approximately 42 percent of biologically treated effluents are further treated by additional controls such as polishing ponds, filtration, or activated carbon.

At approximately 39 percent of the indirect discharging plants surveyed, either no treatment or no treatment beyond equalization and neutralization is provided. At another 47 percent, some physical/chemical treatment is provided. The remaining 14 percent utilize biological treatment.

B. Subcategorization

1. Summary

The Agency has developed revised subcategories based on the new Section 308 Questionnaire responses and field sampling data. The proposed four-subcategory approach for the conventional pollutant parameters regulated at BPT, BOD_5 and TSS, has been replaced by a new approach with eight subcategories. Also, the proposed two-subcategory scheme for toxic pollutants regulated at BAT has not been retained. Rather than establish subcategories for toxic pollutants, the Agency is establishing one subcategory together with a monitoring approach for identifying the toxic pollutants that are discharged by each plant and thus warrant the most rigorous set of controls at the plant. (see Section IV(L)).

Under the revised subcategorization scheme, a plant is classified in accordance with that fraction of its total annual OCPSF production volume (pounds) that is associated with particular types of OCPSF products. The eight subcategories are as follows:

i. *Rayon Fibers*—includes plants in which rayon fibers by the viscose-rayon process constitute at least 95% of total OCPSF production.

ii. *Other Man-Made Fibers*—includes plants in which other man-made fiber products constitute at least 95% of total OCPSF production and plants in which other man-made fiber products plus organic chemicals constitute at least 95% of total OCPSF production.

iii. *Thermosets*—includes plants in which thermosetting resins constitute at least 95% of total OCPSF production and plants in which thermosetting resins plus organic chemicals constitute at least 95% of total OCPSF production.

iv. *Thermoplastics*—includes plants in which thermoplastic materials constitute at least 95% of total OCPSF production.

v. *Thermoplastics and Organics*—includes plants in which thermoplastic materials and organic chemicals constitute at least 95% of total OCPSF production.

vi. *Commodity Organics*—includes plants in which organic commodity chemicals (those produced nationally at a level exceeding one billion pounds per year) constitute at least 75% of organic chemical production and in which plastics production is less than 5% of total OCPSF production.

vii. *Bulk Organics*—includes plants whose production is not classified as either commodity or specialty organics (those produced nationally at a level below 40 million pounds per year) but does include at least 95% organics.

viii. *Specialty Organics*—includes plants in which specialty organic chemicals production constitutes at least 75% of total organic chemicals and in which plastics production is less than 5% of total OCPSF production.

Eighty-nine percent of OCPSF plants can be uniquely assigned to these eight subcategories. Eleven percent cannot be so classified because their manufacturing operations include a variety of major product types, none of which predominate to the extent called for by the subcategory definitions (e.g., a plant with 80% thermoplastics and 20% thermosets). In such cases, the control authority will use a building-block approach (based on flow-proportioning) to derive a plant's limitation from those established in the regulation for two or more relevant subcategories.

2. Relationship of New Subcategorization Scheme to Proposed Subcategorization

At proposal, the Agency established OCPSF effluent guidelines in which industry was divided into four subcategories based on products produced and generic process chemistry/chemical engineering unit operations.

Industry provided comments on this subcategory scheme which, besides stating industry's general displeasure with the subcategories, also discussed the complexity and confusing nature of the subcategories, the relative size of between and within-subcategory variability, and the advantage of focusing attention on effluent BOD.

The revised subcategorization scheme is intended to address these concerns. The Agency decided to focus its attention on OCPSF products rather than the chemical processes used to produce those products. It is clear, however, that the chemical processes found at a plant are closely related to the products produced by the facility. By focusing on products produced, the Agency hopes to conform the subcategorization to the inherent economic structure of the industry as well as the basic wastewater similarities of plants with similar products.

Industry comments on the proposal also objected to the statistical technique used to analyze the data for subcategorization. In particular, these comments emphasized that the proposed subcategories had greater variability within a subcategory than between subcategories. The Agency has subjected the new subcategorization scheme to an analysis of variance to assure that the new subcategories are well-defined and exhibit less within-subcategory variability than between-subcategory variability.

Finally, the new subcategorization gives appropriate consideration to BOD effluent values, which industry comments correctly noted is a relevant

factor in determining suitable OCPSF subcategories.

3. Detailed Explanation

Using raw materials provided by organic chemical plants, plastic plants employ only a small subset of the chemistry practiced by the OCPSF industry to produce a limited number of products (approximately 200). Plants producing organic chemicals, on the other hand, utilize a much larger set of process chemistry and engineering unit operations to produce approximately twenty-five (25) thousand products.

Further divisions are appropriate within the two broad groupings of plastics and organic chemicals. Within the plastics group, Plastic Materials and Synthetic Resins (SIC 2821) manufacturers can be subdivided into Thermoplastic Materials (SIC 28213) producers and Thermosetting Resin (28214) producers. Rayon manufacturers (SIC 2823) and other Synthetic Organic Fiber (SIC 2824) manufacturers are also both unique. Process chemistry and engineering are consistent with these groupings.

The Organic Chemicals industry (SIC 2865 and 2869) produces many more products than does the Plastic/Synthetic Fibers industry and is correspondingly more complex. While it is possible to separate the organic chemicals industry into product groups, the number of such product groups is large. Moreover, with few exceptions, plants produce organic chemicals from several product groups and thus limit the utility of such a scheme.

For organic chemical production, an alternative to a product-based scheme is a scheme based on the type of manufacturing conducted at a plant. Large plants producing primarily high-volume commodity chemicals (the basic chemicals of the industry, e.g., ethylene, propylene, benzene) comprise the first group of plants. A second tier of plants comprises plants that produce high volume intermediates (bulk chemicals). Plants within this tier typically utilize the products of the commodity chemical plants (first tier plants) to produce more structurally complex chemicals. Bulk chemical plants are generally smaller than those in the first group but still may produce several hundred million pounds of chemicals per year (e.g., aniline, methylene dianiline, toluene diisocyanate). The third group comprises those plants that are devoted primarily to the manufacture of specialty chemicals—chemicals intended for a particular end use (e.g., dyes and pigments). Specialty chemical plants use the products of the Commodity and Bulk chemical plants as raw materials. Generally, specialty chemicals are more complex structurally than either commodity or bulk chemicals. Plants within this group tend to be much smaller, producing tens of millions of pounds of chemicals per year.

Based upon the above, EPA has defined the three organics-based subcategories—commodity, bulk, and specialty—on the basis of total industry production. Commodity chemicals are those chemicals produced by the industry in amounts greater than one-billion lbs./yr. Bulk chemicals are defined to be those chemicals produced in amounts less than one-billion lbs./yr. but more than 40-million lbs./yr. Specialty chemicals are those chemicals produced in amounts less than 40-million lbs./yr. Using these definitions, there are 37 commodity chemicals or commodity chemical groups and 221 bulk chemicals or bulk chemical groups. The remaining organic chemicals are classified as specialty chemicals.

The products and product groups classified under Rayon, Other Fibers, Thermosets, Thermoplastics, Commodity Organics, and Bulk Organics are listed in Tables K–1 through K–6 respectively, of Section IV(K)—Applicability and Definition of the Regulated OCPSF industry. The Specialty Organics are the remaining organic chemicals not listed as commodity or bulk chemicals.

The BPT subcategorization factors (manufacturing product/processes, raw materials, wastewater characteristics, facility size, geographic location, age of facility and equipment, treatability, and nonwater quality environmental impacts) were examined for significance in the development of the revised subcategorization scheme. In general, the revised subcategorization is based primarily on significant differences in wastewater characteristics. Variations in waste characteristics have been utilized to evaluate the appropriateness of using any of the other eight factors as a basis for subcategorization.

The ideal data base for evaluating the need for subcategorization and the development of individual subcategories would include raw wastewater and final effluent pollutant data for facilities which employ only one manufacturing process or multiple product plants which segregate and treat each process raw waste stream separately. In this manner, each factor could be evaluated independently. However, the OCPSF industry is primarily comprised of multi-product/process, integrated facilities. Wastewaters generated from each product/process are usually collected in combined plant sewer systems and treated in one main treatment facility. Therefore, each plant's overall raw wastewater characteristics are affected by all of the production processes occurring at the site at one time. The effects of each production operation on the raw wastewater characteristics cannot be isolated from all of the other site specific factors. Therefore, a combination of both technical and statistical methodologies were used to evaluate the significance of each of the subcategorization factors. The results of the technical analysis were compared to the results of the statistical efforts to determine the usefulness of each factor as a basis for subcategorization. Two major statistical techniques were used to determine an appropriate subcategorization scheme for the OCPSF industry: Analysis of Variance and the Spearman Rank Correlation. The details of the analysis are available in the EPA Public Information Reference Unit.

The analysis concludes that the revised subcategorization scheme is very effective when OCPSF process wasewater flow is the variable of interest. Flow relates to the size and construction costs of a plant's wastewater treatment system.

The analysis also shows that the revised subcategories effectively group plants by production volume (measured as annual pounds of all OCPSF products produced at a plant) homogeneously relative to the inherent variability of production throughout the industry. This indicates that size of plants has been successfully addressed in the subcategorization. Thus plants of similar economic viability are grouped together.

Geographic location (including ambient temperature) and age of facility and equipment were determined not to be appropriate bases for subcategorization of the OCPSF industry.

The analysis shows that the revised scheme is very effective in establishing homogeneous groups based on effluent BOD concentrations, but not as rigorous in establishing groups based on raw waste BOD concentration. As described below, all plants can use some combination of well-designed and operated treatment technology to meet lower effluent BOD targets. The predominant issue relates to the cost of the required treatment technology.

The effluent BOD concentration or treatability of a given wastewater is affected by the presence of inhibitory materials (toxics); availability of alternative disposal methods; and pollutant concentrations in, and variability of, the raw waste load. However, all of these factors can be mitigated by sound waste management.

treatment technology design, and operating practices. Examples of these are:

- The presence of toxic materials in the wastewater can be controlled by in-plant treatment methods. Technologies such as steam stripping, metals precipitation, activated carbon, reverse osmosis, etc., can eliminate the presence of materials in a plant's wastewater which may inhibit or upset biological treatment systems.
- Although plants may utilize deep well injection for disposal of highly toxic wastes to avoid treatment system upsets, other alternative disposal techniques such as contract hauling and incineration are available to facilities which cannot utilize deep well disposal. In addition, stricter groundwater regulations may eliminate the option of deep well disposal for some plants or make it uneconomical for others, forcing facilities to look more closely at these other options.
- Raw waste load variability can be controlled easily by the use of equalization basins. In some plants, "at process" storage and equalization is used to meter specific process wastewaters, on a controlled basis, into the plant's wastewater treatment system.
- Raw waste concentrations can be reduced with roughing biological filters or with the use of two-stage biological treatment systems.

OCPSF wastewaters can be treated by either physical-chemical or biological methods, depending on the pollutant to be removed. Also, depending on the specific composition of the wastewater, any pollutant may be removed to greater or lesser degree by a technology not designed for removal of this pollutant. For example, a physical-chemical treatment system designed to remove suspended solids will also remove a portion of the BOD of a wasewater if the solids removed are organic and biodegradable. It is common in the OCPSF industry to use a combination of technologies adapted to the individual wastewater stream to achieve desired results.

In general, the precent removals of BOD and TSS are consistent across all revised subcategories. It is also possible for plants in all revised subcategories to achieve high percent removals (greater than 95%) for both BOD and TSS. Therefore, based on the consistency of these removal data and the ability of plants in all revised subcategories to achieve high removals of pollutants, it is concluded that subcategorization based on treatability is not justified.

The Agency believes that there are several advantages associated with the revised subcategorization scheme. Plants are assigned to subcategories based on the relative production of OCPSF products using data that must be generated for the Bureau of Census. The procedure is relatively simple to apply to individual plants. Finally, most are uniquely covered by a single subcategory, leaving relatively few plants that need to be addressed by a "building block" approach using two or more subcategories. The Agency solicits comments and additional data related to the revised subcategorization scheme.

C. Technology Basis for BPT Options and Effluent Limitations

The Agency is considering three BPT technology options. EPA may promulgate BPT effluent limitations based on any of these three options. Therefore, we specifically invite comment on each of these.

These options focus again on the primary end-of-pipe technologies used in the industry. These technologies are widely used in the industry to control conventional pollutants. To varying extents, these technologies also remove toxic and nonconventional pollutants. However, it is not possible to calculate consistent removals of specific toxic and nonconventional pollutants across the industry without carefully considering a variety of process controls and in-plant treatment technologies that are more appropriately considered to be BAT controls and technologies. Therefore, the selected BPT technologies are end-of-pipe technologies that are designed primarily to address the conventional pollutants BOD and TSS, supplemented by those in-plant controls and technologies that are commonly used to assure the proper and efficient operation of the end-of-pipe technologies.

Option I: EPA bases the first BPT technology option on biological treatment preceded by the necessary controls to protect the biota and otherwise assure that the biological system functions effectively and consistently. Activated sludge and aerated lagoons are the primary examples of such biological treatment. Other biological systems, such as aerobic lagoons, rotating biological contactors, and trickling filters, are also used effectively at a few plants and data from such plants were also used to develop BPT limitations based on this option.

Option II: The second BPT technology option includes, in addition to Option I technology, biological systems followed by polishing ponds. In some cases, plants originally installed biological systems that had inadequate retention times or were otherwise not designed and operated to optimally treat conventional pollutants. When these plants were required in the late 1970s to upgrade to meet BPT permit limits (established by permit writers in the absence of guidelines on a case-by-case basis, using their best engineering judgment), some chose to add polishing ponds rather than to enlarge or otherwise improve their existing biological systems.

Option III: EPA bases the third BPT technology option on multimedia filtration as a basis for additional TSS control after biological treatment.

After selecting the BPT technology options, EPA proceeded to develop limitations that are associated with those technologies. To do this, EPA first needed to identify the "average-of-the-best" plants that use these technologies.

EPA developed a statistical criterion to segregate the better designed and operated plants from the poorer performers. This was done to assure that the plant data relied upon to develop BPT limitations reflected the average of the best existing performers. Since the data base includes many plants which are poor performers, it is necessary to develop appropriate criteria for differentiating poor plant performance from good plant performance. The criterion selected was to include in the data base any plant with a biological treatment system that, on the average (1) discharged 50 mg/l or less BOD after treatment, or (2) removed 95% or more of the BOD that entered the end-of-pipe treatment system. (Dilution of process wastewater by other wastewater was noted and effluent concentrations were adjusted accordingly.) This criterion reflects the performance level that is generally achieved by well-operated plants in the OCPSF industry that use the recommended BPT technologies.

These are the same performance criteria utilized at proposal. Many industry comments suggested that EPA unreasonably screened the data base for establishing "Average of the Best" BPT technology and suggested that a more liberal indicator of performance, such as 85 percent removal, should be used.

To assess this recomendation, the Agency evaluated the BOD_5 data from the 163 section 308 questionnaire full response plants in the direct discharge data base with biological treatment systems. After adjusting the data for nonprocess wastewater dilution, the median BOD_5 percent removal for all facilities is 95.4 percent and the median effluent concentration is 28 mg/l.

The more liberal editing rule suggested by industry was considered

for excluding plants with poorly operated or inadequate biological treatment systems. Using the industry's suggestion, plants would be retained for analysis if at least biological treatment was in-place and if, on the average, the treatment system removed 85 percent or more of the BOD_5 or discharged 100 mg/l or less BOD_5 after treatment. These criteria would retain 87 percent of all the biological treatment systems reporting BOD_5 data.

The "95 percent or more BOD_5 removal or 50 mg/l or less BOD_5 concentration after treatment" performance editing criteria retains 76 percent of all the biological treatment systems reporting BOD_5 data. The Agency calculated the subcategory BOD and TSS median values for both performance editing rules. Using the 95%/50 mg/l performance edit reduces the average subcategory BOD and TSS median values for Option I treatment technology approximately 10 and 16 percent, respectively, below those obtained using the 85%/100 mg/l edit. Similarly, the average median values for Option II treatment technology are reduced approximately 11 and 4 percent, respectively. The median BOD_5 percent removal for all facilities is 95.4 percent and the median effluent BOD_5 concentration is 28 mg/l. Based upon all these facts, the Agency believes that this "95%/50 mg/l BOD_5" performance editing criteria provides a reasonable determination of "average of the best" BPT performance.

The long-term BOD_5 and TSS averages for each subcategory, shown in Tables C–1 and C–2 for technology Options I and II, are based on the "95% removal/50 mg/l BOD_5" performance edit.

To establish maximum 30-day average and daily maximum BOD_5 and TSS effluent limitations for each technology option, the Agency determined variability factors for biological treatment systems. Daily data for BOD_5 and TSS were available from 69 facilities. Plant data were retained for variability factor analysis based on the following factors: (1) Non-process wastewater dilution was 25 percent or less at the effluent sampling point; (2) The sampling frequency was once or more per week for at least one year; (3) The NPDES permit contained only one set of limits applicable to both summer and winter operating periods; (4) The treatment system did not change during the period of record; and (5) The reported effluent data was uniquely associated with treatment systems with serial unit operations (e.g., combined sampling data from parallel activated sludge and activated carbon treatment systems were deleted). After these edits, data from 23 biological treatment systems were retained to calculate variability factors. The average BOD_5 maximum 30-day average and daily maximum variability factors are 1.41 and 3.91, respectively. The average TSS maximum 30-day average and daily maximum variability factors are 1.46 and 4.74, respectively.

Some plants rely exclusively upon end-of-pipe physical/chemical treatment. Some of these plants have low BOD and thus find physical/chemical treatment more effective in reducing TSS loadings. (Biological systems cannot function unless influent BOD is high enough to sustain their biota) Other plants have determined, based on an assessment of the types and volumes of pollutants that they discharge, that physical/chemical treatment is more economical, easier to operate, or otherwise more appropriate. Many of these plants can control conventional pollutants effectively without using the BPT biological treatment alternatives discussed above. Some plants do not have any end-of-pipe treatment in place at all. For plants that have not already achieved the long-term average BOD and/or TSS costing targets, compliance can be achieved by the installation of the recommended end-of-pipe BPT technologies listed in the costing documentation for plants without in-place biological treatment. In some cases, especially where only TSS noncompliance exists, solids control by physical/chemical means may suffice. For plants that comply with BOD but not with TSS targets, and presently have no biological treatment in place, EPA costed chemically assisted clarifiers, multimedia filters, or polishing ponds depending on existing in-place technology and geographic location.

Some industry commenters objected to the Agency's collection and use of post-1977 data to develop BPT limitations. Contrary to the assertions of some commenters, Congress did not intend that BPT performance would remain static based on performance levels attained before 1977. Congress intended for periodic review of BPT technology and performance. Thus, updated information on the effectiveness of BPT-level technologies may be used by the Agency. Furthermore, contrary to industry assertions, there has not been a substantial overall improvement of conventional pollutant wastewater treatment technology performance between the 1976/1977 and the 1983 Section 308 data collection efforts. A comparison of the BOD_5 performance data for plants within both data sets reveals the BOD_5 treatment improved for approximately 37 percent of the plants, remained about the same (± 1 percent removal) for approximately 27 percent of the plants, and deteriorated for the remaining 36 percent of the plants.

Many commenters suggested that the Agency should establish alternative cold weather limitations to accommodate the effects of cold weather conditions on biological treatment removal efficiencies. However, the Agency's assessment of this issue for subcategorization found that effluent BOD quality is statistically independent of location using degree-days as a surrogate for temperature. Furthermore, temperature is only one of several characteristics which affect the operation of the system. Changes in temperature (both seasonal and short term), raw waste load, product mix, flow, food to microorganism ratio, and dissolved and suspended solids, will all have some impact on treatment. Moreover, raw waste loads in the OCPSF industry are variable due to batch operations, product mix changes, and raw materials variations. It is thus difficult to isolate temperature effects from changes caused by variables other than temperature.

Technologies and operating techniques exist which, if properly applied, can overcome temperature effects. Specific means of mitigating temperature effects were discussed in the March 1983 Development Document.

The Agency accounted for any potential ambient temperature effects on biological treatment processes by adjusting engineering costs to accommodate cold weather conditions. These factors adjust biological treatment costs for cold weather design conditions. The Agency also accounted for potential warm ambient temperature effects which may interfere with solids control (e.g., algae blooms) from holding ponds and polishing ponds. Plants in states with average monthly temperature, over 25 °C, had filtration systems costed for solids control rather than polishing ponds.

The BPT effluent limitations for Options I and II are presented in Tables C–1 and C–2, respectively.

TABLE C-1.—OPTION I BPT LIMITATIONS BASED ON BIOLOGICAL TREATMENT WITHOUT POST-BIOLOGICAL CONTROLS

Subcategory	BOD_5 (mg/l)		Daily maximum	TSS (mg/l)		Daily maximum
	Long-term average	30-day averages		Long-term average	30-day average	
Rayon	19	27	74	40	58	190
Other fibers	11	16	43	25	37	119
Thermosets	14	20	55	46	67	218
Thermoplastics only	18	25	70	34	50	161
Thermoplastics and organics	28	39	109	52	76	246
Commodity organics	28	39	109	99	145	469
Bulk organics	25	35	98	40	58	190
Specialty organics	35	49	137	62	91	294

TABLE C-2.—OPTION II BPT LIMITATIONS BASED ON BIOLOGICAL TREATMENT WITH AND WITHOUT POST POLISHING PONDS

Subcategory	BOD_5 (mg/l)		Daily maximum	TSS (mg/l)		Daily maximum
	Long-term average	30-day average		Long-term average	30-day average	
Rayon	19	27	74	40	58	190
Other fibers	10	14	39	25	37	119
Thermosets	24	34	94	46	67	218
Thermoplastics only	18	25	70	29	42	137
Thermoplastics and organics	25	35	98	40	58	190
Commodity organics	28	39	109	99	145	469
Bulk organics	27	38	106	46	67	218
Specialty organics	35	49	137	62	91	294

An assessment of the long-term BOD and TSS averages in Tables C–1 and C–2, indicates that subcategory effluent quality does not necessarily improve when plants with biological treatment and polishing ponds are included in the subcategory averages. As noted above, these plants may have merely added polishing ponds to an inadequately designed or operated biological treatment system rather than enlarge or otherwise improve their existing biological treatment systems. The performance edits utilized to segregate the better designed and operated plants from the poorer performers was based on BOD performance only. The Agency has not yet conducted a performance edit based on TSS control, but intends to assess TSS performance for all plants prior to promulgation.

For example, in the case of the commodity organic chemicals subcategory, the long-term TSS values are 99 mg/l in both Tables C–1 and C–2. The eleven commodity organic chemical plants that utilize biological treatment (9 without polishing ponds and 2 with polishing) and that reported effluent data are located in North Carolina, Louisiana, and Texas. Application of the performance edit deletes the North Carolina plant and one Texas plant. Therefore, nine Louisiana and Texas facilities (7 without polishing and 2 with polishing) provide the basis for the subcategory averages. The Agency believes that many of these high TSS plant averages are due to periods of high ambient temperatures that may cause algae blooms in holding or polishing ponds. Many industry comments discuss this TSS control problem.

The Agency believes that a well operated biological treatment system even with polishing ponds does not necessarily ensure adequate solids control. In these cases where biological treatment provides inadequate TSS control, additional treatment such as filtration systems should provide the basis for effluent TSS limitations. Filtration has been a well-established technology for many years in both the OCPSF industry and many other industries.

Approximately 11 percent of the plants in the direct discharge data base utilize filtration in combination with either biological treatment or biological treatment and polishing ponds. If EPA decides to use this technology as the basis for final TSS standards, it would do so by deleting from the data base, for TSS purposes, those biological systems that are not followed by adequate physical/chemical solids control systems. Based upon the present data base on the performance of such biological/tertiary solids control systems, this approach would result in the TSS long-term averages and limitations shown in Table C–3. Since the BOD performance edit (95 percent/50 mg/l) retains only 16 facilities with tertiary solids control, TSS data for some subcategories would be pooled. The maximum 30-day average and daily maximum standards were calculated using the TSS variability factors established for BPT Options I and II.

EPA pooled the TSS filtration data for the plastics subcategories—rayon, other fibers, thermosets, and thermoplastics-only. EPA separately pooled the TSS filtration data for the three organic chemical subcategories. (EPA did not pool the data for the thermoplastics and organics subcategory because it has TSS filtration data from five plants in that subcategory.) EPA believes that the pre-filtration (i.e., Option II) TSS levels for plants within each of these broad groupings are within a sufficiently similar range to support pooling the filtration effluent data. EPA requests comments on this pooling approach and suggestions for any alternative approach to using the filtration data.

TABLE C-3.—OPTION III TSS LIMITATIONS (MG/L) BASED ON BIOLOGICAL TREATMENT WITH FILTRATION AND BIOLOGICAL TREATMENT WITH POLISHING AND FILTRATION

Subcategory	Long-term average	30-day average	Daily maximum
Rayon	27	39	128
Other fibers	27	39	128
Thermosets	27	39	128
Thermoplastics only	27	39	128
Thermoplastics and organics	37	54	175
Commodity organics	40	58	190
Bulk organics	40	58	190
Specialty organics	40	58	190

As noted in the engineering costing methodology in section IV(H) of this notice, plant-by-plant model BPT costs were developed based on reported effluent BOD_5 and TSS effluent concentrations and selected costing targets (i.e., predicted effluent limitations used for costing proposes). These costing targets were selected before the actual limits set forth in this notice were set and therefore were designed to encompass a broad range of potential subcategory long-term averages for BOD_5 and TSS. EPA selected three sets of costing targets for plastics and four sets of targets for organics. In fact, the calculated long-term averages for each of the three options discussed above span a much narrower range. (The chief difference among the options is a significant improvement in TSS control for the three organics subcategories by adding filtration in Option III.) The subcategory long-term BOD/TSS averages and the closest corresponding BPT costing BOD/TSS targets are listed in Table C–4.

TABLE C-4.—BPT SUBCATEGORY AVERAGES AND COSTING TARGETS (MG/L)

Subcategory	Option I—biological treatment only		Options II and III—biological only and biological with polishing ponds, and filters		
	Subcategory long-term BOD_5, TSS averages	Closest costing BOD_5, TSS targets	Subcategory long-term BOD_5 + TSS averages		Closest costing BOD_5, TSS targets
			Option II	Option III	
Rayon	19/40	15/30	19/40	19/27	15/30
Other fibers	11/25	10/15	10/25	10/27	10/15
Thermosets	14/46	10/15	24/46	24/27	15/30
Thermoplastics only	18/34	15/30	18/29	18/27	10/15
Thermoplastics and organics	18/52	20/20	25/40	25/37	20/20
Commodity Organic	28/99	20/20	28/99	28/40	20/20
Bulk organic	25/40	20/20	27/46	27/40	20/20
Specialty organics	35/62	20/20	35/62	35/40	20/20

The Agency has overestimated BPT compliance costs because it used effluent targets for costing purposes that differed from those subsequently presented in the three options. On average, the closest BOD and TSS costing targets for Options I and II were 27 percent and 60 percent below (i.e., more stringent than) the subcategory long-term averages, respectively. Similarly, the Options I and II TSS costing targets are, on average, 36 percent below the Option III subcategory TSS medians.

The BOD_5 and TSS pollutant loadings were calculated in a similar manner to costs. The loadings calculations also correspond to the predicted BOD_5/TSS targets listed in Table C-4; thus the technology options appear to have nearly identical pollutant loadings. For the same reason, the annual incremental BOD and TSS removals were overestimated. The Agency will correct the engineering cost and pollutant loading calculations before promulgations.

The similarity of estimated loadings and costs based upon target levels yields a correspondingly artificial similarity among total annual loadings and costs for the selected Options. For example, EPA estimates that the BPT limitations would result in annual incremental removals (beyond that achieved by current treatment) of 28.1 million pounds of BOD and 74.2 million pounds of TSS for the Option I loading targets and 28.2 million pounds of BOD and 74.4 million pounds of TSS for the Options II and III loadings targets. The corresponding costs of removal are summarized in section V(B) of this notice. The Agency anticipates that actual removals and costs will be lower than these estimates and that refined calculations based upon the actually developed limitations will reveal more substantial differences among the three options. The preliminary economic impact analysis for BPT based upon these cost estimates is summarized also in section V(B) of this notice.

D. Technology Basis for BAT Options and Effluent Limitations

Based on the analyses which are discussed in the following sections, EPA is considering three technology options as the basis of end-of-pipe BAT effluent limitations. In addition, as discussed below, EPA is considering setting prebiological limits for certain volatile and semi-volatile pollutants that are primarily air-stripped rather than degraded in biological treatment systems. EPA may promulgate BAT effluent limitations based on any of these options. Therefore, we specifically invite comment on each of them.

Due to the diversity of priority pollutants in the OCPSF industry, a variety of treatment technologies are employed by OCPSF plants to control priority pollutants as well as nonconventional pollutant discharges. Consequently, the selection of a particular set of BAT treatment technologies is plant-specific since the OCPSF industry is not amenable to any single BAT technology.

The range of technologies used to control priority pollutant discharges encompasses virtually the entire range of industrial wastewater treatment technology. Generally, this technology consists of a combination of in-plant control or treatment of specific wastestreams (sometimes from several different product/processes) by any of a variety of physical/chemical methods, biological treatment of combined wastestreams, and post-biological treatment.

In-plant controls frequently used by OCPSF plants for treatment of individual wastestreams include steam stripping (or distillation), carbon adsorption, chemical precipitation, solvent extraction and chemical oxidation. Biological treatment generally consists of some form of activated sludge (i.e., extended aeration, complete mix, pure oxygen) individually or in combination with other types of biological treatment, such as aerated lagoons, trickling filters, and aerobic and anerobic lagoons. Post-biological treatment for priority pollutants (and nonconventionals) is generally limited to granular activated carbon and multimedia filtration.

It should be noted that although some of the controls or technologies preceding the biological segment of the treatment system are installed for product recovery or to reduce priority pollutants, others are expressly designed into the treatment system to assure compliance with BPT effluent limitations by protecting the biological segment of the system from shock loadings and other forms of interference. Sampling results show that some plants remove certain toxic pollutants very effectively from the wastewater through in-plant control technologies. In these cases, the end-of-pipe systems are designed primarily for BOD_5 and TSS removal. However, other complete treatment systems have integrated both biological and post-biological components with in-plant components to control priority pollutants by utilizing the in-plant technologies as "roughing" controls to reduce toxic pollutant loadings to levels which can be handled by biological and post-biological technologies. It is thus inappropriate to specify any particular technology as a BAT technology in the OCPSF industry. Rather, each plant required to control priority pollutant discharges will employ a combination of in-plant controls and end-of-pipe treatment technologies that result in the desired effluent quality with respect to a wide variety of pollutant parameters of interest.

Based upon these considerations, EPA has refrained from specifying a particular set of controls as the basis for BAT. Rather, priority pollutant control will be based on removals achieved at OCPSF plants using differing treatment configurations. Unlike the BAT editing rules used in the proposed rulemaking, EPA is considering a technology-based editing rule for retaining plant data in calculating BAT limitations rather than a performance editing rule utilizing BPT effluent parameters. These rules are discussed in detail in the BAT effluent limitations portion of this section.

EPA has considered two general approaches for developing BAT effluent limitations. The first approach is concentration-based limitations (with appropriate requirements to prevent the substitution of dilution for treatment) based on end-of-pipe data (supported by performance data for selected in-plant control technologies) that reflect total treatment system performance. The second approach would set mass-based limitations based primarily on an

evaluation of the treatability of individual product/process streams by in-plant process controls, physical/chemical treatment and biological treatment. For the reasons discussed in the preamble to the proposed regulation and in section II of this Notice, EPA has selected the first approach. However, EPA will specify in the regulation that permitting authorities must establish mass-based permit limitations by multiplying the concentration limit by the plan's actual process wastewater flow.

Based on the considerations discussed above, EPA is considering these three end-of-pipe BAT technology options:

Option I—Concentration-based BAT effluent limitations based on the performance of only the biological treatment component, which is equal to the priority pollutant limitations attained when in compliance with BPT effluent limitations.

Option II—Concentration-based BAT effluent limitations based on the performance of the biological treatment component plus in-plant control technologies which remove priority pollutants prior to discharge to the end-of-pipe treatment system. These in-plant technologies include steam stripping to remove volatile and semi-volatile priority polluants, activated carbon for various base/neutral priority pollutants, chemical precipitation for metals and cyanide and possibly multi-stage biological treatment for removal of polynuclear aromatic (PNA) priority pollutants.

Option III—Concentration-based BAT effluent limitations based on the performance of biological treatment, in-plant controls and post-biological activated carbon adsorption for the remaining toxic pollutants.

There are both advantages and disadvantages to each of the technology options. Option I is a low cost option which reduces some toxic pollutants utilizing the technology installed for BTP—biological treatment. (However, some OCPSF facilities can comply with the BPT limitations for BOD_5 and TSS without the installation of biological treatment. These facilities can comply with Option I BAT effluent limitations only by installing the in-plant controls recommended in Option II, thereby incurring greater costs to meet Option I limitations than other discharges would incur.) However, this technology in some cases includes in-plant controls which have been installed to remove toxic pollutants which would interfere with or inhibit the biological treatment system's removal of BOD_5 and TSS. The need for such controls for BPT purposes is likely to vary; thus some BPT plants may not be able to achieve BAT Option I without additional technology at additional cost.

Option II controls reduce large amounts of toxic pollutants from wastewater prior to discharge to surface waters. Furthermore, the installation of in-plant controls under Option II would be particularly effective in reducing the levels of volatile and semi-volatile organic toxic pollutants in all environmental media. A large portion of volatile and semi-volatile organic toxic pollutants are emitted by biological systems into the surrounding air. Thus, while removing them from the wastewater, the typical biological system does not remove these pollutants from the environment but rather transfers a large portion of them to another environmental medium. The in-plant treatment of such pollutants by methods such as steam stripping reduces or eliminates the air emissions that otherwise would occur by the air stripping of the organic toxic pollutants in the biological system. Moreover, the installation of in-plant controls would also reduce the levels of certain priority pollutants which are not air stripped or otherwise removed from OCPSF wastewaters using only biological treatment. For example, the Agency's data base shows that bis(2-chloroisopropyl)ether, 2,4,6-trichlorophenol, and pentachlorophenol are not adequately removed by biological treatment systems. However, bis(2-chloroisopropyl)ether, a base/neutral compound, may be controlled through in-plant steam stripping. Similarly, 2,4,6-trichlorophenol and pentachlorophenol, acid compounds, may be controlled through in-plant carbon absorption systems.

Although more efficient in terms of toxic pollutant removal from all media (water and air) than Option I, Option II has higher costs associated with its implementation. This is also the case for Option III which provides slightly higher removals at even higher costs for some organic toxic pollutants such as 2,4-dimethyl phenol, napthalene, and phenol.

Calculation of Concentration-Based BAT End-of-Pipe Effluent Limitations

For all options, EPA has decided to develop end-of-pipe concentration-based BAT limitations for the entire industry based upon end-of-pipe data that reflect the best available technology. Depending on the option selected, the BAT technology used as the basis for limitations includes combinations of process controls, in-plant physical/chemical treatment and end-of-pipe treatment. The data base includes verification plants, CMA/EPA 5-plant study plants, and recent sampling study plants; the data has been edited both technically and analytically.

Prior to calculating concentration-based limitations, EPA considered whether the industry should be subcategorized for BAT purposes by evaluating the same subcategorization factors which were considered for BPT. EPA has decided to promulgate a single set of BAT limitations which would be applicable to all OCPSF facilities. (However, permits would tailor these requirements somewhat to account for the fact that most OCPSF plants routinely discharge only a subset of the pollutants covered by the BAT regulation—see Section IV(L) of this notice.) The available data for BAT show that plants in differing BPT subcategories can achieve similar low toxic pollutant effluent concentrations by installing the best available treatment components. Since all plants can achieve compliance with the same BAT limitations through some combination of demonstrated technology, the predominant issue relates to the cost of the required treatment technology. EPA has analyzed these costs and their associated impacts, as discussed in section V(C) of this notice. Therefore, the Agency believes that BAT subcategories do not appear to be necessary for effective, equitable regulation. However, EPA will continue to explore the possibility of subcategorizing the industry for BAT purposes and invites comments and supporting data on appropriate approaches.

Although EPA is not subcategorizing the industry for BAT, EPA is considering separate BAT effluent limitations for total zinc (but not other pollutants) for rayon manufacturers. During the comment period on the proposed regulations, raw waste and treated effluent data were submitted which showed elevated raw waste loadings of zinc as much as 100 times higher than other OCPSF facilities' loadings with correspondingly higher effluent levels. However, the Agency believes that in-plant chemical precipitation will significantly lower effluent levels of zinc down to levels comparable to other OCPSF facilities; EPA solicits performance data from rayon plants that employ in-plant chemical precipitation as well as additional comments and information on this issue.

Having concluded that in general only one set of BAT limitations for all OCPSF facilities should be developed, EPA then calculated the BAT effluent limitations for each technology option using data collected from different combinations of

BAT treatment systems during the verification, CMA/EPA 5 plant study, and current sampling program efforts as follows:

Option I—BAT effluent limitations will be calculated using sampling data from plants that have been determined to have well-operated biological treatment for the priority pollutants to be regulated. These plants may include in-plant toxic pollutant controls which were installed to ensure the performance of the biological treatment system.

Option II—BAT effluent limitations will be calculated using sampling data from plants included in Option I for certain priority pollutants. For pollutants not adequately controlled by BPT technology, limitations will be based on data from plants that have biological treatment plus in-plant controls and plants that have physical/chemical control technology applied at the end-of-pipe for the remaining priority pollutants to be regulated.

Option III—BAT effluent limitations will be calculated using sampling data from plants included in Options I and II for some pollutants plus, for certain other pollutants, plants that have been identified as have biological treatment, in-plant controls and post-biological activated carbon adsorption polishing.

The following sections discuss the procedures used to calculate the components necessary for the development of BAT effluent limitations.

BAT Data Base Editing—Certain editing rules were utilized in preparing the data base prior to calculation of individual plant long-term averages (LTA) and industry long-term medians (LTM). First, analytically suspect data were returned to the analytical laboratories for confirmation or correction. Next, influent and effluent data were matched by sample date and all non-matching data points were excluded from this analysis. These data points will be included in the analysis prior to promulgation if they can be paired with data that the analytical laboratories confirm or correct. Then, each matched influent-effluent data pair was examined and all pairs which produced a negative percent removal were excluded from the analysis.

It should be noted that certain plants have been sampled in more than one of the BAT sampling programs previously mentioned. For the purposes of calculation plant LTAs and industry LTMs, each sampling program at a particular plant was treated separately and had individual LTAs which are included in the calculation of the LTM for each pollutant (i.e., it is possible that LTAs have been calculated for both the verification and CMA sampling programs for a particular pollutant at a certain plant). This decision was made due to difference in time periods of each sampling program, the different analytical procedures employed, the possibility of changes in product mix and processes utilized during each time period and the fact that different sets of priority pollutants may have been analyzed for the same plant during different sampling program efforts.

Calculation of the Median of Long-Term Means—For each pollutant at each plant in each of the sampling efforts mentioned above, a long-term weighted average (LTA) effluent concentration was calculated using only effluent data points whose corresponding end-of-pipe influent data were greater than or equal to 20 ppb or to 100 ppb depending on the type of technology used to remove a pollutant at a particular plant. For plants using in-plant controls prior to discharge to the end-of-pipe treatment system, the 20 ppb level was selected for the treated pollutant; for other plants, the 100 ppb level was used. These edits were designed to retain in the calculation of the limit for that pollutant only those plants that had treatable levels of a pollutant in the raw waste. The nondetected values at the plant were assigned a nominal detection limit value (using detection limits associated with EPA analytical methods 1624 and 1625. See 49 FR 43234; October 26, 1984). The long-term weighted average was computed by a weighting scheme, which assumed that nondetected values should be weighted in accordance with the frequency with which nondetected values for the pollutant generally were found in the daily-data plants. Then, the pollutant median of the plants' long-term weighted averages was calculated for each pollutant. The amount of data was limited for certain pollutants. Pollutant medians were retained for further analysis only if at least one plant-pollutant combination had three or more influent/effluent data pairs.

Calculation of Daily Maximum and Four Day Variability Factors—After developing long-term medians for each pollutant, EPA proceeded to develop two variability factors for each pollutant—a daily maximum variability factor (VF1) and a four-day variability factor (VF4). These were developed by fitting a statistical distribution to the daily data for each pollutant at each plant; deriving a 99th percentile and a mean of the daily data distributions for each pollutant at each plant; deriving a 95th percentile and a mean of the distribution of the 4-day averages for each pollutant at each plant; dividing the 99th and 95th percentiles by the respective means of daily and 4-day average distributions to derive plant-specific variability factors for each pollutant; and averaging these plant-specific variability factors across all plants to derive VF1 and VF4 for each pollutant.

For certain pollutants, the amount of daily data was limited. For such pollutants, variability factors were interpolated from the variability factors for groups of pollutants expected to exhibit comparable treatment variability based upon a comparison of chemical structure and characteristics. Each pollutant in each chemical group was then assigned a VF1 and VF4 equal to the average of the VF1s and VF4s of any pollutants in the same group.

In response to comments on the statistical aspects of the proposed limitations development, EPA examined several statistical techniques for deriving limitations. The Agency found that a modification of the delta-lognormal procedures provides a reasonable approximation of the underlying empirical toxic pollutant data. The delta-lognormal distribution assumes that the data are a mixture of positive lognormally distributed values and zero values that occur with a definite probability. Consequently, zero concentration values are modeled by a point distribution, positive concentration values follow a lognormal distribution, and the mixture of these values forms the delta-lognormal distribution.

This method provides a reasonable approach for combining quantitative concentration values with information expressed only as a nondetect, which is more qualitative in nature. For the determination of variability factors, the delta-lognormal procedure was modified by placing the point distribution at the nominal detection limit. This approach is somewhat conservative since values reported as nondetect may actually be any value between zero and the detection limit. The detection limit used for each pollutant was the nominal detection limit published by the Agency for analytical methods 1624 and 1625. Assigning the detection limit to non-detected values in calculating both variability factors and long-term medians for this data base tends to result in slightly higher limitations than would be derived if lower values were assumed.

Calculation of BAT Effluent Limitations—Daily maximum and monthly averages based on four observations BAT effluent limitations were calculated for each pollutant by

multiplying its long-term median value by each of its two corresponding variability factors. If a pollutant had its own pair of variability factors, these were utilized rather than the pollutant group variability factors. With the exception of mercury, all priority pollutant four-day monthly average and daily maximum limitations were rounded up to the nearest 5 parts per billion. Mercury was rounded up to the nearest one-half part per billion. After rounding, if the four-day monthly average equaled the daily maximum value, then only the daily maximum limitation was listed.

In the case of nitrobenzene for Option II and III, the Agency deleted one of three plants from the calculation because its treatment system for nitrobenzene was considered to be out of control due to chemical spills. For bis(2-chloroisopropyl)ether, data were not available for an appropriate Option II and III treatment system. Therefore, the Agency has selected a treatability level for bis(2-chloroisopropyl)ether of 10 ppb based on the performance of steam stripping. The treatability level was determined using the methodology described later in this section for establishing in-plant, pre-biological limitations.

Since insufficient data were available to determine BAT Option I Halogenated Methane and Chlorinated C2 and C4 pollutant variability factors, the Chloroalkyl Ether variability factor was applied to these pollutants. (The term chlorinated C2 refers to a priority pollutant class of compounds with two carbon atoms. Likewise, C3 and C4 refers to pollutant classes with 3 and 4 carbon atoms respectively.) For BAT Option II, the average of the Halogenated Methane and Chlorinated C2 pollutant groups was applied to the Chlorinated C3 and C4 and Chloroalkyl Ether pollutants. For BAT Option III, the average of the Halogenated Methane and Chlorinated C2, and C3 pollutant groups was applied to Chlorinated C4 and Chloroalkyl Ether groups as well. Since insufficient data were available to determined variability factors for acrylonitrile (miscellaneous pollutant group) the average of the organic pollutant groups was applied to acrylonitrile.

EPA intends to promulgate daily maximum and monthly average limitations for the OCPSF industry. 40 CFR 122.45(d) provides that effluent limitations and standards in permits shall, unless impracticable, be expressed as maximum daily and average monthly discharge limitations. For purposes of estimating compliance monitoring costs that would be incurred to comply and demonstrate compliance with these regulations, EPA has assumed that, on average, small plants would monitor twice monthly and large plants would monitor four times monthly.

Sampling and analyzing for metals is considerably less expensive than for organics. Consequently, it is reasonable to monitor for metals more frequently than for organics. Accordingly, EPA has established 10-day monthly averages for metals in many recently promulgated effluent guidelines. Although the metals limitations set forth in this notice are based on a daily maximum and a monthly average based on four observations per month, EPA is considering setting monthly average limitations based on 10 observations per month for metals in the final regulation. If the Agency establishes 10-day monthly averages, it would utilize the modified delta-lognormal distribution, described earlier, to conduct on analogous assessment of 10-day averages rather than 4-day averages. EPA solicits comments on this approach.

The BAT effluent limitations for Options I, II, and III are presented in Tables D–1 through D–3, respectively. (Since different plant-pollutant combinations are assigned to each technology option, some pollutants are not regulated under every option.) EPA estimates that BAT limitations will result in annual incremental removals (beyond that acheived by BPT) of negligible amounts of priority pollutants for Option I, 260.00 pounds of toxic organics and 524,000 pounds of toxic metals for Option II, and 281,000 pounds of toxic organics and 526,000 pounds of toxic metals for Option III.

As noted earlier, a large portion of volatile and semivolatile organic toxic pollutants are emitted by biological treatment systems into the surrounding air. This transfer of pollutants from water to air takes place at some current treatment systems and at BAT Option I but would be greatly reduced by the use of appropriate in-plant technology as contemplated by Options II and III. Thus, the wastewater organic toxic pollutant removals presented above are somewhat misleading since they present only the removals of the pollutants from the wastewater and do not account for the transfer of these pollutants into the air in the current and BAT Option I loadings. Similarly, the removal estimates do not include the reduction of air emissions of volatile and semivolatile pollutants by using Option II in-plant steam stripping technology.

For example, in considering the current annual volatile pollutant loadings for direct dischargers, the Agency estimates that 33.7 of the 82.7 million pounds generated in the raw waste actually enter biological treatment systems. (This assumes that the volatile pollutants are evenly distributed among direct dischargers and that in-plant steam stripping and solvent recovery treatment systems currently being used totally remove the volatile pollutants. Therefore, 40.8 percent of the raw waste enters the biological treatment systems.) If only one-quarter of the volatile pollutants are stripped into the surrounding air from the aeration basins of biological treatment systems, then about 8.4 million pounds of volatile compounds enter the environment as air pollutants through current in-place treatment and through BPT treatment. The actual stripping rates through open biological treatment systems are pollutant specific and range from approximately zero percent stripped for highly water-soluble, chemically-reactive compounds such as acrylonitrile, up to over 50 percent stripped for compounds such as 1,2-dichloroethane, 1,1,1-trichloroethane, tetrachloroethylene, and 1,2-dichloropropane. Likewise, the prevalent removal mechanism in open biological treatment systems for benzene, carbon tetrachloride, and toluene is air stripping.

With these considerations in mind, the Agency has calculated the full benefits afforded by Option II in removing toxic pollutants from all environmental media. The BAT Option II limitations are estimated to result in annual incremental removals from air and water media (beyond that achieved by BPT) of 8.7 million pounds of toxic organic pollutants rather than 260,000 pounds. The Agency is conducting a volatile and semivolatile pollutant-by-pollutant assessment to establish more accurate estimates of the volatilization rates in open biological treatment systems and solicits additional data and information regarding air emissions of toxic pollutants from open wastewater treatment systems. As discussed later in this section, the Agency is considering establishing in-plant, pre-biological limitations to ensure control of these compounds.

The estimated capital and operation and maintenance costs and the preliminary economic impact analysis for BAT are summarized in section V(C) of this Notice.

As mentioned previously in this section, although Option I is based on the performance of the technology

installed to comply with BPT effluent limitations and therefore, had no incremental BAT costs developed for its implementation, the Agency believes that some nonbiological plants currently achieving BPT effluent limitations will incur costs to comply with BAT effluent limitations for Option I.

TABLE D-1.—OPTION I BAT EFFLUENT LIMITATIONS (PARTS PER BILLION)

Pollutant or pollutant property by priority pollutant classes	Median of long-term weighted means	Monthly average shall not exceed	Maximum for any 1 day
Halogenated Methanes (C1's)			
6. Carbon tetrachloride	10	20	50
23. Chloroform	10	20	50
44. Methylene chloride	11.1	25	55
47. Bromoform	10	20	50
Chlorinated C2's			
10. 1,2-Dichloroethane	10.3	25	50
12. Hexachloroethane	10	20	50
16. Chloroethane	50	100	245
30. 1,2-trans-Dichloroethylene	77.5	155	375
85. Tetrachloroethylene	118.9	235	575
Chlorinated C4's			
52. Hexachlorobutadiene	10	20	50
Chloroalkyl Ethers			
42. bis(2-chloroisopropyl)ether	1,463	2,860	7,035
Metals			
114. Antimony	65	85	125
115. Arsenic	17	30	60
119. Chromium	86.7	120	195
120. Copper	21.3	35	75
122. Lead	329	860	2,585
123. Mercury	0.2		0.5
124. Nickel	145	235	495
125. Selenium	12	20	45
128. Zinc	52.5	90	190
Miscellaneous			
3. Acrylonitrile	50	105	270
121. Cyanide	64.9	120	275
Aromatics			
4. Benzene	27.1	80	245
38. Ethylbenzene	10	35	125
86. Toluene	10	40	155
Polyaromatics			
1. Acenaphthene	10	35	105
39. Fluoranthene	13.2	45	140
55. Naphthalene	10	35	105
72. Benzo(a)anthracene	10	35	105
73. Benzo(a)pyrene	10	35	105
74. 3,4-Benzofluoranthene	10	35	105
76. Chrysene	10	35	105
77. Acenaphthylene	10	35	105
78. Anthracene	10	35	105
80. Fluorene	10	35	105
81. Phenanthrene	10	35	105
84. Pyrene	12.6	40	135
Chloroaromatics			
7. Chlorobenzene	23.1	65	185
8. 1,2,4-Trichlorobenzene	42.8	70	140
9. Hexachlorobenzene	10	20	40
25. o-Dichlorobenzene	23.9	40	75
26. m-Dichlorobenzene	21.3	25	35
27. p-Dichlorobenzene	10	20	40
Phthalate Esters			
66. bis(2-Ethylhexyl)phthalate	19.6	45	130
68. Di-n-butyl phthalate	22.2	40	80
70. Diethyl phthalate	44.4	90	215
71. Dimethyl phthalate	10	20	50
Nitroaromatics			
35. 2,4-Dinitrotoluene	952	1,360	2,450
36. 2,6-Dinitrotoluene	327	445	730
56. Nitrobenzene	351	950	2,965

TABLE D-1.—OPTION I BAT EFFLUENT LIMITATIONS (PARTS PER BILLION)—Continued

Pollutant or pollutant property by priority pollutant classes	Median of long-term weighted means	Monthly average shall not exceed	Maximum for any 1 day
Benzidines			
28. 3,3'-Dichlorobenzidene	262	320	450
Phenols			
34. 2,4-Dimethylphenol	10	20	35
65. Phenol	10	20	35
Nitrophenols			
57. 2-Nitrophenol	40.7	60	95
58. 4-Nitrophenol	50	75	125
59. 2,4-dinitrophenol	102	150	260
Chlorophenols			
21. 2,4,6-Trichlorophenol	65.9	115	260
24. 2-chlorophenol	10	35	125
31. 2,4-Dichlorophenol	16.9	45	130
64. Pentachlorophenol	50	65	100

TABLE D-2.—OPTION II BAT EFFLUENT LIMITATIONS (PARTS PER BILLION)

Pollutant or pollutant property by priority pollutant classes	Median of long-term weighted means	Monthly average shall not exceed	Maximum for any one day
Halogenated Methanes (C1's)			
6. Carbon tetrachloride	10	15	30
23. Chloroform	10	20	40
44. Methylene chloride	10	15	20
45. Methyl chloride	50	75	130
47. Bromoform	10	15	30
48. Bromodichloromethane	10	15	30
Chlorinated C2's			
10. 1,2-Dichloroethane	13.4	30	85
11. 1,1,1-Trichloroethane	10	25	65
12. Hexachloroethane	10	25	65
14. 1,1,2-Trichloroethane	10	25	65
16. Chloroethane	50	115	315
29. 1,1-Dichloroethylene	10	25	65
30. 1,2-trans-Dichlorcethylene	10	25	65
85. Tetrachloroethylene	10.7	25	70
87. Trichloroethylene	10	25	65
88. Vinyl chloride	10	25	65
Chlorinated C3's			
32. 1,2-Dichloropropane	59.4	110	265
33. 1,3-Dichloropropylene	36.9	70	165
Chlorinated C4's			
52. Hexachlorobutadiene	10	20	45
Chloroalkyl Ethers			
42. bis(2-chloroisopropyl)ether	10	20	45
Metals			
114. Antimony	158	200	305
115. Arsenic	25.1	50	115
119. Chromium	64.5	90	150
120. Copper	27.7	45	90
122. Lead	100	265	785
123. Mercury	2.03	2.5	3.0
124. Nickel	166	195	255
125. Selenium	12	20	40
128. Zinc	69.5	105	190
Miscellaneous			
3. Acrylonitrile	50	95	240
121. Cyanide	64.9	120	275
Aromatics			
4. Benzene	10	30	65
38. Ethylbenzene	10	30	100
86. Toluene	10	35	115
Polyaromatics			
1. Acenaphthene	10	35	105
39. Fluoranthene	13.2	45	140
55. Naphthalene	10	35	105

TABLE D-2.—OPTION II BAT EFFLUENT LIMITATIONS (PARTS PER BILLION)—Continued

Pollutant or pollutant property by priority pollutant classes	Median of long-term weighted means	Monthly average shall not exceed	Maximum for any one day
72. Benzo(a)anthracene	10	35	105
73. Benzo(a)pyrene	10	35	105
74. 3,4-Benzofluoranthene	10	35	105
76. Chrysene	10	35	105
77. Acenaphthylene	10	35	105
78. Anthracene	10	35	105
80. Fluorene	10	35	105
81. Phenanthrene	10	35	105
84. Pyrene	12.6	40	135
Chloroaromatics			
7. Chlorobenzene	15.9	40	115
8. 1,2,4-Trichlorobenzene	26.4	45	90
9. Hexachlorobenzene	10	20	40
25. o-Dichlorobenzene	52.3	80	145
26. m-Dichlorobenzene	21.3	25	35
27. p-Dichlorobenzene	10	20	40
Phthalate Esters			
66. bis(2-Ethylhexyl)phthalate	19.6	45	130
68. Di-n-butyl phthalate	22.2	40	80
70. Diethyl phthalate	44.4	90	215
71. Dimethyl phthalate	10	20	50
Nitroaromatics			
35. 2,4-Dinitrotoluene	219	310	540
36. 2,6-Dinitrotoluene	255	340	555
56. Nitrobenzene	206	285	480
Benzidines			
28. 3,3'-Dichlorobenzidine	262	320	450
Phenols			
34. 2,4-Dimethylphenol	10.6	20	35
65. Phenol	10	20	35
Nitrophenols			
57. 2-Nitrophenol	24.0	35	55
58. 4-Nitrophenol	50	70	120
59. 2,4-dinitrophenol	50	75	130
60. 4,6-Dinitro-o-cresol	20	30	50
Chlorophenols			
21. 2,4,6-Trichlorophenol	65.9	115	260
24. 2-chlorophenol	10	35	125
31. 2,4-Dichlorophenol	16.9	45	130
64. Pentachlorophenol	50	65	100

TABLE D-3.—OPTION III BAT EFFLUENT LIMITATIONS (PARTS PER BILLION)

Pollutant or pollutant property by priority pollutant classes	Median of long-term weighted means	Monthly average shall not exceed	Maximum for any 1 day
Halogenated Methanes (C1's)			
6. Carbon tetrachloride	10	15	30
23. Chloroform	10	20	40
44. Methylene chloride	10	15	20
45. Methyl chloride	50	75	130
47. Bromoform	10	15	30
48. Bromodichloromethane	10	15	30
Chlorinated C2's			
10. 1,2-Dichloroethane	13	30	85
11. 1,1,1-Trichloroethane	10	25	65
12. Hexachloroethane	10	25	65
14. 1,1,2-Trichloroethane	10	25	65
16. Chloroethane	50	115	315
29. 1,1-Dichloroethylene	10	25	65
30. 1,2-trans-Dichloroethylene	10	25	65
85. Tetrachloroethylene	10.2	25	65
87. Trichloroethylene	10	25	65
88. Vinyl chloride	10	25	65
Chlorinated C3's			
32. 1,2-Dichloropropane	36.1	50	70
33. 1,3-Dichloropropylene	36.9	50	70

TABLE D-3.—OPTION III BAT EFFLUENT LIMITATIONS (PARTS PER BILLION)—Continued

Pollutant or pollutant property by priority pollutant classes	Median of long-term weighted means	Monthly average shall not exceed	Maximum for any 1 day
Chlorinated C4's			
52. Hexachlorobutadiene	10	20	40
Chloroalkyl Ethers			
42. bis(2-chloroisopropyl)ether	10	20	40
Metals			
114. Antimony	158	200	305
115. Arsenic	25	40	80
119. Chromium	57.6	80	130
120. Copper	27.7	45	90
122. Lead	86.7	230	680
123. Mercury	2.03	2.5	3.0
124. Nickel	145	170	225
125. Selenium	12	20	40
128. Zinc	66.1	100	190
Miscellaneous			
3. Acrylonitrile	50	95	225
121. Cyanide	64.9	120	275
Aromatics			
4. Benzene	10	25	80
38. Ethylbenzene	10	30	90
86. Toluene	10	30	100
Polyaromatics			
1. Acenaphthene	10	35	105
39. Fluoranthene	13.2	45	140
55. Naphthalene	10	35	105
72. Benzo(a)anthracene	10	35	105
73. Benzo(a)pyrene	10	35	105
74. 3,4-Benzofluoranthene	10	35	105
76. Chrysene	10	35	105
77. Acenaphthylene	10	35	105
78. Anthracene	10	35	105
80. Fluorene	10	35	105
81. Phenanthrene	10	35	105
84. Pyrene	12.6	40	135
Chloroaromatics			
7. Chlorobenzene	11.3	25	70
8. 1,2,4-Trichlorobenzene	26.4	45	90
9. Hexachlorobenzene	10	20	35
25. o-Dichlorobenzene	23.8	40	70
26. m-Dichlorobenzene	11.3	25	35
27. p-Dichlorobenzene	10	20	35
Phthalate Esters			
66. bis(2-Ethylhexyl)phthalate	19.6	45	130
68. Di-n-butyl phthalate	22.2	40	80
70. Diethyl phthalate	44.4	90	215
71. Dimethyl phthalate	10	20	50
Nitroaromatics			
35. 2,4-Dinitrotoluene	108	150	255
36. 2,6-Dinitrotoluene	217	285	455
56. Nitrobenzene	206	285	480
Benzidines			
28. 3,3'-Dichlorobenzidine	262	320	450
Phenols			
34. 2,4-Dimethylphenol	11.1	20	40
65. Phenol	10	20	35
Nitrophenols			
57. 2-Nitrophenol	22.6	30	50
58. 4-Nitrophenol	50	70	120
59. 2,4-dinitrophenol	50	75	130
60. 4,6-Dinitro-o-cresol	20	30	50
Chlorophenols			
21. 2,4,6-Trichlorophenol	85.9	115	260
24. 2-chlorophenol	10	35	125
31. 2,4-Dichlorophenol	16.9	45	130
64. Pentachlorophenol	50	65	100

In-Plant, Pre-Biological Limitations

EPA is seriously considering promulgating in addition to the end-of-pipe limitations set forth above, in-plant, pre-biological limitations for a set of 20 volatile and semi-volatile organic pollutants. The purpose of these supplementary limitations would be to assure that these pollutants are not simply transferred to the air rather than treated by the wastewater treatment system.

As noted above, available information strongly indicates that biological treatment systems fail to treat substantial portions of volatile and semi-volatile pollutants but rather transfer them to the air. Section 304(b) of the Act requires EPA to consider non-water quality environmental impacts in establishing BAT limitations. Clearly, Congress was concerned that wastewater not be cleaned up at the expense of other environmental media. Therefore, it is appropriate to address in these regulations the substantial impacts that may result from volatile air emissions at OCPSF biological treatment plants.

In Options II and III, EPA has established a technological basis for controlling volatile and semi-volatile pollutants in a manner that also minimizes adverse impacts on air quality. In estimating compliance costs for Options II and III, EPA assumed that in-plant controls such as steam stripping would be used to treat volatile and semi-volatile pollutants, leaving only the residual levels after in-plant controls to be further removed from the wastewater by the end-of-pipe system. If plants install such in-plant controls, then the contemplated air-emission-reduction would be achieved.

However, as indicated by the data used to generate the Option I limitations, open biological treatment systems remove some volatile and semi-volatile pollutants from wasterwater without substantial in-plant controls. It may thus be possible, for example, for some plants to achieve Option II limitations without using the contemplated Option II in-plant controls. Air emissions could potentially be substantial, then, even if EPA promulgates end-of-pipe limitations under Option II or III.

For this reason, EPA believes that, to promulgate effluent limitations that reflect the best available technology for removing pollutants from wastewater while minimizing adverse impacts to the air, it may be necessary to establish in-plant limitations. In this case, EPA would establish limitations to be achieved prior to any biological treatment system and would require that control authorities require compliance monitoring prior to the biological system.

EPA is concerned that the in-plant limitations may not result in a significant reduction of air emissions. This may occur if sources choose to use in-plant control techniques other than steam stripping which meet the BAT limitations but do not result in any significant reduction of air emissions. Should this be the case and the level of air emissions warrant, EPA has other authority such as the Clean Air Act with which to address any problems.

Under the Clean Air Act EPA would be concerned about wastewater systems as sources of air toxic compounds as well as sources of volatile organic compounds which contribute to ozone formation. EPA Clean Air Act (CAA) authority to deal with air emissions problems includes: new source performance standards (CAA section 111); hazardous air pollutant emissions standards (CAA section 112); and provisions requiring attainment and maintenance of national ambient air quality standards (CAA sections 109, 110).

Comment is invited on the issue of whether sources will choose to use in-plant controls other than steam stripping, including the critical factors which may affect such a choice, e.g., control costs, product recovery credits, waste disposal, and potential air pollution controls.

EPA would establish such in-plant limitations based upon the available in-plant steam stripping performance data. For the steam stripping assessment, the organic priority pollutants were divided into three groups (high, medium, and low) based on their Henry's Law Constants. For aqueous mixtures, the distribution of a pollutant between the vapor phase and water can be expressed by Henry's Law. Compounds with high vapor pressures (high Henry's Law Constants) are easily stripped. By assuming that compounds in each group behave similarily, group median effluent values were calculated—a median of nondetect represents the high stripping group; 11.7 ppb, for the medium stripping group; and 1418 ppb, for the low stripping group.

The BAT in-plant limitations for Options II and III are listed in Table D-4. Based upon available information, the Agency believes that at least 20 percent of the influent mass of these compounds are air-stripped to the atmosphere in open biological systems. The Agency is conducting a volatile and semivolatile pollutant-by-pollutant assessment to establish more accurate determinations of which compounds are significantly stripped from wastewater treatment systems. The Agency solicits comments.

data, and information related to this issue.

TABLE D-4.—BAT IN-PLANT LIMITATIONS FOR OPTIONS II AND III (PARTS PER BILLION)

Pollutant or pollutant property by priority pollutant classes	Median of long-term weighted means	Monthly average shall not exceed	Maximum for any 1 day
Halogenated Methanes (C1's)			
6. Carbon tetrachloride	11.7	25	55
23. Chloroform	11.7	25	55
44. Methylene chloride	10	20	45
Chlorinated C2's			
10. 1,2-Dichloroethane	10	20	45
11. 1,1,1-Trichloroethane	11.7	25	55
12. Hexachloroethane	10	20	45
14. 1,1,2-Trichloroethane	10	20	45
29. 1,1-Dichloroethylene	11.7	25	55
30. 1,2-trans-Dichloroethylene	11.7	25	55
85. Tetrachloroethylene	11.7	25	55
87. Trichloroethylene	11.7	25	55
88. Vinyl chloride	11.7	25	55
Chlorinated C3's			
32. 1,2-Dichloropropane	10	20	45
Aromatics			
4. Benzene	11.7	25	50
86. Toluene	11.7	25	50
Chloroaromatics			
7. Chlorobenzene	11.7	25	50
9. Hexachlorobenzene	10	20	40
25. o-Dichlorobenzene	10	20	40
26. m-Dichlorobenzene	11.7	25	50
27. p-Dichlorobenzene	11.7	25	50

EPA assigns no incremental pollutant removals or costs to this regulatory approach. The approach is designed simply to assure that the technologies contemplated by Options II and III are applied to minimize adverse air impacts as well as remove toxic pollutants from the wastewater. Consequently, the removals and costs calculated for Options II and III already account for this regulatory approach. EPA welcomes comments on the above analysis.

E. Technology Basis for NSPS Options and Effluent Standards

The best available demonstrated technology provides the basis of NSPS. At new manufacturing plants, the opportunity exists to design the best and most efficient processes and wastewater treatment facilities. Therefore, EPA considers the best demonstrated process changes, in-plant controls, and end-of-pipe treatment technologies that reduce pollution to the maximum extent feasible.

The Agency is considering all three BPT and all three BAT technology options as the basis for NSPS. Priority pollutants considered for control by NSPS include those listed for each BAT option. BOD and TSS which are controlled by the BPT technology options, are considered for control by NSPS. The reader is therefore referred to Section IV(C), Tables C-1 to C-3 and section VI(D), Tables D-1 to D-4.

The technologies used to control conventional and priority pollutants at existing plants are fully applicable to new plants. EPA has not identified any technologies or combinations of technologies that are demonstrated for new sources that are different from those being considered to establish BPT and BAT limitations for existing sources.

F. Technology Basis and Standards for PSES

As discussed in section IV(D) for the BAT effluent limitations, the selection of a particular set for PSES treatment technologies is also plant-specific for indirect dischargers in the OCPSF industry. As with the direct dischargers subject to BAT effluent limitations, treatment technologies applicable to indirect dischargers subject to PSES can consist of in-plant control or treatment of specific (or combined) wastestreams by a number of physical/chemical methods sometimes in combination with biological treatment of combined wastestreams where effluent levels from in-plant control technologies still pass through, interfere with or inhibit publicly-owned treatment works. In-plant control and biological treatment technologies utilized by indirect dischargers are the same as those employed by direct dischargers as discussed in section IV(D) of this Notice.

Prior to proposal, sufficient priority pollutant removal data for in-plant control technologies which could be utilized to calculate PSES limitations for indirect discharges were not available since previous sampling efforts focused on complete end-of-pipe treatment systems rather than on individual technology components. However, as discussed in section III of this Notice, EPA initiated a new sampling program after proposal at 12 OCPSF facilities to collect toxic pollutant removal data for selected in-plant control technologies as well as end-of-pipe technologies which could be applied to indirect discharges. Data are available for certain in-plant controls as well as applicable end-of-pipe technologies for EPA to establish PSES limitations for certain toxic pollutants which pass through the POTW or interfere with the POTW operation.

As in the case for the BAT effluent limitations (see section IV(D) of this notice), EPA considered both concentration-based and mass-based PSES effluent limitations and for the same reasons mentioned previously, decided to establish concentration-based PSES effluent limitations.

Similarly, EPA considered whether the industry should be subcategorized for PSES purposes and, for the same reasons described above for BAT, decided to establish one set of PSES limitations which are applicable to all plants.

As in the proposal, EPA is continuing to consider setting PSES equal to BAT. Therefore, the PSES options span the entire range of BAT Options I–III. Similarly, EPA is considering establishing in-plant, prebiological PSES where necessary to avoid adverse air impacts.

As in the proposal, PSES will differ from BAT only with respect to the set of pollutants regulated. EPA is considering two major options for selecting pollutants to be regulated:

PSES Option I—Establish PSES limitations for pollutants failing EPA's standard pass-through analysis.

PSES Option II—Add to Option I a set of volatile and semi-volatile organic toxic pollutants based on POTW interference as well as pass-through.

EPA's general pass-through analysis for pretreatment standard setting purposes is to compare, on a pollutant-by-pollutant basis, the percentage of a pollutant removed by well-operated POTWs (those meeting secondary treatment requirements) with the percentage removed by direct dischargers complying with BAT. If BAT removes more of a pollutant than POTWs remove, the pollutant is deemed to pass through POTWs and a PSES limitation is established for the pollutant.

In the proposal, EPA slightly modified its procedure for assessing pass through. Cognizant of the analytical variability typical of organic toxic pollutants in POTWs and OCPSF plants, EPA determined that pass through occurs only if BAT removes at least 5 percent more than a well-operated POTW removes. This approach is additionally supported by the fact that POTW influent organic toxic pollutant concentrations are typically much lower than industry treatment system influent concentrations; many POTW effluent samples are below detection, precluding a complete accounting of all pollutants removed by the POTW. The Agency has therefore retained this approach in this notice. Table E-1 lists all pollutants that pass through using the 5 percent criterion. For illustrative purposes only, Table E-1 sets forth the limitations that would apply if EPA adopts BAT Option II. If a different BAT option is selected, PSES will be revised accordingly.

EPA is considering modifying the 5 percent approach to be 10 percent, using

the same general reasons as used to justify the 5 percent approach. Pollutants that would not be regulated at PSES Option I if this approach were adopted are highlighted (=) in Table E-1. The majority of these pollutants would be recaptured for regulation if EPA adopts PSES Option II. (See pollutants marked by asterisks in Table E-2.) The PSES Option II standards are also based on BAT Option II for illustrative purposes only. EPA requests comments on this approach.

EPA also solicits comments on its approach for determining pass through in the absence of adequate POTW data to compare POTW removals to BAT removals. In the proposal and in this notice, EPA has determined that pollutants pass through in such situations. The pollutants without adequate POTW removal data are highlighted (*) in Table E-1. However, the Agency believes that some of these pollutants may not warrant pretreatment standards based on pass through considerations. For example, EPA may not establish PSES for acrylonitrile, a chemically-reactive, unstable compound which may not pass through POTWs. Furthermore, the Agency believes that decisions, related to whether these pollutants actually pass through POTWs, can be made regarding some of these compounds based on POTW and/or direct discharge biological treatment removal data for chemically similar compounds. The Agency solicits comments and data regarding the efficacy of this approach.

Under PSES Option II, EPA would additionally regulate some volatile and semivolatile organic toxic pollutants (see Table E-2). These pollutants interfere with the normal operation of POTWs by presenting safety hazards due to volatilization of toxic organics in POTW's headworks. While the severity of such hazards may depend on a variety of factors, the potential for harm is considerable. For example, one State that has a large number of OCPSF plants submitted a comment on the proposal that attributed POTW employee deaths to the volatilization in POTW sewers of organic pollutants discharged by industrial contributors.

In addition to interference problems, EPA believes that the pollutants added in PSES Option II pass through POTWs. These pollutants, as discussed with respect to BAT in section IV(D) of this notice, volatilize to the atmosphere from biological treatment systems. Since POTWs are biological systems, large proportions of volatile and semi-volatile pollutants are removed from wastewaters entering POTWs by air stripping rather than treatment. Thus, the standard pass-through analysis comparing POTW and BAT removals is inappropriate here. For the same reason that EPA is considering establishing in-plant BAT limitations, EPA is also considering adopting PSES Option II to ensure that pollutants not adequately treated by biological treatment are properly pretreated. Thus PSES Option II is supported by considerations of pass through as well as interference.

If priority pollutant PSES are established on the basis of interference alone, the Agency would consider adopting a provision similar to that established for sulfides in the Leather Tanning and Finishing Industry Regulation (47 FR 52848; November 23, 1982). Such a provision would allow a POTW not to set pretreatment standards for volatile compounds if the POTW certifies that the discharge of these compounds do not interfere with POTW operation.

In its initial cost estimation activities for PSES for this notice, the Agency had based PSES costs on the installation of only in-plant control technologies such as steam stripping, activated carbon, and chemical precipitation. This was done based on the receipt of preliminary sampling data which indicated that pollutant removals for in-plant controls approximated pollutant removals obtained by BAT treatment systems. However, upon receipt of the entire toxic pollutant data base, it became apparent that for 13 of the 58 PSES Option II priority pollutants, demonstrated physical/chemical effluent concentrations were essentially higher than BAT treatment effluent concentrations. Additional treatment would be necessary to achieve BAT-level PSES for these 13 pollutants.

In an attempt to estimate the actual costs which will be incurred for compliance with the PSES effluent limitations and the associated economic impacts, the Agency has selected a random sample of 30 indirect dischargers. Each plant's estimated raw waste toxic pollutant loading was examined to determine the pollutants which would require additional treatment because the plant's effluent levels were greater than the PSES Option II effluent limitations. Since PSES II regulates more pollutants than PSES I, the use of PSES Option II provides the most conservative approach which would yield the highest potential costs and impacts. The costing scenario included in-plant treatment costs as well as costs for certain additional treatment technologies for the 13 pollutants—eight organic toxic pollutants, four toxic pollutant heavy metals and cyanide. For 5 of the 30 plants, biological treatment (activated sludge) was costed in addition to the appropriate in-plant controls because at least one of the eight organic toxic pollutants or cyanide appeared in the plant's effluent at greater than BAT effluent levels. Multi-media filtration was costed in addition to chemical precipitation for 19 plants because at least one of the four toxic pollutant heavy metals appeared above the BAT effluent levels. The average cost increases in adding the technologies for the 13 pollutants across the 30 plant sample are 226 percent for land costs, 56 percent for capital equipment, and 11 percent for operation and maintenance costs. Sludge costs are not projected to increase. These increases were applied for all plants. The estimated PSES costs and the preliminary economic impact analyses are presented in section V(D) of this notice.

For the organic toxic pollutants and cyanide, biological treatment plus in-plant controls forms the principal technology basis for BAT Option II and therefore, should accurately reflect the costs necessary to attain PSES. The addition of multi-media filtration after chemical precipitation is a proven method of reducing heavy metals concentrations in the metal finishing, inorganic chemicals and other industries which generate heavy metals in their raw wastewaters. Data from the metal finishing industry show incremental percent removals with the addition of filtration of 44 percent for total chromium, 55 percent for total copper, 32 percent for total lead, 42 percent for total nickel and 55 percent for total zinc. Therefore, the Agency feels that the costing of filtration is an adequate cost estimation technology which can lower the in-plant control effluent values for chemical precipitation to within an acceptable range of the BAT effluent levels.

For all other pollutants, as noted, EPA's costing procedures assumed that in-plant treatment would be sufficient to achieve compliance with PSES limitations. The treatment capability of steam stripping has already been discussed with respect to BAT in section IV(D) of this notice. For the activated carbon assessment, the organic priority pollutants were divided into three groups (high, medium, and low) based on their in-plant carbon usage rates—pounds of pollutant adsorbed per pound of carbon. By assuming that compounds in each group behave similarily, group median effluent values were calculated for costing purposes—a median of

nondetect represents both the high and medium adsorption groups since data was available for the medium group only and a median of 175 ppb represents the low adsorption group.

For the 52 organic toxic pollutants regulated at PSES Option II, the steam stripping and activated carbon assessment demonstrates that these controls alone can achieve the same or lower long-term concentrations for 33 organics, essentially the same concentrations (within 2 ppb) for 11 others (benzene, carbon tetrachloride, 1,1,1-trichloroethane, chloroform, 1,1-dichloroethylene, 1,2-trans-dichloroethylene, dichlorobromomethane, tetrachloroethylene, toluene, trichloroethylene, and vinyl chloride), and higher concentrations (ranging from 125 to 1,418 ppb) for the remaining 8 organics (2,4-dimethylphenol, 2-chlorophenol, 2,4-dinitrophenol, and 5 polyaromatics—benzo(a)anthracene, benzo(a)pyrene, 3,4-benzofluoranthene, chrysene, and pyrene). In the case of the polyaromatics, biological treatment may provide more cost-effective control than steam stripping or activated carbon (depending on the specific compound or combination of compounds in the wastewater)—at least one indirect discharge facility for which EPA has toxic pollutant data has installed biological treatment to achieve long-term effluent concentrations at or near the analytical method detection levels.

For cyanide and the 5 toxic pollutant metals regulated at PSES Option II, OCPSF physical/chemical performance data is available only for arsenic and zinc. Data for chemical precipitation demonstrates that physical/chemical treatment alone can achieve lower concentrations for arsenic than BAT control; however, for zinc, chemical precipitation performance is 39 ppb higher than the BAT long-term average.

EPA has not separately costed PSES Option I. Because fewer pollutants are regulated at Option I, EPA anticipates that Option I would result in the removal of fewer pollutants but cost less than Option II.

PSES Option II (assuming that BAT Option II is selected as the appropriate technology level), is anticipated to result in annual incremental removals (beyond current removals) of 100 million pounds of toxic organics and 5.7 million pounds of toxic metals.

Although the Agency is giving its most serious consideration to PSES Options I and II (each of which sets PSES equal to BAT for all pollutants regulated), an additional PSES Option III might be to set PSES at levels achievable by physical/chemical treatment alone. Under this option, PSES would equal BAT for most pollutants but would be higher (less stringent) for the 13 priority pollutants discussed above. Table E–3 sets forth the standards that would apply to these 13 pollutants. Estimated costs for PSES Option III are presented below in section V(E) of this notice. EPA solicits comments on this option.

The long-term averages for benzo(a) anthracene, chrysene and pyrene in Table E–3 are based on the steam stripping median value for the low Henry's Law constant pollutant group. For benzo(a)pyrene, 3,4-benzofluoranthene, 2,4-dimethylphenol, 2,4-dinitrophenol and 2-chlorophenol, the long-term averages are based on the in-plant carbon adsorption median value of the low carbon usage rate pollutant group. The zinc long-term average is based on the OCPSF industry chemical precipitation data. The long-term averages for lead, mercury, selenium and cyanide are based on chemical precipitation performance information from the inorganic chemicals, paint and ink, and steam electric power generating industries. The corresponding variability factors for the low Henry's Law Constant steam stripping systems are OCPSF industry averages transfered from 2,4,6-trichlorophenol and pentachlorophenol. The carbon adsorption variability factors for the low carbon usage group are transferred from nitrobenzene. The OCPSF industry zinc chemical precipitation variability factors were used for zinc, whereas averages for arsenic, chromium, copper and zinc were transferred to lead, mercury, selenium and cyanide.

TABLE E–1.—OPTION I PSES STANDARDS (PARTS PER BILLION)

Pollutant or pollutant property by priority pollutant classes	Monthly average shall not exceed	Maximum for any 1 day
Halogenated Methanes (C1's)		
6. Carbon tetrachloride	15	30
23. Chloroform	20	40
44. Methylene chloride	#15	20
48. Bromodichloromethane	15	30
Chlorinated C2's		
10. 1,2-Dichloroethane	30	85
12. Hexachloroethane	*25	65
16. Chloroethane	*115	315
85. Tetrachloroethylene	#25	70
88. Vinyl chloride	25	65
Chlorinated C4's		
52. Hexachlorobutadiene	*20	45

TABLE E–1.—OPTION I PSES STANDARDS (PARTS PER BILLION)—Continued

Pollutant or pollutant property by priority pollutant classes	Monthly average shall not exceed	Maximum for any 1 day
Chloroalkyl Ethers		
42. bis(2-chloroisopropyl)ether	*20	45
Metals		
115. Arsenic	50	115
122. Lead	265	785
123. Mercury	2.5	3.0
125. Selenium	*20	40
128. Zinc	105	190
Miscellaneous		
3. Acrylonitrile	*85	240
121. Cyanide	120	275
Polyaromatics		
39. Fluoranthene	45	140
55. Naphthalene	#35	105
72. Benzo(a)anthracene	*35	105
73. Benzo(a)	*35	105
74. 3,4-Benzofluoranthene	*35	105
76. Chrysene	*35	105
77. Acenaphthylene	*35	105
78. Anthracene	#35	105
80. Fluorene	*35	105
81. Phenanthrene	*35	105
84. Pyrene	40	135
Chloroaromatics		
9. Hexachlorobenzene	*20	40
27. p-Dichlorobenzene	#20	40
Phthalate Esters		
66. bis(2-Ethylhexyl)phthalate	45	130
68. Di-n-butyl phthalate	#40	80
70. Diethyl phthalate	#90	215
71. Dimethyl phthalate	20	50
Nitroaromatics		
35. 2,4-Dinitrotoluene	*310	540
36. 2,6-Dinitrotoluene	*340	555
56. Nitrobenzene	*285	480
Benzidines		
28. 3,3'-Dichlorobenzidine	*320	450
Phenols		
34. 2,4-Dimethylphenol	20	35
Nitrophenols		
57. 2-Nitrophenol	*35	55
58. 4-Nitrophenol	*70	120
59. 2,4-dinitrophenol	*75	130
60. 4,6,-Dinitro-o-cresol	*30	50
Chlorophenols		
21. 2,4,6-Trichlorophenol	*115	260
24. 2-chlorophenol	*35	125
31. 2,4-Dichlorophenol	45	130
64. Pentachlorophenol	65	100

# Denotes organic pollutants where the differences between industrial and POTW removals range between 5 and 10 percent.
* Denotes pollutants without POTW removal data.

TABLE E–2.—OPTION II PSES STANDARDS (PARTS PER BILLION)

Pollutant or pollutant property by priority pollutant classes	Monthly average shall not exceed	Maximum for any 1 day
Halogenated Methanes (C1's)		
6. Carbon tetrachloride	*15	30
23. Chloroform	*20	40
44. Methylene chloride	*15	20
48. Bromodichloromethane	15	30

TABLE E-2.—OPTION II PSES STANDARDS (PARTS PER BILLION)—Continued

Pollutant or pollutant property by priority pollutant classes	Monthly average shall not exceed	Maximum for any 1 day
Chlorinated C2's		
10. 1,2-Dichloroethane	*30	85
11. 1,1,1-Trichloroethane	*25	65
12. Hexachloroethane	25	65
14. 1,1,2-Trichloroethane	*25	65
29. 1,1-Dichloroethylene	*25	65
30. 1,2-trans-Dichloroethylene	*25	65
85. Tetrachloroethylene	*25	70
87. Trichloroethylene	*25	65
86. Vinyl chloride	*25	65
Chlorinated C3's		
32. 1,2-Dichloropropane	*110	265
Chlorinated C4's		
52. Hexachlorobutadiene	20	45
Chloroalkyl Ethers		
42. bis(2-chloroisopropyl)ether	20	45
Metals		
115. Arsenic	50	115
122. Lead	265	785
123. Mercury	2.5	3.0
125. Selenium	20	40
126. Zinc	105	190
Miscellaneous		
3. Acrylonitrile	95	240
121. Cyanide	120	275
Aromatics		
4. Benzene	*30	85
86. Toluene	*35	115
Polyaromatics		
39. Fluoranthene	45	140
55. Naphthalene	35	105
72. Benzo(a)anthracene	35	105
73. Benzo(a)pyrene	35	105
74. 3,4-Benzofluoranthene	35	105
76. Chrysene	35	105
77. Acenaphthylene	35	105
78. Anthracene	35	105
80. Fluorene	35	105
81. Phenanthrene	35	105
84. Pyrene	40	135
Chloroaromatics		
7. Chlorobenzene	*40	115
9. Hexachlorobenzene	*20	40
25. o-Dichlorobenzene	*80	145
26. m-Dichlorobenzene	*25	35
27. m-Dichlorobenzene	*20	40
Phthalate Esters		
66. bis(2-Ethylhexyl)phthalate	45	130
68. Di-n-butyl phthalate	40	80
70. Diethyl phthalate	90	215
71. Dimethyl phthalate	20	50
Nitroaromatics		
35. 2,4-Dinitrotoluene	310	540
36. 2,6-Dinitrotoluene	340	555
56. Nitrobenzene	285	480
Benzidines		
28. 3,3'-Dichlorobenzidine	320	450
Phenols		
34. 2,4-Dimethylphenol	20	35
Nitrophenols		
57. 2-Nitrophenol	35	55
58. 4-Nitrophenol	70	120
59. 2,4-Dinitrophenol	75	130
60. 4,6-Dinitro-o-cresol	30	50
Chlorophenols		
21. 2,4,6-Trichlorophenol	115	260
24. 2-Chlorophenol	35	125
31. 2,4-Dichlorophenol	45	130
64. Pentachlorophenol	65	100

* Denotes pollutants determined to interfere with POTW operations.

TABLE E-3. PSES STANDARDS (PARTS PER BILLION) BASED ON PHYSICAL/CHEMICAL CONTROLS FOR POLLUTANTS WITH HIGHER CONCENTRATION THAN BAT OR WITH TRANSFER PHYSICAL/CHEMICAL PERFORMANCE

Pollutant or pollutant property by priority pollutant classes	Long-term average	Monthly average shall not exceed	Maximum for any one day
Polyaromatics			
72. Benzo(a)anthracene	1,418	1,795	2,710
73. Benzo(a)pyrene	175	300	570
74. 3,4-Benzofluoranthene	175	300	570
76. Chrysene	1,418	1,795	2,710
84. Pyrene	1,418	1,795	2,710
Phenols			
34. 2,4-Dimethylphenol	175	300	570
Nitrophenols			
59. 2,4-Dinitrophenol	175	300	570
Chlorophenols			
24. 2-Chlorophenol	175	300	570
Metals			
122. Lead	122	215	495
123. Mercury	1	2	4.5
125. Selenium	162	285	660
126. Zinc	107	180	380
Miscellaneous			
121. Cyanide	46	85	190

G. Technology Basis and Standards for PSNS

The Agency is required to establish pretreatment standards for new sources (PSNS). These standards are intended to prevent the discharges of pollutants which pass through, interfere with or are otherwise incompatible with POTWs. New indirect dischargers, like new direct dischargers, have the opportunity to incorporate the best available demonstrated technologies including process changes, in-plant control measures, and end-of-pipe treatment, and to use plant site selection to ensure adequate treatment system installation.

Both PSES regulatory options are being considered for the basis of PSNS. The priority pollutants selected for regulation by PSNS will be the same as those selected for PSES. For the reasons discussed in the previous section, EPA has determined that these pollutants may pass through, interfere with or otherwise be incompatible with the POTW. The pretreatment standards selected as the basis for PSNS are also the same as those selected for PSES because EPA has not identified any technologies or combination of technologies that are demonstrated for new sources that are different from those being considered to establish PSES. These standards are the same as NSPS except that pollutants regulated by NSPS that do not pass through or interfere with POTWs are not regulated by PSNS.

H. Engineering Costing Methodology

The development of effluent limitations guidelines includes the identification of technologies available for the reduction of pollutant loadings in the OCPSF industry, quantifying the reduction of pollutants by a technology or group of technologies, and identifying the costs associated with the application of each technology or group of technologies. The results of these analyses are then used to determine the options that can be considered for regulation.

The engineering costing methodology has been revised since proposal. The Catalytic Costing Model was abandoned because the Agency's reassessment identified numerous technical deficiencies and problems related to several design modules, including activated sludge, chemical precipitation and activated carbon. The current OCPSF regulatory approach involves concentration-based effluent limitations. This approach reduced the value of the Catalytic Model in that it eliminated the need to determine treatment costs on an individual product/process basis. In addition, the Catalytic Model estimates the cost of building entirely new treatment systems. Actually, most in-place systems will simply be upgraded or expanded to achieve lower concentration limits. CAPDET, when modified to reflect industrial wastewater characteristics, is a better costing tool to estimate the cost of system upgrades. The use of a computer based design and costing model, such as the Catalytic Model, was determined to be unnecessary. Since current effluent quality is known for many of the plants to be costed and the technologies to upgrade the plant have been identified, a simpler approach can be used.

In order to assist in developing these cost methodologies, actual industry cost data were required to calibrate predictive cost models and benchmark the resulting cost algorithms. This information was obtained from the OCPSF industry using the statutory authority provided by Section 308 of the Clean Water Act. The Section 308 data collection effort included a Supplemental Questionnaire which was sent to 84 selected OCPSF manufacturers. This supplemental questionnaire requested detailed cost information regarding capital and operating costs for specific treatment unit operations. A total of 67 questionnaires were completed and returned. Some cost information was obtained for 48 biological treatment systems, 23 steam strippers, 13 metals

removal systems, 2 ion exchange units, 5 solvent extraction systems, 6 activated carbon systems, 4 polishing ponds and 1 filtration system. In order to derive costs associated with selected technology options, cost curves were developed for steam stripping, in-plant and end-of-pipe carbon adsorption, coagulation/flocculation, chemically assisted clarification, filtration, polishing ponds, contract hauling, sludge disposal (incineration), and monitoring. In addition, a cost model was developed for biological treatment upgrades, and CAPDET was used to cost activated sludge systems. The detailed development of the costs for each of these technologies is available in the public reading room.

Several general principles characterize the derivation of the cost curves. All costs are derived in 1982 dollars. Where data were collected for other years, they were corrected to 1982 dollars using the ENR index. Actual plant cost data were used, where possible, to derive the cost curves. Where they were not sufficient, the data that was available was used to benchmark the cost curves derived. CAPDET was used to derive costs or cost curves for biological treatment, biological treatment upgrades, activated carbon and filtration. The resultant cost curves were benchmarked with actual plant data. The design bases for filtration were based upon industry practice. The design bases for activated carbon were based on industry practice, and included priority pollutant removal data. Polishing ponds, coagulation/flocculation, chemically assisted clarification, contract hauling, sludge disposal (incineration) and monitoring costs were based on manufacturer quotations. Steam stripping costs are based on plant data.

Temperature Effects

In order to accommodate the ambient temperature effects on biological treatment processes, temperature correction factors were established for each state. These values are based upon the states actual minimum monthly average ambient temperature as reported by the National Ocean and Atmospheric Administration. A temperature correction factor was used to adjust the biological treatment system upgrade costs. In addition, minimum wastewater temperatrues were established on a state-by-state basis for use in the CAPDET Model.

Warm ambient temperatures can cause solids control problems due to algae blooms in polishing ponds. Therefore, plants in states with average maximum monthly temperatures over 25 °C had filtration systems rather than polishing ponds costed for solids control.

Low Flow Facilities

For plants with total OCPSF process wastewater flows of 500 gallons per day or less, contract hauling disposal costs were estimated in lieu of process wastewater treatments costs. For the purposes of estimating the contract hauling costs on a national basis, the process wastewater was assumed to be hazardous and the hauling distance was assumed to be 500 miles in radius from the plant site to the hazardous waste treatment/disposal facility.

Land Costs

The cost of land is a key element in establishing total costs of alternative effluent guidelines and standards. Therefore, each technology assessed has been assigned land requirements. Since land costs may vary widely from place to place, it is difficult to obtain a nationwide average figure. However, based on an industrial real estate market survey report (prepared by the Society of Industrial Realtors in 1983), the average land costs for suburban sites of each state were obtained. Average state land costs were utilized in developing wastewater treatment land costs.

Benchmark Assessment

Wherever sufficient industry engineering cost data were available, benchmark analyses were prepared for the treatment techology alternatives utilized in the engineering design and costing analysis for the OCPSF industry. Some individual plant comparisons were significantly different than the Agency's estimates due to site specific design factors which may relate to such items as selected materials of construction or planned excess design capacity. However in most cases, the Agency's estimates were, on average, similar to industry supplied costs information. For example, the Agency's steam stripping capital and operation and maintenance costs were on average, only 6 and 2 percent lower, respectively, than industry-supplied cost data. For chemical precipitation/clarification systems, the Agency's capital cost estimates were, on average, 102 percent higher than industry data. The Agency's chemically assisted clarification and tertiary filtration capital costs were, on average, 36 percent higher and 17 percent lower, respectively, than industrys' costs.

In the case of the activated sludge biological treatment capital and operation and maintenance costs, the Agency's estimates were, on average, 10 and 73 percent lower than industry supplied cost information. However, the Agency questions the accuracy and validity of O&M cost data provided by several of the 11 plants that submitted O&M cost information. For example, three 1.5 million-gallon-per-day activated sludge treatment systems reported requirements for 2, 8 and 31 operating labor personnel. The Agency believes that no more than 3 to 4 people should be required to operate this size system. By comparing industry's reported labor costs to the reported labor hours, industry's labor rates ranged from $10.39 to $69.52 with an average of $25.48 per hour. The Agency used an Operator Class II hourly rate of $9.94 for estimating operation costs and $17.76 per hour for maintenance labor. Other differences may be traced to variations in local power costs or for cases where capital improvements may be reported as O&M maintenance materials and labor costs.

Sufficient industry data were not available to conduct capital and O&M benchmark analyses for activated carbon or to conduct O&M assessments for chemical precipitation/clarification, chemically assisted clarification, and tertiary filtration systems. The Agency solicits detailed design descriptions, capital and O&M costs, and performance data for activated sludge, biological system up-grades, chemically assisted clarification, polishing ponds, tertiary filtration, steam stripping, in-plant and end-of-pipe activated carbon, chemical precipitation/clarification and in-plant filtration wastewater treatment systems.

Costing Procedures

The engineering costing methodology developed costs on a plant-by-plant model basis for selected BPT options for BOD_5 and TSS, and developed costs on a wastewater stream basis for selected BAT and PSES options for priority pollutants.

BPT Costing: Plant-by-plant BPT costs were developed based on reported BOD_5 and TSS effluent concentrations and selected costing targets. The three sets of BOD/TSS long-term average targets for "plastics" plants are 10/15, 15/30, and 20/50 mg/l. These apply to facilities classified under the first four subcategories—Rayon Fibers, Other Man-Made Fibers, Thermosets, and Thermoplastics. The BOD_5/TSS long-term average targets for "organics" plants are 20/20, 45/45, 70/70, and 100/100 mg/l. These apply to facilities classified under the remaining subcategories—Thermoplastics and

Organics, Commodity Organics, Bulk Organics and Speciality Organics.

Plants not having effluent BOD_5 or TSS data were costed using the median effluent values for all direct discharge plants in each cost group. These median effluent values were calculated for each cost group using data obtained from the 308 questionnaires.

The actual treatment system unit operations that were costed for each plant depended on the difference between the plant's reported current BOD_5 and TSS discharge data and the corresponding effluent costing targets. If the current discharge exceeded the target levels used for costing purposes, the Agency determined the treatment units that would be needed to achieve the target levels and calculated the cost of the treatment. The detailed procedure used for selecting technologies for costing are in the cost documentation report, which is located in the EPA public reading room.

For systems requiring full scale activated sludge treatment and/or second stage activated sludge, the CAPDET computer program was utilized. CAPDET default values were adjusted to reflect OCPSF wastewater characteristics. For example, average K-rates (biokinetic rate constants) and mixed liquor volatile suspended solids (MLVSS) for the plastics and organics groups were calculated using actual data taken from the 308 questionnaires and were used for those plastics and organics plants requiring full scale or second stage activated sludge treatment. For the organics plants' activated sludge systems, the K-rates ranged from 0.042 to 10.15 with an average of 3.200 inverse days; MLVSS ranged from 450 to 5,500 with an average of 3,700 mg/l. For the plastics plants' activated sludge systems, the K-rates ranged from 0.214 to 9.969 with an average of 2.301 inverse days; MLVSS ranged from 2,400 to 4,500 with an average of 3105 mg/l.

BAT Costing: The technology options considered for BAT include: (1) no additional treatment beyond BPT, (2) BPT plus appropriate in-plant physical chemical treatment for the removal of individual toxic pollutants, and (3) BPT plus in-plant controls and end-of-pipe activated carbon treatment.

EPA verification and EPA/CMA field sampling data, as well as Section 308 questionnaire data, were used where available for determining the toxics present in the plant's process wastewater. For plants with no current toxic pollutant data, estimates were obtained by matching each plant's product/processes with those contained in the verification sampling Master Process File. For those product/processes not specifically covered by the Master Process File, two approaches were followed: (1) Average toxic pollutant data from the Master Process File for a product, were used where applicable; or (2) Where product specific toxic pollutant data were unavailable, plants were assigned toxic pollutant data based on subcategory or costing group averages.

Based on the toxic pollutants present, the appropriate in-plant treatment technology was selected. Each pollutant had to be above a preselected trigger value before in-plant treatment would be required. No in-plant treatment technology was costed if it was already in-place. Steam stripping was costed for the removal of volatile organic pollutants. Activated carbon was used for semi-volatile organic pollutants. Both of these technologies are demonstrated technologies and have proven records in terms of removing priority pollutants from wastewaters in the OCPSF industry. Chemical precipitation was costed for metals removal.

For plants with product/process flows less than 500 gallons per day, only contract hauling was costed. Zero discharge wastestreams such as wastestreams which are disposed of by deep well disposal, incineration, land disposal, surface impoundment, were not included in the BAT analysis.

NSPS Costing: EPA used its BPT costing methods to cost entirely new treatment systems for new sources based on model flow sizes for each subcategory. BAT costs are used to estimate costs for new sources to control priority pollutant discharges.

PSES Costing: The procedures used to cost each plant were generally similar to the BAT method for costing appropriate treatment technologies. Section IV(F) of this notice discussed the PSES costing procedure in detail.

RCRA Baseline Costs for Surface Impoundments: In November 1984, Congress enacted the Hazardous and Solid Waste Act (Pub. L. 98–616) which among other things imposed new requirements on surface impoundments that treat, store and dispose of hazardous wastes. As a result of this new legislation, OCPSF manufacturing facilities were reviewed to determine what RCRA costs would be incurred. Plants without "Aggressive Biological Treatment" as described in the RCRA amendments (which exempts surface impoundments with such treatment from certain requirements) were included in the study.

EPA established the following criteria for the selection and inclusion of OCPSF facilities in the RCRA baseline costing analysis:

A. All plants in the industry were assigned a one-time site inspection cost which has an annual cost of less than $3,000.

B. All plants having aerobic and/or anaerobic lagoons were evaluated and assigned costs for installation of liners (high density polyethylene) and monitoring wells.

C. For facilities with primary clarification and/or equalization, EPA:

1. Randomly selected one-third of all direct and indirect discharge OCPSF facilities (which approximates the number of plants which have primary clarifiers and equalization basins which are not concrete structures or already double-lined) and determined monitoring costs, and

2. Randomly selected 15 percent of the above facilities (which approximates the number of plants which installed monitoring wells and determined that possible groundwater contamination is or could occur) and determined liner costs.

EPA's evaluation and subsequent costing analysis of the OCPSF facilities incurring liner costs were based on the assumption that that these facilities had detention times and depths similar to that of aerobic lagoons. The cost and preliminary economic impacts are discussed in section V(G) of this notice.

I. Conventional Pollutant Loadings

Conventional polluant loadings for BOD_5 and TSS were calculated on a plant-by-plant model basis for each of the BPT effluent targets which were costed (see section IV(C)) and for each plant's current BOD_5 and TSS effluent quality. BPT target loadings were calculated for each plant, depending on whether that plant was costed for that particular target (i.e., if a plant is already achieving a particular effluent target, a loading was not calculated for that target) by multiplying the BOD_5 and TSS effluent targets by the plant's process wastewater flow and a conversion factor. Current BOD_5 and TSS effluent loadings were calculated using actual BOD_5 and TSS concentration values for direct dischargers and multiplying these numbers by each plant's process wastewater flow and a conversion factor. For plants without either BOD_5 and TSS effluent values, median effluent concentrations for each plant's assigned subcategory were substituted for actual BOD_5 and TSS effluent data and current loadings were calculated as above.

The current in-place treatment BOD and TSS annual loadings are 49.9 and 103.8 million pounds per year, respectively. The annual BOD and TSS

BPT loadings, based on the Option I costing targets listed in Table C–4 of section IV(C), are 21.8 and 29.6 million pounds per year, respectively. The annual BOD and TSS BPT loadings, based on the Option II costing targets, are 21.7 and 29.4 million pounds per year, respectively. As noted in section IV(C), the Option III loadings are bracketed by Options I and II. Refined calculations based upon the actually developed limitations will reveal more substantial differences among the three options.

J. Toxic Pollutant Loadings

At the time of proposal, the Agency overstimated the annual discharges of toxic pollutants. Industry comments objected to these overestimates, argued that toxic pollutant discharges by the OCPSF industry are low, and questioned the need to establish BAT limitations on a wide range of toxic pollutants. These commenters suggested that the Agency rely on the NPDES permit application Form 2C toxic pollutant data for determining toxic pollutant loadings. They maintained that available NPDES permit application Form 2C data constitute the most appropriate and extensive data base for predicting the extent of occurrence of priority pollutants in the OCPSF industry. They argued that the Form 2C data submitted by trade association member companies indicate that only a few priority pollutants are detected in treated discharges and concluded that existing treatment systems, installed principally for the control of conventional pollutants, do an excellent job of controlling priority pollutant discharges. The Agency disagrees with these comments and, for the reasons discussed below, believes that OCPSF industries currently discharge significant amounts of toxic pollutants for which regulation beyond BPT is warranted.

Since the OCPSF regulations apply to process wastewater only, the Agency determined the relative contributions of process and nonprocess wastewater at the effluent sample sites. These data were used to calculate plant-by-plant "dilution factors" for use in adjusting or assessing analytical data at effluent sampling locations. This information was used to determine if reported section 308 and Form 2C final effluent concentration data could be used to adequately characterize actual process wastewater pollutant parameter concentrations. For example, if a pollutant was reported as 30 ppb at the final effluent sampling location with 1 MGD of process wastewater flow and 9 MGD of noncontaminated nonprocess cooling water flow, then the concentration of the pollutant in the process wastewater was actually 300 ppb. Similarly, if the same plant reported that another pollutant was not detected at the same sampling location and the analytical method detection limit was 10 ppb, then the other pollutant concentration in the process wastewater could be as high as 90 ppb without being detected in the diluted final effluent.

One-hundred-six plants reported Form 2C toxic pollutant data in the 1983 Section 308 Questionnaire. Of these, 70 plants diluted the process wastewater before the effluent Form 2C sampling point. The following table relates the number of plants with Form 2C data to the range of dilution at the effluent sampling point.

TABLE J–1.—RANGE OF PERCENT DILUTION FOR PLANTS WITH FORM 2C DATA

Range of dilution in percent	Number of plants with form 2C data (percent)
0	36(34)
>0 to 25	20(19)
>25 to 100	20(19)
>100 to 500	17(16)
>500 to 6,054	13(12)
Total	106(100)

The Agency was able to identify 13 facilities that reported measured toxic pollutant concentrations of treated process wastewater both before and after dilution with nonprocess wasterwater. In general, analyzing the diluted effluents yielded underestimated or undetected values for organic toxic pollutants that were measured in the undiluted process wastewater. However, this was not generally the case for cyanide and toxic pollutant metals such as cadmium, chromium, and lead. These compounds are commonly found in cooling water additives that may be utilized to inhibit biological growth or the formation of rust and scale in cooling equipment. The presence of a portion of these metals in the diluted effluent seems to be caused by the nonprocess cooling water. Therefore, the assumption that the nonprocess dilution wastewater is relatively clean seems to apply to the organic toxic pollutants but not necessarily to all of the toxic metal parameters.

Therefore, use of unqualified Form 2C data does not provide an adequate assessment of process wastewater toxic pollutant constituents and concentrations. Use of Form 2C data tends to underestimate organic toxic pollutant loadings in process wastewater and may actually overestimate metal toxic pollutant loadings.

The Agency developed a methodology to estimate industry toxic pollutant loadings which incorporates Form 2C data where appropriate as well as other available toxic pollutant analytical data.

The Agency has estimated raw and current effluent as well as projected BPT, BAT, and PSES effluent priority pollutant waste loadings for the OCPSF industries. These loadings have been calculated on a plant-by-plant model basis using both industry generated data (i.e. 1983 "308" Questionnaires data) as well as analytical data acquired by the Agency in various sampling studies. These loadings demonstrate that significant discharges of conventional and toxic pollutants currently occur and that the options for treating these discharges remove successively larger amounts of these pollutants.

Raw Waste Loads

The Agency used multiple sources of data and modeling techniques to determine, for the purpose of calculating loadings, which toxic pollutants are likely to be present at individual facilities as well as the corresponding raw waste loads as follows:

1. Where 308 toxic pollutant data were available, these data were used to calculate raw waste loads for those toxic pollutants.

2. Where the combined raw wastewaters of a plant had been sampled in either Phase I or Phase II Screening Studies, those toxic pollutant concentration data were used to calculate the raw waste loads from these plants after editing for analytical false positive values.

3. Raw waste loads were calculated using Master Process File toxic pollutant concentration data for product/process covered by the MPF. Where a product/process waste load could not be calculated at a plant, product specific waste loads were calculated using the "Product Averaged Master Process File."

4. For plants producing products that could not be calculated by the above methods, generic process raw waste loads were calculated using the "generic Process Average Master Process File."

Because the generic process method necessarily generated extraneous pollutants, raw waste loads from these plants were extensively reviewed; those pollutants that the Agency believes to be inconsistent with process chemistry practiced at a plant were deleted from the raw waste load file. The edited file was used for purposes of calculating loadings and costs.

BPT, BAT and Current Waste Load Calculation

BPT, BAT, and current waste load of individual plants were calculated for those toxic pollutants found in the raw waste load as follows:

1. Average toxic pollutant concentrations were calculated using the sampling data base (i.e., verification data, CMA 5-Plant, and new sampling data). Separate toxic pollutant concentrations were calculated by subcategory for both BPT and BAT plants (i.e. those plants currently meeting proposed BPT and BAT criteria, respectively).

2. For plants not in compliance with the toxic pollutant costing targets or BPT costing targets, it was assumed that the installation of BPT would treat a proportion of the toxic pollutants. This allowed EPA to project toxic pollutant loadings at BPT and then at BAT, in accordance with the extent to which additional BPT treatment would be required to meet BOD and TSS limits. Pollutant concentrations were adjusted for those plants which incurred BPT costs by the ratio of actual BOD to the target BOD for that subcategory (20 mg/l for rayon, other fibers, thermosets, and thermoplastics only; 45 mg/l for thermoplastics and organics, commodity organics, bulk organics, and specialty organics). Plants that did not incur BPT costs were assigned BPT toxic pollutant concentrations by subcategory. Plants that did not incur either BPT or BAT costs were assigned BAT toxic pollutant concentrations.

3. Effluent concentrations of toxic pollutants as derived above were multiplied by total process flow to calculate current waste load.

PSES, Waste Load Calculations

PSES waste loads were calculated in a manner analogous to current waste loads. If a plant was costed for PSES treatment, then toxic pollutant concentrations were considered to be equal to raw waste toxic pollutant concentrations. If a plant was not costed for PSES, then toxic pollutant concentrations were assumed to be equal to "current" toxic pollutant concentrations. Effluent concentrations of toxic pollutants as derived above were multiplied by total process flow to calculate PSES load.

Annualized Waste Load

Product/process flow data provided by the OCPSF industries in the 1983 "308" questionnaire are reported in millions of gallons per day when operating. The industry has also provided total annual production data and operating rate data by product/process. The Agency has calculated operating days for each product/process at each plant by dividing the annual product/process production by the product/process operating rate. Multiplication of daily product/process waste load by product/process operating days yields annualized product/process waste loads. Toxic pollutant waste loads from individual product/processes at a plant are than summed to yield total waste load for individual plants.

The projected direct and indirect discharge annual priority pollutant waste loadings are presented in Tables J-2 and J-3, respectively. As noted before, the BPT toxic pollutant loadings are based on one set of composite BOD targets rather than on each BPT option. Furthermore, the Agency believes that there would be negligible differences between the projected BPT composite and the BAT Option I priority pollutant loadings. The PSES loadings most closely correspond to PSES Option II, however, the estimates include incidental removals of pollutants which were determined not to pass through or interfere with POTW operations.

TABLE J-2.—DIRECT DISCHARGE—ANNUAL PRIORITY POLLUTANT LOADINGS

(1,000 lb per year)

	Volatiles	Semivolatiles	Metals and CN	Total
Raw waste	82,746	39,079	35,491	157,316
Current	248	208	730	1,186
BPT/BAT-I	218	180	628	1,026
BAT-II	59	80	104	243
BAT-III	56	62	102	220

TABLE J-3.—INDIRECT DISCHARGE—ANNUAL PRIORITY POLLUTANT LOADINGS

(1,000 lb per year)

	Volatiles	Semivolatiles	Metals and CN	Total
Raw waste	12,655	192,316	28,796	233,767
Current	4,313	96,180	6,309	106,802
PSES-II	133	44	588	765

K. Applicability and Definition of the Regulated OCPSF Industry

The Agency has received many requests for information on which facilities are covered by the OCPSF category regulations. The discussion below addresses this issue. EPA intends to include the essential points of this discussion in the Applicability Section of the final regulations.

The Agency has defined the Organic Chemicals Manufacturing industries to include all facilities within specific SIC codes: SIC 2865, Cyclic (Coal Tar) Crudes, and Cyclic Intermediates, Dyes, and Organic Pigments (Lakes and Toners); SIC 2869, Industrial Organic Chemicals Not Elsewhere Classified and SIC 2911, Liquified Refinery Gasses (including other aliphatics) made from purchased refinery products and other Finished Petroleum Products (aromatics) made from purchased refinery products. Likewise, the Agency has defined the Plastics/Synthetic Fibers industry to include all facilities within specific SIC codes: SIC 2821, Plastics Materials, Synthetic Resins, and Nonvulcanizable Elastomers; SIC 2823, Cellulosic Man-Made Fibers; and SIC 2824, Synthetic Organic Fibers, Except Cellulosic.

For some petroleum refineries and pharmaceutical manufacturers, process wastewater from some synthetic organic chemical products are specifically regulated under the Petrochemical and Integrated Subcategories of the Petroleum Refining Point Source Category (40 CFR 419, Subparts C and E) or the Chemical Synthesis Products Subcategory of the Pharmaceuticals Manufacturing Point Source Category (40 CFR 439, Subpart C). The petroleum refineries and pharmaceutical manufacturers that produce organic chemical products that generate process wastewaters treated in combination with petroleum refinery or pharmaceutical manufacturing wastewaters, respectively, should consider any such organic chemical products as non-OCPSF products. However, if petroleum refineries or pharmaceutical manufacturers produce organic chemical products that generate process wastewaters that are treated in a separate wastewater treatment system, then these facilities should consider any such organic chemical product as an OCPSF product.

The Agency has grouped the OCPSF industries into categories based on the products or product groups produced at a plant. These product groups are:

- Thermoplastic resins (Census product code 28213);
- Thermosetting resins (Census product code 28214);
- Rayon fibers (Census product code 2823);
- Other fibers (Census product code 2823 and 2824); and
- Organic chemicals (Census product code 2865, 2869, and 2911).

The organic chemicals group has been further divided into three groups of chemicals or chemical groups depending upon the total 1980 production volume of a chemical. These subgroups are:

- Commodity Chemicals—organic chemicals produced in amounts greater than one billion pounds per year. This

list includes 37 products or product groups.

• Bulk Chemicals—organic chemicals produced in amounts less than one billion pounds per year but more than 40 million pounds per year. This list comprises 221 products or product groups.

• Specialty Chemicals—all organic chemicals not defined as Commodity or Bulk Chemicals.

Organic chemical compounds that are produced solely by extraction from natural materials (e.g., plant and animal sources) or by fermentation processes are *not* considered to be OCPSF products. Thus, ethanol derived from natural sources (SIC 28095112) is *not* considered to be an OCPSF industry product; ethanol produced synthetically (hydration of ethene) *is* an OCPSF industry product. Similarly, cellophane (SIC 3079) which is produced by extrusion of viscose (chemically derived from the natural polymer cellulose) is being considered by the Agency to be an OCPSF industry product. (Both rayon and cellophane are manufactured by similar process, differing only in the extruded form. Therefore, cellophane manufacture will be included in the rayon subcategory for BPT.) The Agency solicits comments on this issue.

Certain products of SIC groups other than 2865, 2969, 2821, 2823, and 2824 are considered to be OCPSF products. Benzene, toluene, and mixed xylenes manufactured from purchased refinery products in SIC 29110582 (in contrast to benzene, toluene, and mixed xylenes manufactured in refineries—SIC 29110558) are considered to be OCPSF products. Similar considerations apply to aliphatic hydrocarbons manufactured from purchased refinery products—SIC 29116324.

Based on the information submitted to EPA as a result of the 1983 "308" Questionnaire, the Agency has compiled lists of chemicals and chemical groups by the industry segments discussed above. These industrial segments are integral parts of establishing and defining subcategories. Table K–1 lists rayon products. Table K–2 lists other fiber products and product groups. Thermosetting resin products and product groups are listed in Table K–3. Thermoplastic resin products and product groups are listed in Table K–4. Table K–5 lists commodity organic chemicals and chemical groups. Bulk organic chemicals and chemical groups are listed in Table K–6. The remaining organic chemicals and chemical groups not listed in Tables K–5 and K–6 are defined as specialty organic chemicals.

It should be emphasized that the placement of products and product groups shown in Tables K–1 through K–6 is not expected to be static: as production methods and processes change over time, specific chemicals and chemical groups may (and are expected to) also change. Furthermore, closely related chemical products may in some cases be in different subcategories because of production volume. For example, at present, benzene, toluene, and xylene are defined as commodity chemicals; BTX (a product which is a mixture of benzene, toluene, and xylene) is defined as a bulk chemical product. Therefore, Tables K–1 through K–6 should be seen as guidance. The formal definitions of the BPT subcategories should be referred to for precise determination of a plant's subcategory.

Table K–1.—Rayon Products

Rayon (Viscose Process)

Table K–2.—Other Fibers and Fiber Groups(*)

*Acrylic Fibers (85% Polyacrylonitrile)
*Cellulose Acetate Fibers
*Fluorocarbon (Teflon) Fibers
*Modacrylic Fibers
*Nylon 6 Fibers
Nylon 6 Monofilament
*Nylon 66 Fibers
Nylon 66 Monofilament
*Polyamide Fibers (Quiana)
*Polyaramid (Kevlar) Resin-Fibers
*Polyaramid (Nomex) Resin-Fibers
*Polyester Fibers
*Polyethylene Fibers
*Polypropylene Fibers
*Polyurethane Fibers (Spandex)

Table K–3.—Thermosetting Resins and Thermosetting Resin Groups(*)

*Alkyd Resins
Dicyanodiamide Resin
*Epoxy Resins
*Fumaric Acid Polyesters
*Furan Resins
Glyoxal-Urea Formaldehyde Textile Resin
*Keton-Formaldehyde Resins
*Melamine Resins
*Phenolic Resins
*Polyacetal Resins
Polyacrylamide
*Polyurethane Prepolymers
*Polyurethane Resins
*Urea Formaldehyde Resins
*Urea Resins

Table K–4.—Thermoplastic Resins and Thermoplastic Resin Groups(*)

*Abietic Acid—Derivatives
*ABS Resins
*ABS–SAN Resins
*Acrylate-Methacrylate Latexes
*Acrylic Latex
*Acrylic Resins
*Cellulose Acetate Butyrates
Cellulose Acetate Resin
*Cellulose Acetates
*Cellulose Acetates Propionates
Cellulose Nitrate
Cellulose Sponge
*Ethylene-Methacrylic Acid Copolymers
*Ethylene-Vinyl Acetate Copolymers
*Fatty Acid Resins
*Fluorocarbon Polymers
Nylon 11 Resin
*Nylon 6—66 Copolymers
*Nylon 6—Nylon 11 Blends
Nylon 6 Resin
Nylon 612 Resin
Nylon 66 Resin
*Nylons
*Petroleum Hydrocarbon Resins
*Polyvinyl Pyrrolidone—Copolymers
*Poly (Alpha) Olefins
Polyacrylic Acid
*Polyamides
*Polyarylamides
Polybutadiene
*Polybutenes
Polybutenyl Succinic Anhydride
*Polycarbonates
Polyester Film
*Polyester Resins
*Polyester Resins, Polybutylene Terephthalate
*Polyester Resins, Polyoxybenzoate
Polyethylene
*Polyethylene—Ethyl Acrylate Resins
*Polyethylene—Polyvinyl Acetate Copolymers
Polyethylene Resin (HDPE)
Polyethylene Resin (LPDE)
Polyethylene Resin, Scrap
Polyethylene Resin, Wax (Low M.W.)
Polyethylene Resin, Latex
Polyethylene Resins
*Polyethylene Resins, Compounded
*Polyethylene, Chlorinated
*Polyimides
*Polypropylene Resins
Polystyrene (Crystal)
Polystyrene (Crystal) Modified
*Polystyrene—Copolymers
*Polystyrene—Acrylic Latexes
Polystyrene Impact Resins
Polystyrene Latex
Polystyrene, Expandable
Polystyrene, Expanded
*Polysulfone Resins
Polyvinyl Acetate
*Polyvinyl Acetate—PVC Copolymers
*Polyvinyl Acetate Copolymers
*Polyvinyl Acetate Resins
Polyvinyl Alcohol Resin
Polyvinyl Chloride
Polyvinyl Chloride, Chlorinated
*Polyvinyl Ether-Maleic Anhydride
*Polyvinyl Formal Resins
*Polyvinylacetate—Methacrylic Copolymers
*Polyvinylacetate Acrylic Copolymers
*Polyvinylacetate-2-Ethylhexylacrylate Copolymers
Polyvinylidene Chloride
*Polyvinylidene Chloride Copolymers
*Polyvinylidene-Vinyl Chloride Resins
*PVC Copolymers, Acrylates (Latex)
*PVC Copolymers, Ethylene-Vinyl Choloride
*Rosin Derivative Resins
*Rosin Modified Resins
*Rosin Resins
*SAN Resins
*Silicones: Silicone Resins
*Silicones: Silicone Rubbers
*Styrene Maleic Anhydride Resins

Styrene Polymeric Residue
*Styrene-Acrylic Copolymer Resins
*Styrene-Acrylonitrile-Acrylates Copolymers
*Styrene-Butadiene Resins
*Styrene-Butadiene Resins (<50% Butadiene)
*Styrene-Butadiene Resins (Latex)
*Styrene-Divinyl Benzene Resins (Ion Exchange)
*Styrene-Methacrylate Terpolymer Resins
*Styrene-Methyl Methacrylate Copolymers
*Styrene, Butadiene, Vinyl Toluene Terpolymers
*Sulfonated Styrene-Maleic Anhydride Resins
*Unsaturated Polyester Resins
*Vinyl Toluene Resins
*Vinyl Toluene-Acrylate Resins
*Vinyl Toluene-Butadiene Resins
*Vinyl Toluene-Methacrylate Resins
*Vinylacetate-N-Butylacrylate Copolymers

Table K–5.—Commodity Organic Chemicals and Chemical Groups(*)

a. Aliphatic Organic Chemicals

Acetaldehyde
Acetic Acid
Acetic Anhydride
Acetone
Acrylonitrile
Adipic Acid
*Butylenes (Butenes)
Cyclohexane
Ethanol
Ethylene
Ethylene Glycol
Ethylene Oxide
Formaldehyde
Isopropanol
Methanol
Polyoxypropylene Glycol
Propylene
Propylene Oxide
Urea
Vinyl Acetate
1,2-Dichloroethane
1,3-Butadiene

b. Aromatic Organic Chemicals

Benzene
Cumene
Dimethyl Terephthalate
Ethylbenzene
m-Xylene (impure)
p-Xylene
Phenol
*Pitch Tar Residues
*Pyrolysis Gasolines
Styrene
Terephthalic Acid
Toluene
*Xylenes, Mixed
o-Xylene

c. Halogenated Organic Chemicals

Vinyl Chloride

Table K–6.—Bulk Organic Chemicals and Chemical groups(*)

a. Aliphatic Organic Chemicals

*Acetic Acid Esters
*Acetic Acid Salts
Acetone Cyanohydrin
Acetylene
Acrylic Acid
*Acrylic Acid Esters
*Alkoxy Alkanols
*Alkylates
*Alpha-Olefins
Butane (all forms)
*C-4 Hydrocarbons (Unsaturated)
Calcium Stearate
Caprolactam
Carboxymethyl Cellulose
Cellulose Acetate Butyrates
*Cellulose Ethers
Chlorinated Paraffins, 35–64 PCT. Chlorine
Citric Acid
Cumene Hydroperoxide
Cyclohexanol
Cyclohexanol, Cyclohexanone (Mixed)
Cyclohexanone
Cyclohexene
*C12-C18 Primary Alcohols
*C5 Concentrates
*C9 Concentrates
Decanol
Diacetone Alcohol
*Dicarboxylic Acids—Salts
Diethyl Ether
Diethylene Glycol
Diethylene Glycol Diethyl Ether
Diethylene Glycol Dimethyl Ether
Diethylene Glycol Monoethyl Ether
Diethylene Glycol Monomethyl Ether
*Dimer Acids
Dioxane
Ethane
Ethylene Glycol Monophenyl Ether
*Ethoxylates, Misc.
Ethylene Glycol Dimethyl Ether
Ethylene Glycol Monbutyl Ether
Ethylene Glycol Monoethyl Ether
Ethylene Glycol Monomethyl Ether
*Fatty Acids
Glycerine (Synthetic)
Glyoxal
Hexane
*Hexanes and Other C6 Hydrocarbons
Hydrogen Cyanide
Isobutanol
Isobutylene
Isobutyraldehyde
Isophorone
Isophthalic Acid
Isoprene
Isopropyl Acetate
Ligninsulfonic Acid, Calcium Salt
Maleic Anhydride
Methacrylic Acid
*Methacrylic Acid Esters
Methane
Methyl Ethyl Ketone
Methyl Methacrylate
Methyl Tert-Butyl Ether
Methylisobutyl Ketone
*N-Alkanes
N-Butyl Alcohol
N-Butylacetate
N-Butyraldehyde
N-Butyric Acid
N-Butyric Anhydride
*N-Paraffins
N-Propyl Acetate
N-Propyl Alcohol
Nitrilotriacetic Acid
Nylon Salt
Oxalic Acid
*Oxo Aldehydes—Alcohols
Pentaerythritol
Pentane
*Pentenes
*Petroleum Sulfonates
Pine Oil
Polyoxybutylene Glycol
Polyoxyethylene Glycol
Propane
Propionaldehyde
Propionic Acid
Propylene Glycol
Sec-Butyl Alcohol
Sodium Formate
Sorbitol
Stearic Acid, Calcium Salt (Wax)
Tert-Butyl Alcohol
1-Butene
1-Pentene
1,4-Butanediol
Isobutyl Acetate
2-Butene (Cis and Trans)
2-Ethyl Hexanol
2-Ethylbutyraldehyde
2,2,4-Trimethyl-1,3-Pentanediol

b. Amine and Amide Organic Chemicals

2,4-Diaminotoluene
*Alkyl Amines
Aniline
Caprolactam, Aqueous Concentrate
Diethanolamine
Diphenylamine
*Ethanolamines
Ethylamine
Ethylenediamine
Ethylenediaminetetracetic Acid
*Fatty Amines
Hexamethylene Diamine
Isopropylamine
M-Toluidine
Melamine
Melamine Crystal
*Methylamines
Methylene Dianiline
N-Butylamine
N,N-Diethylaniline
N,N-Dimethylformamide
*Nitroanilines
Polymeric Methylene Dianiline
Sec-Butylamine
Tert-Butylamine
Toluenediamine (Mixture)
*Toluidines
O-Phenylenediamine
2,6-Dimethylaniline
4-(N-Hydroxyethylethylamino)-2-Hydroxyethyl Analine
4,4'-Methylenebis(N,N'-dimethyl)-aniline
4,4'-Methylenedianiline

c. Aromatic Organic Chemicals

2-Chloro-5-Methylphenol (6-Chloro-m-cresol)
A-Methylstyrene
*Alkyl Benzenes
*Alkyl Phenols
*Alkylbenzene Sulfonic Acids, Salts
Aminobenzoic Acid (Meta and Para)
Aspirin
B-Napthalene Sulfonic Acid
Benzenedisulfonic Acid
Benzoic Acid
Bis(2-Ethylhexyl) Phthalate
Bisphenol A
BTX-Benzene,Toluene, Xylene (Mixed)
Butyl Octyl Phthalate
Coal Tar
*Coal Tar Products (Misc)
Creosote
*Cresols, Mixed
Cyanuric Acid

*Cyclic Aromatic Sulfonates
Dibutyl Phthalate
Diisobutyl Phthalate
Diisodecyl Phthalate
Diisooctyl Phthalate
Dimethyl Phthalate
Dinitrotoluene (Mixed)
Ditridecyl Phthalate
M-Cresol
Metanilic Acid
Methylenediphenyldiisocyanate
Naphthalene
*Naphthas, Solvent
Nitrobenzene
Nitrotoluene
Nonylphenol
P-Cresol
Phthalic Acid
Phthalic Anhydride
*Tars-Pitches
Tert—Butylphenol
*Toluene Diisocyanates (Mixture)
Trimellitic Acid
O-Cresol
1-Tetralol, 1-Tetralone Mix
2,4-Dinitrotoluene
2,6-Dinitrotoluene

d. Halogenated Organic Chemicals

1,4-Phenylenediamine Dihydrochloride
Allyl Chloride
Benzyl Chloride
Carbon Tetrachloride
Chlorobenzene
*Chlorobenzenes (Mixed)
Chlorodifluoroethane
Chloroform
*Chloromethanes
*Chlorophenols
Chloroprene
Cyanogen Chloride
Cyanuric Chloride
Dichloropropane
Epichlorohydrin
Ethyl Chloride
*Fluorocarbons (Freons)
Methyl Chloride
Methylene Chloride
Pentachlorophenol
Phosgene
Tetrachloroethylene
Trichloroethylene
Trichlorofluoromethane
Vinylidene Chloride
1,1-Dichloroethane
1,1,1-Trichloroethane
2,4-Dichlorophenol

e. Other Organic Chemicals

Adiponitrile
Carbon Disulfide
Dithiophosphates, Sodium Salt
Fatty Nitriles
*Organic-Tin Compounds
*Phosphate Esters
Tetraethyl Lead
Tetramethyl Lead
*Urethane Prepolymers
*Waxes, Emulsionis—Dispersions

L. Options for Identifying Plant-Specific BAT and PSES Toxic Pollutant Monitoring Requirements

Industry has for many years discussed the complexity of the OCPSF industry and the desirability of plant-specific permits or control requirements instead of national regulations (effluent limitations and standards). What follows is a preliminary monitoring program which would provide permitting and control authorities with accurate information on the toxic pollutants generated at an OCPSF plant. This information could then be used in one of several ways to develop tailored permitting requirements, as will be discussed further below.

Based on the efficacy of BPT systems for removal of residual toxic organics and the present utilization of Part 2–C data from NPDES permit applications for the Organic Chemicals Industry, the Agency believes that as much attention should be focused on reducing influent levels of toxic organic pollutants to biological treatment systems as on reducing the effluent levels. Based on economic and treatability considerations, focusing on influent to biological systems is an optimal approach. This method promotes in-plant controls and modifications which are typically far less costly than increasing the capacity of a biological system and, in the case of the OCPSF industry, highly effective in the control of toxic organics. As has become apparent from the data collected, with the exception of a few polluants such as the chlorophenols and chloroalkyl ethers, a BPT biological system will remove organic pollutants from wastewaters as long as the influent level is beneath a specific threshold and the influent levels have been stabilized through equalization.

Although treatment efficiencies are uniform throughout the industry, the specific toxics generated vary greatly among OCPSF plants. In order to properly implement the OCPSF effluent guidelines and mitigate the cost of regulating toxics, the following monitoring procedure has been developed.

For each BPT subcategory, EPA has developed a list of toxic pollutants that are likely to be present in the process wastewater (see Tables L–1 through L–8). These lists are based on the site-specific data collected for the OCPSF regulation, other industry data, and process chemistry. Thus for any OCPSF plant, an initial list of potential priority pollutants of concern can be generated based on the plants OCPSF subcategory and product mix.

To better define the pollutants of concern at a particular plant, EPA is considering requiring the collection, analysis, and reporting of six monthly samples at the influent to biological treatment (free of dilution by noncontact cooling water, scrubber blowdown, stormwater, other nonprocess wastewater, and process wastewater that are not derived from OCPSF production and are substantially free of BOD). The toxic pollutants to be analyzed are those listed in Tables L–1 through L–8 for the various subcategories of the OCPSF industry. If a pollutant appeared one or more times above 100 μ/l in the influent or was reported with a detection limit over 100 μ/l, it would be a pollutant of concern.

In addition, a one-time scan of all regulated pollutants would be conducted, again at the biological influent free of dilution. Any pollutant appearing above 100 μ/l or reported with a detection limit over 100 μ/l would be a pollutant of concern.

EPA is considering, and solicits comments on, several regulatory options for using the list of pollutants of concern to minimize unnecessary monitoring and reporting burdens on industry. The Agency may promulgate any of these options, or a variation or combination of them.

These include:

(1) Limiting all pollutants covered by the regulation in the permit and as a pretreatment standard, but requiring frequent monitoring only for pollutants of concern. Other pollutants would be monitored for compliance only occassionally (e.g., once or twice per year).

(2) Limiting only pollutants of concern in the permit and as a pretreatment standard and monitoring only for those pollutants. (New discharges of other pollutants for direct dischargers would be identified only as required by the notification requirements of 40 CFR 122.41(l) and 122.42(a)).

(3) Limiting only pollutants of concern in the permit and as a pretreatment standard but monitoring occasionally (e.g., once or twice per year) for other pollutants covered by the BAT regulation to detect process or other changes that result in the discharge of different pollutants. (Such pollutants could then be addressed by a direct discharge permit modification setting limits for the pollutants. See 40 CFR 122.44(e).)

The Agency solicits comments on these options and other possible options, including different approaches for plants falling into more than one OCPSF subcategory. Commenters should specifically comment on whether a specific option is more appropriate for existing or new sources or direct or indirect discharges.

The Agency estimates that $10,170 is the upper bound cost for conducting the analyses discussed above. This assumes

$1,695 per sample based on using isotope dilution GC–MS methods 1624 and 1625 for volatile and semivolatile organic priority pollutants and assuming an average need for six dilutions for one or more fractions, as well as provide methods for the priority pollutant metals and cyanide. No costs were assumed for the 16 pesticide and 7 PCB priority pollutants, asbestos, and dioxin since these pollutants likely will be excluded from national regulation under the terms of Paragraph 8 of the NRDC Settlement Agreement. The total application cost is calculated by multiplying the once-per-month sample cost by 6 months.

A review of the lists of potential toxic pollutants for each subcategory in Tables L–1 through L–8 indicates that the rayon, other man-made fibers, thermosetting resins, and thermoplastics-only facilities are likely to have much lower application monitoring costs than plants within other subcategories.

If the Agency selects the six month monitoring approach for establishing control requirements, the application information collection requirements will be submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* These requirements would not be effective without OMB's approval. If OMB's approval is not obtained until after promulgation, then a technical amendment to that effect would be published in the **Federal Register.**

Table L–1.—Rayon Subcategory—Potential Toxic Pollutants Present in the Process Wastewater

Acid Compounds

Phenol

Metals

Chromium
Lead
Zinc

Table L–2.—Other Man-Made Fibers Subcategory, Potential Toxic Pollutants in the Process Wastewater

Volatile Compounds

Acrylonitrile
Benzene
1,1,1-Trichloroethane
Ethylbenzene Cyanide
Toluene

Acid Compounds

Phenol

Metals and Cyanide

Chromium
Copper
Cyanide
Zinc

Table L–3.—Thermosetting Resins Subcategory—Potential Toxic Pollutants in the Process Wastewater

Volatile Compounds

Acrolein
Acrylonitrile
Benzene
Chlorobenzene
1,2-dichloropropane
Chloroform
1,2-dichloropropane
Methylene chloride
Toluene
Vinyl chloride

Acid Compounds

Phenol

Base/Neutral Compounds

1,2-dichlorobenzene
2,4-dinitrotoluene
Nitrobenzene
Bis(2-ethylhexyl)phthalate

Metals and Cyanide

Antimony
Arsenic
Cadmium
Chromium
Copper
Cyanide
Lead
Mercury
Nickel
Selenium
Silver
Zinc

Table L–4.—Thermoplastics Only Subcategory—Potential Toxic Pollutants in the Process Wastewater

Volatile Compounds

Acrolein
Acrylonitrile
Benzene
Ethylbenzene
Methylene chloride
Toluene
Vinyl chloride

Acid Compounds

2-chlorophenol
Phenol

Base/Neutral Compounds

Naphthalene
Bis(2-ethylhexyl)phthalate
Di-n-butyl phthalate
Di-n-octyl phthalate
Dimethyl phthalate

Metals

Antimony
Arsenic
Cadmium
Chromium
Copper
Lead
Mercury
Nickel
Selenium
Silver
Zinc

Table L–5.—Thermoplastics and Organics Subcategory—Potential Toxic Pollutants in the Process Wastewater

Volatile Compounds

Acrolein
Acrylonitrile
Benzene
Carbon tetrachloride
1,2-dichloroethane
1,1,1-trichloroethane
1,1-dichloroethane
1,1,2-trichloroethane
Chloroethane
Chloroform
1,1-dichloroethylene
1,2-trans-dichloroethylene
1,2-dichloropropane
Ethylbenzene
Methylene chloride
Methyl chloride
Toluene
Trichloroethylene
Vinyl chloride

Metals and Cyanide

Antimony
Arsenic
Cadmium
Chromium
Copper
Cyanide
Lead
Mercury
Nickel
Selenium
Silver
Zinc

Acid Compounds

2,4-dichlorophenol
2,4-dimethylphenol
Phenol

Base/Neutral Compounds

1,3-dichlorobenzene
Isophorone
Naphthalene
Bis(2-ethylhexy) phthalate
Acenaphthylene
Anthracene
Fluorene
Phenanthrene
Pyrene

Table L–6—Commodity Organic Chemicals Subcategory—Potential Toxic Pollutants in the Process Wastewater

Volatile Compounds

Acroleine
Acrylonitrile
Benzene
Carbon Tetrachloride
Chlorobenzene
1,2-dichloroethane
1,1-dichloroethane
1,1,2-trichloroethane
Chloroethane
1,1-dichloroethylene
1,2-trans-dichloroethylene
1,2-dichloropropane
1,3-dichloropropylene
Ethylbenzene
Methlylene chloride
Methyl chloride

Toluene

Acid Compounds

2,4,6-trichlorophenol
p-chloro-m-cresol
2,4-dichlorophenol
2,4-dimethylphenol
2-nitrophenol
2,4-dinitrophenol
Phenol

Base/Neutral Compounds

Acenaphthene
Hexachlorobenzene
Hexachloroethane
1,2-dichlorobenzene
1,4-dichlorobenzene
2,4-dinitrotoluene
Fluoranthene
Isophorone
Naphthalene
Nitrobenzene
Bis(2-ethylhexyl) phthalate
Di-n-butyl phthalate
Dimethyl phthalate
3,4-benzofluoranthene
Benzo (k) fluoranthene
Chrysene
Acenaphthylene
Anthracene
Fluorene
Phenanthrene
Pyrene

Metals and Cyanide

Cadmium
Chromium
Copper
Cyanide
Lead
Mercury
Nickel
Selenium
Zinc

Table L-7.—Bulk Organic Chemicals Subcategory—Potential Toxic Pollutants in the Process Wastewater

Volatile Compounds

Arcolein
Acrylonitrile
Benzene
Carbon tetrachloride
Chlorobenzene
1,2-dichloroethane
1,1,1-trichloroethane
1,1-dichloroethane
1,1,2-trichloroethane
Chloroethane
Chloroform
1,1-dichloroethylene
1,2-trans-dichloroethylene
1,2-dichloropropane
Ethylbenzene
Methylene Chloride
Methyl chloride
Tetrachloroethylene
Toluene
Trichloroethylene

Acid Compounds

2,4,6-trichlorophenol
2-chlorophenol
2,4-dichlorophenol
2,4-dimethylphenol
2-nitrophenol
4-nitrophenol
2,4-dinitrophenol
4,6-dinitro-o-cresol
Phenol

Base/Neutral Compounds

Acenaphthene
1,2,3-trichlorobenzene
Hexachlorobenzene
1,2-dichlorobenzene
1,3-dichlorobenzene
1,4-dichlorobenzene
3,3'-dichlorobenzidine
2,4-dinitrotoluene
2,6-dinitrotoluene
Naphthalene
Nitrobenzene
N-nitroso-di-n-propylamine
Butyl benzyl phthalate
Di-n-butyl phthalate
Benzo(a) Pyrene
Chrysene
Acenaphthylene
Anthracene
Fluorene
Phenanthrene
Pyrene

Metals and Cyanide

Antimony
Arsenic
Cadmium
Chromium
Copper
Cyanide
Lead
Mercury
Nickel
Selenium
Zinc

Table L-8.—Specialty Organic Chemicals Subcategory—Potential Toxic Pollutants in the Process Wastewater

Volatile Compounds

Acrolein
Acrylonitrile
Benzene
Carbon tetrachloride
Chlorobenzene
1,2-dichloroethane
1,1,1-trichloroethane
1,1-dichloroethane
1,1,2-trichloroethane
Chloroethane
Chloroform
1,1-dichloroethylene
1,2-trans-dichloroethylene
1,2-dichloropropane
Ethylbenzene
Methylene chloride
Methyl chloride
Tetrachloroethylene
Toluene
Trichloroethylene
Vinyl chloride

Acid Compounds

2,4,6-trichlorophenol
2-chlorophenol
Phenol

Base/Neutral Compounds

1,2,3-trichlorobenzene
1,2-dichlorobenzene
1,4-dichlorobenzene
Naphthalene
Nitrobenzene
Di-n-butyl phthalate
Di-n-octyl phthalate
Diethyl phthalate
Dimethyl phthalate

Metals and Cyanide

Antimony
Arsenic
Cadmium
Chromium
Copper
Cyanide

V. Preliminary Data Analysis—Economic

This notice also makes available for comment the results of additional economic analysis. These results are summarized below and are discussed in detail in the *Economic Impact Analysis of Effluent Limitations and Standards for Notice of Data Availability for the Organic Chemicals, Plastics, and Synthetic Fibers Industry.* This report incorporates EPA's consideration of public comments, the collection efforts for economic and financial data, and the preliminary revisions to the estimated compliance costs based on the technical reanalysis discussed in Section IV, and the preliminary economic impacts.

A. The Revised Economic Impact Methodology

Based on comments received at proposal and the survey collection efforts, EPA has substantially revised the economic impact methodology. The economic analysis at proposal was driven by a product/process supply-demand analysis. This analysis fit well into the proposed subcategorization scheme based on generic product/processes. EPA now plans to use a plant-by-plant analysis as the prime analysis to estimate economic impacts. Three factors have led to this change: the substantial adverse public comments on the plant closure analysis at proposal, the availability of new plant-specific economic and financial data from the new survey, and the newly revised subcategorization scheme presented in this notice.

The revised economic analysis also reflects a change in the baseline year from 1985 to 1988. Three factors influenced this change. First, promulgation of these rules is expected in 1986, making a compliance date of 1988 realistic. Second, while the economic data collected from plants are based on 1982, this year was bad economically for the industry and not representative of likely future conditions. Based on the cyclical pattern of economic activity in this industry and

projected macroeconomic conditions, 1988 is projected to be a more representative year for the industry than 1982. Third, the compliance costs are estimated based on production and wastewater flows from 1980, a better year for the industry. Using 1982 data would overestimate the economic impact of these rules; using 1988 mitigates the potential of this happening.

The primary economic analysis is a discounted cash flow (DCF) analysis for estimating plant closures. Employment and production impacts are estimated from the DCF analysis. A DCF analysis compares expected net revenues over a ten year period to the value of liquidating plant assets today and investing the proceeds elsewhere. Numerous other analyses are also conducted: changes in plant profitability, increases to costs of production, liquidity analysis, firm-level analysis and a foreign trade assessment of production at risk. The product/process supply-demand analysis is used to profile industry conditions for the baseline.

EPA is also revising its analysis of the relative impacts among small and large businesses. No substantial economic impacts were projected at proposal; however, EPA is evaluating small business impacts by examining the relative impact between small and large facilities.

B. BPT

For BPT Option I (Biological Only), the Agency estimates that capital investment costs will total $277 million and total annualized costs $131 million for 304 affected direct dischargers (1982 dollars). Four plants are expected to close. Additionally, organics and plastics production lines at six other facilities are expected to shut down. The total expected employment loss at the ten affected plants equals 251 jobs, or 0.1 percent of industry employment.

For BPT Option II (Biological Treatment With and Without Polishing Ponds), EPA estimates that capital investment costs will total $294 million and total annualized costs, $139 million. Four plants are expected to close and the organics and plastics production lines at six additional facilities are expected to shut down. The total expected employment loss equals 251 jobs. (0.1 percent of industry employment). Separate impacts for Option III have not been estimated for this notice but are expected to be the same as those estimated for Option II.

C. BAT

Those direct dischargers that are required to install biological treatment to meet BPT limitations (for conventional pollutants) are not expected to incur any incremental costs under BAT Option I. A small number of direct dischargers will be able to meet the conventional pollutant limitations without installing biological or post-biological treatment. Less than 20 percent of the direct dischargers would need to install in-process treatment controls in order to meet priority pollutant limitations based on BPT/BAT Option I technology. The costs for these plants to meet BAT Option I limitations are now included under BAT Option II. Thus, the estimated costs of compliance and resulting economic impacts for BAT Option I are expected to be between those estimated for BPT Option II and BAT Option III.

The incremental compliance costs beyond BPT for BAT Option II are expected to equal $607 million in capital investment and $415 million in total annualized costs. Eleven additional plants are projected to close under BAT. In addition, the organics and plastics production lines at eleven other facilities are expected to shut down. The expected employment loss (incremental to BPT losses) is 3,966 jobs at the 22 affected plants, or 2.1 percent of industry employment.

For BAT Option III, the incremental capital investment costs beyond BPT Option II are expected to equal $1,437 million and total annualized costs, $677 million. Twenty plants beyond those closing at BPT are expected to close and the organics and plastics production lines at 19 other facilities are expected to shut down. The employment loss (incremental to BPT losses) at the 39 affected plants is estimated at 9,906 jobs, or 5.3 percent of industry employment.

D. PSES

The costs and impacts for PSES Option I are expected to be lower than for PSES Option II.

For PSES Option III, capital investment costs are expected to total $189 million and total annualized costs $135 million for 404 affected indirect dischargers. Sixteen plants are projected to close. In addition, organics and plastics production lines at 28 other facilities would be expected to shut down. The total expected employment loss at the 44 affected plants would equal 1,073 jobs, or 0.6 percent of industry employment.

For PSES II (which includes in-process treatment and either biological treatment or filtration for additional control of specific pollutants) EPA estimates that capital investment costs will total $304 million and total annual costs, $166 million. These capital and annual costs are 61 percent and 23 percent higher, respectively than the costs estimated for physical/chemical treatment alone (i.e., for PSES Option III). Nineteen plants are expected to close and the organic chemicals and plastics production lines at 37 other facilities are expected to shut down. The projected total employment loss at the 56 affected indirect dischargers equals 1,595 jobs, or 0.8 percent of industry employment.

E. PSNS and NSPS

For control of priority and nonconventional pollutants, the treatment options for direct and indirect new sources are identical to those being considered for existing sources. EPA anticipates that a more stringent requirement for new sources may be selected and, therefore, some incremental costs will be incurred above the costs existing sources are expected to face.

For the control of conventional pollutants in NSPS, EPA is considering the same three technology bases as for the BPT regulations; however BPT Option III (Biological Treatment Plus Filtration) is likely to be selected for NSPS, and thus require more stringent controls than for existing dischargers.

For all subcategories except Other Man-Made Fibers, EPA expects that limitations for Biological Treatment Plus Filtration will be more than those for BPT options I and II. The Agency has evaluated the impact of incremental costs of compliance with this NSPS option for model plants in each subcategory. The incremental costs to the model plants' estimated sales are very small, ranging from 0.07 to 0.5 percent of sales. The expected reductions in profitability range from 1.6 to 16.0 percent. The largest reductions would be incurred by producers in the Rayon Subcategory, followed by producers in the Specialty Organics subcategory.

For the control of priority pollutants in NSPS, EPA is considering the same technology bases as for existing sources; however, BAT Option III is more likely to be chosen for NSPS. The Agency have evaluated the impact of incremental costs of compliance with this NSPS option (assuming that existing direct dischargers will meet BAT Option II). (If NSPS equals BAT, significant barriers to entry would not be likely. Therefore, this analysis focuses on the case where NSPS is more stringent than BAT.) Because of the wide variety of products and processes in the industry, the

analysis is based on the incremental effects on existing dischargers.

EPA has evaluated the range of incremental profitability and liquidity reductions associated with going from BAT Option II to BAT Option III for direct dischargers. This analysis can describe the range of differential impacts that would be caused if the final selected new source option is based on BAT Option III.

The additional costs associated with BAT Option III have a wide range of effects on plant profitability. The additional cost of BAT Option III over expenditures for BAT Option II causes a median plant profit reduction of 15 percent. However, the range of profit reduction is zero to 79 percent for the tenth and ninetieth percentiles, respectively.

The results of the liquidity reduction analysis are somewhat similar. The incremental liquidity reductions in going from BAT Option II to BAT Option III range from a low of zero percent (10th percentile) to a high of 58 percent (90th percentile). The median liquidity reduction is nine percent. The range of values for the incremental liquidity measure does not appear to be correlated with the liquidity impacts at BAT Option II.

F. Regulatory Flexibility Analysis

Pub. L. 96-354 requires that a Regulatory Flexibility Analysis be prepared for regulations that are proposed after January 1, 1981 that have a significant impact on a substantial number of small entities. The analysis may be done in conjunction with, or as a part of, any other analysis conducted by the Agency. A preliminary small business analysis is included in the draft economic impact analysis accompanying this notice.

The Agency is redefining its definition of small businesses for this regulation. At proposal, the Agency set a definition of facilities with less than 50 employees. The new definition identifies as small those plants with annual OCPSF sales of less than $5 million. The Agency invites comment on the revised small business definition and the analytical approach used to derive it. (This approach is detailed in the draft report).

The analysis of the relative impacts between small and large plants shows that small plants may be significantly affected by the BPT and PSES regulations. The groups of plants most severely affected are the small organic chemical manufacturers except those falling under the Commodity Organics subcategory, and manufacturers of thermoplastic and thermosetting resins without significant production of organic chemicals.

Therefore, the Agency is considering alternative regulatory approaches for small businesses, primarily within these groups. The alternatives include either less stringent effluent limitations or exemptions entirely from the effluent limitations for small business.

In determining size cutoffs for either alternative, the Agency is examining different measures for small plants. First, the Agency believes that the small business definition of less than $5 million in OCPSF sales currently identifies the sector of small businesses that could be affected. However, in practice, this measure would not be appropriate in the long-term because the value of sales will increase over time because of inflation. Thus, fewer and fewer plants would fall into this category over time, rendering the exemption obsolete. Second, the Agency is considering using tons of OCPSF products manufactured annually as a measure. If this measure were to be used, the Agency would likely define different levels of production for cutoffs among segments of the industry with different unit values of production to ensure that the correct portion of the industry is being protected. A single production cutoff across the whole industry is unlikely. Third, the Agency is considering a wastewater flow size cutoff. The advantages of a flow cutoff are that the information needed by the permit writer to determine the size is readily available. However, as the Agency's work on attempting to set mass-based limitations in the past has shown, there is a generally weak correlation between production and wasterwater flow in this industry. Therefore, the exemption may not affect the particular segment of the industry in need of relief.

The Agency requests comments on the small business definition and whether the Agency should consider alternative regulatory levels for small businesses.

G. RCRA Baseline Analysis

Shortly before publication of this Notice, the economic impact analysis was run including all of the baseline RCRA costs described in section IV(H). (The impacts previously described included only the one time site inspection costs.) Because these costs are included in the baseline—the costs will be incurred regardless of the requirements of this regulation—the incremental closures associated with this effluent guideline have been reanalyzed. The impacts are lower for the effluent guideline when all the baseline costs are included because some plants now close in the baseline analysis of RCRA instead of closing as a result of the regulation.

The total RCRA baseline costs for this industry are projected to be $31 million in capital investment, and $13.8 million in total annualized costs.

At BPT, the six plants projected to close their organics and plastics production lines are the same. At BPT Option I, one plant less is projected to close at this option (three versus the four plants discussed above). At BPT Option II, one additional plant is expected to close, for a total of five plants. The employment impacts including all the RCRA baseline costs are 198 and 397 for BPT Option I and II respectively, compared to the 251 job losses described above.

For the BAT Options, the plant closure estimates are slightly smaller. Under BAT Option II, plant closures drop from 11 to 10, while under BAT Option III, plant closures drop from 20 to 18. Production line closures remain the same at either option. Because the set of plants closing under Options II with the RCRA costs included in the baseline are somewhat larger, the employment losses rise from 3,996 to 4,527 jobs even though one less plant closes. Under BAT Option III, the reduction in plant closures causes a drop in employment losses from 9,906 to 9,707 jobs.

For the PSES Options, the plant closures and employment losses increase slightly with the inclusion of the remaining RCRA baseline costs. Under PSES Option III, one additional plant is expected to close its organics and plastics production lines (29 versus 28) for an incremental employment loss of three jobs (1,076 versus 1,073). Under PSES Option II, the one additional production line closure (38 versus 37) is expected to cause an incremental employment loss of five jobs (1,600 versus 1,595). Plant closures are projected to remain at 16 and 19 plants for PSES Options III and II, respectively.

H. Cost-effectiveness Analysis

EPA has conducted an analysis of the incremental cost per pound-equivalent removed for the technology-based options. A pound-equivalent is calculated by multiplying the number of pounds of pollutants discharged by toxic weighting factor for that pollutant. The weighting factors give relatively more weight to removal of more highly toxic pollutants. Thus, for a given expenditure and pounds removed, the cost per pound-equivalent removed would be lower when a highly toxic pollutant is removed than if a less toxic pollutant is removed.

The methodology used in this analysis, unlike cost-effectiveness analyses for previous effluent guidelines, incorporates into the computations consideration of air emissions of volatile organic chemicals from process wastewaters. Removal of these pollutants is counted towards the cost-effectiveness of the regulation since the treatment technologies remove the substances from wastewaters. Furthermore, the toxic weighting factors (which are generally based solely on aquatic life criteria) also include proxy criteria for toxicity and carcinogenicity effects to humans through inhalation of volatile organic chemicals.

The cost-effectiveness analysis is included in the record of this rulemaking. The Agency invites comments on the analysis, particularly the inclusion of inhalation effects associated with the volatile organic chemicals.

IV. Executive Order 12291

Executive Order 12291 requires EPA and other agencies to perform regulatory impact analyses of major regulations. Major rules impose an annual cost to the economy of $100 million or more or meet other criteria. Implementation of the proposed regulation for the Organic Chemicals, Plastics and Synthetic Fibers Industry has been projected to cost over $100 million annually and thus is a major rule.

Water quality impacts have been analyzed (using treatment levels in this notice) for 81 direct discharge OCPSF facilities. EPA's published water quality criteria for priority pollutants are used to assess water quality impacts. The analyses project that under existing conditions, over 60 percent of the 81 OCPSF facilities exceed water quality criteria (depending on the criteria used). However, the projected exceedances of water quality criteria will be reduced by as much as 50 percent (depending on criteria used) by implementing the BAT levels in this notice.

In addition to the water-quality impact analyses at 81 OCPSF facilities, three site-specific assessments of the specific health and environmental benefits that may result from the proposed regulations are currently in progress. The results reported in the March 21, 1983 **Federal Register** for the Kanawha River (West Virginia) and Houston Ship Channel (Texas) case studies will be reexamined to incorporate the new 308 data, the new BPT and BAT options, and ozone reduction benefits from controlling the volatilization of volatile organic chemicals (VOCs) that photochemically react in the troposphere to form ozone (smog). Currently, a third case study on the Delaware River is being conducted. This case study will include recreational and other non-health benefits, health benefits, and potential ozone reduction benefits.

An analysis of the national magnitude and nature of the VOC intermedia transfer problem (removal of VOCs from the receiving water body through biological treatment may result in volatilization into the air from treatment ponds) will be conducted prior to promulgation.

VII. Solicitation of Comments

This notice announces the availability of a substantial body of new data gathered by EPA. EPA has expended considerable resources to collect this data to respond to comments that the data base used at proposal was not adequate to support the proposed regulations. EPA believes that its expanded data set provides an adequate basis for the regulations decribed in this notice. However, EPA continues to solicit data relevant to all aspects of this rulemaking. Such data, is submitted, should be accompanied by sufficiently detailed information to indicate its nature, origin, and quality.

This notice also presents many new analyses and regulatory options. EPA solicits comments on all of these analyses and options. Commenters should be aware that EPA may promulgate regulations that incorporate any of these options, variations on the options, or combinations of the options. Comments should be made with these possibilities in mind.

In addition to the solicitation of comments on technical data and regulatory options discussed throughout this notice, EPA solicits comments on the following economic issues.

(1) The economic impact analysis for this notice does not include baseline effects of CERCLA requirements in evaluating the economic achievability of these rules. EPA invites comments on the effect of the CERCLA taxes on the ability of this industry to afford the effluent guideline rules.

(2) The Agency requests comments on the economic impact analysis methodology. In particular, EPA requests comments on the plant closure analysis.

(3) EPA solicits comments on the financial data used to model the industry. Where the questionnaire data were unavailable, EPA used industry averages to estimate economic impacts. The Agency invites comments, supported by appropriate data.

(4) The Agency also requests comments on the plan to define small businesses as facilities with less than $5 million in annual shipments of OCPSF products—i.e., whether alternative levels or criteria more appropriately define small business in this industry.

(5) EPA asks for comments on the cost-effectiveness analysis for this industry, which incorporates consideration of air emission of volatile organic chemicals.

(6) EPA solicits comments on the foreign trade analysis performed for this analysis. In particular, commenters are requested to provide data on those products which would become less competitive as a result of these rules.

List of Subjects

40 CFR Part 414

Chemicals, Water pollution control, Waste treatment and disposal.

40 CFR Part 416

Plastics materials and synthetics, Water pollution control, Waste treatment and disposal.

Dated: July 1, 1985.

Edwin L. Johnson,

Acting Assistant Administrator for Water.

[FR Doc. 85-16589 Filed 7-16-85; 8:45 am]

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Part III

Department of Labor

Office of the Secretary

Recordkeeping Guidelines for Occupational Injuries and Illnesses Under the Occupational Safety and Health Act of 1970 and 29 CFR Part 1904; Request for Comment

DEPARTMENT OF LABOR

Office of the Secretary

Recordkeeping Guidelines for Occupational Injuries and Illnesses Under the Occupational Safety and Health Act of 1970 and 29 CFR Part 1904; Request for Comment

Background

On July 20, 1984 (49 FR 29484), the Bureau of Labor Statistics (BLS), U.S. Department of Labor, announced in the **Federal Register** in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35) that it was proposing a revision in its recordkeeping package for the Log and Summary of Occupational Injuries and Illnesses (OSHA No. 200) and Supplementary Record of Occupational Injuries and Illnesses (OSHA No. 101). The proposal consisted of revised recordkeeping guidelines, Recordkeeping Guidelines for Occupational Injuries and Illnesses, which BLS made available to the public for comment. After reviewing the public comments, the BLS felt that further modifications were needed, and decided to substitute the guidelines which had been in effect since 1978, Report 412–3, "What Every Employer Needs to Know About OSHA Recordkeeping," as interim guidelines for the recordkeeping package. The Office of Management and Budget (OMB) subsequently approved the continued use of the existing log and summary (OSHA No. 200), supplementary record (OSHA No. 101), and Report 412–3, assigning approval number 1220–0029 to each of the forms, and to Report 412–3.

Subsequent Review Completed

BLS evaluated the comments received on the initial draft, and modified the document to address many of the expressed concerns. BLS also utilized input from: the Occupational Safety and Health Administration (OSHA); the Labor Department's Office of the Solicitor (SOL); the National Institute for Occupational Safety and Health, Department of Health and Human Services (NIOSH); and the BLS Business Research Advisory Council and Labor Research Advisory Council Committees on Occupational Safety and Health Statistics. In addition to modifying the detailed recordkeeping guidelines published previously, BLS developed an abbreviated version of the guidelines as a ready reference, and to assist employers with small-sized establishments or firms in low hazard industries.

Comments and Questions:

To facilitate public review both the long and short versions of the BLS recordkeeping guidelines are presented in their entirety in the sections that follow. Written comments or questions concerning either of these documents should be directed to William M. Eisenberg, Office of Occupational Safety and Health Statistics, U.S. Department of Labor, 601 D Street, N.W., Room 4014, Washington, D.C. 20212, telephone (202) 272–3467.

Dates:

Written comments must be submitted no later than October 15, 1985.

Signed at Washington, D.C. this 8th day of July, 1985.

Paul E. Larson,

Departmental Clearance Office.

SECTION I

Recordkeeping Guidelines for Occupation Injuries and Illnesses: Ready Reference

The Occupational Safety and Health Act of 1970 and 29 CFR 1904

U.S. Department of Labor, Bureau of Labor Statistics, 1985

Preface

The information in this pamphlet briefly explains the requirements of the Occupational Safety and Health Act of 1970 and 29 CFR Part 1904 for recording and reporting occupational injuries and illnesses. The Occupational Safety and Health Act of 1970 requires employers to prepare and maintain records of occupational injuries and illnesses. The Act made the Secretary of Labor responsible for the collection, compilation, and analysis of statistics of work-related injuries and illnesses. The Bureau of Labor Statistics (BLS) administers this recordkeeping and reporting system. In most States, a State agency cooperates with BLS in administering these programs.

Records of injuries and illnesses are necessary for carrying out the purposes of the Act. They provide a basis for a statistical program which produces reliable injury and illness data which are used by OSHA in directing the agency's efforts. The records are also helpful to employers and employees in identifying many of the factors which cause injuries or illnesses in the workplace. In addition, OSHA records are designed to assist safety and health compliance officers in making OSHA inspections.

This pamphlet summarizes the OSHA recordkeeping requirements of 29 CFR Part 1904, and provides basic instructions and guidelines to assist employers in fulfilling their recordkeeping and reporting obligations. Many specific standards and regulations of the Occupational Safety and Health Administration (OSHA) have additional requirements for the maintenance and retention of records of medical surveillance, exposure monitoring, inspections, accidents and other activities and incidents relevant to occupational safety and health, and for the reporting of certain information to employees and to OSHA. These additional requirements are not covered in this pamphlet. For information on these requirements, employers should refer directly to the OSHA standards or regulations or contact their OSHA Area Office.

Further information on the requirements outlined in this pamphlet is available in the free detailed report, Recordkeeping Guidelines for Occupational Injuries and Illnesses, which may be obtained by using the order form on the inside of the back cover. Assistance can also be obtained by contacting the BLS regional office for your area. These are also listed on the inside of the back cover.

The following government agencies are involved in OSHA recordkeeping:

A. *The Occupational Safety and Health Administration, U.S. Department of Labor.* The Occupational Safety and Health Administration is responsible for developing, implementing, and enforcing safety and health standards and regulations. OSHA works with employers and employees to foster effective safety and health programs which reduce workplace hazards.

B. *Bureau of Labor Statistics, U.S. Department of Labor.* The Bureau of Labor Statistics is responsible for administering and maintaining the OSHA recordkeeping system, and for collecting, compiling, and analyzing work injury and illness statistics. A list of BLS Regional Offices is provided inside the back cover of this pamphlet.

C. *State Agencies.* Many States cooperate with BLS in administering the OSHA recordkeeping and reporting programs. Some States have their own safety and health laws which may impose different or additional obligations. Employers should consult their State safety and health laws concerning these requirements.

These guidelines were prepared in the Office of Occupational Safety and Health Statistics, by Stephen Newell, under the general direction of William M. Eisenberg, Acting Associate Commissioner.

Contents

I. Employers Subject to the Recordkeeping Requirements of the Occupational Safety and Health Act of 1970

The recordkeeping requirements of the Occupational Safety and Health Act of 1970 apply to almost all private sector employers in all 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territories of the Pacific Islands.

A. Employers Who Must Keep OSHA Records

Employers with 11 or more employees in the following industries must keep OSHA records. The industries are identified by name and by the appropriate Standard Industrial Classification (SIC) code.

- Agriculture, forestry, and fishing (SIC's 07–09);
- Oil and gas extraction (SIC 13);
- Construction (SIC's 15–17);
- Manufacturing (SIC's 20–39);
- Transportation and public utilities (SIC's 40–49);
- Wholesale trade (SIC's 50–51);
- Building materials and garden supplies (SIC 52);
- General merchandise and food stores (SIC's 53 and 54);
- Hotels and other lodging places (SIC 70);
- Repair services (SIC's 75 and 76);
- Amusement and recreation services (SIC 79); and
- Health services (SIC 80).

If employers in agriculture, forestry, and fishing; oil and gas extraction; construction; manufacturing; transportation and public utilities; and wholesale trade have more than one establishment with combined employment of 11 or more employees, records must be kept for *each* individual establishment.

B. Employers Who Infrequently Must Keep OSHA Records

Employers in the industries listed below are normally exempt from OSHA recordkeeping. However, each year a small rotating sample of these employers is required to keep records and participate in a mandatory statistical survey of occupational injuries and illnesses. Their participation is necessary to produce national estimates of occupational injuries and illnesses for *all* employers (both exempt and nonexempt) in the private sector. If an employer who is regularly exempt is selected to maintain records and participate in the Annual Survey of Occupational Injuries and Illnesses, he will be notified in advance and supplied with the necessary forms and instructions. Employers who normally do not have to keep OSHA records include:

1. All employers with no more than 10 full- or part-time employers *at any one time* in the previous calendar year.

2. Employers in the following retail trade, finance, insurance and real estate, and services industries (identified by SIC codes):

- Automotive dealers and gasoline service stations (SIC 55);
- Apparel and accessory stores (SIC 56);
- Furniture, home furnishings, and equipment stores (SIC 57);
- Eating and drinking places (SIC 58);
- Miscellaneous retail (SIC 59);
- Banking (SIC 60);
- Credit agencies other than banks (SIC 61);
- Security, commodity brokers, and services (SIC 62);
- Insurance (SIC 63);
- Insurance agents, brokers, and services (SIC 64);
- Real estate (SIC 65);
- Combined real estate, insurance, etc. (SIC 66);
- Holding and other investment offices (SIC 67);
- Personal services (SIC 72);
- Business services (SIC 73);
- Motion pictures (SIC 78);
- Legal services (SIC 81);
- Educational services (SIC 82);
- Social services (SIC 83);
- Museums, botanical, zoological gardens (SIC 84);
- Membership organizations (SIC 86);
- Private households (SIC 88); and
- Miscellaneous services (SIC 89).

Even though recordkeeping requirements are reduced for employers in these industries, they, like nonexempt employers, must comply with OSHA standards, display the OSHA poster, and report to OSHA within 48 hours any accident which results in one or more fatalities or the hospitalization of five of more employees. Also, some State safety and health laws may require regularly exempt employers to keep injury and illness records.

C. Employers and Individuals Who Never Keep OSHA Records

The following employers and individuals do not have to keep OSHA injury and illness records:

- *Self employed individuals;*
- *Partners with no employees;*
- *Employers of domestics* in the employers' private residence for the purposes of housekeeping or child care, or both; and
- *Employers engaged in religious activities* concerning the conduct of religious services or rites. Employees engaged in such activities; include clergy, choir members, organists and other musicians, ushers, and the like. However, records of injuries and illnesses occurring to employees while performing secular activities must be kept. Recordkeeping is also required for employees of private hospitals and certain commercial establishments owned or operated by religious organizations.

State and Local Government Agencies are usually exempt from OSHA recordkeeping. However, in certain States, agencies of State and local governments are required to keep injury and illness records in accordance with State regulations.

D. Employers Subject to Other Federal Safety and Health Regulations

Employers subject to injury and illness recordkeeping requirements of other Federal safety and health regulations are not exempt from OSHA recordkeeping. However, records used to comply with other Federal recordkeeping obligations may also be used to satisfy the OSHA recordkeeping requirements. The forms used must be equivalent to the log and summary (OSHA No. 200) and the supplementary record (OSHA No. 101).

II. OSHA Recordkeeping Forms

Only two forms are used for OSHA recordkeeping. One form, the OSHA No. 200, serves as both the Log of Occupational Injuries and Illnesses, on which the occurrence and extent of cases are recorded during the year; and as the Summary of Occupational Injuries and Illnesses, which is used to summarize the log at the end of the year to satisfy employer posting obligations. The other form, the Supplementary Record of Occupational Injuries and

Illnesses, OSHA No. 101, provides additional information on each of the cases that have been recorded on the log.

A. The Log and Summary of Occupational Injuries and Illnesses, OSHA No. 200

The log is used for recording and classifying occupational injuries and illnesses, and for noting the extent of each case. The log shows when the occupational injury or illness occurred, to whom, the regular job of the injured or ill person at the time of the injury or illness exposure, the department in which the person was employed, the kind of injury or illness, how much time was lost, and the final determination of the case. The log consists of three parts: A descriptive section which identifies the employee and briefly describes the injury or illness; a section covering the extent of the injuries recorded; and a section on the type and extent of illnesses.

Usually, the OSHA No. 200 form is used by employers as their record of occupational injuries and illnesses. However, a private form equivalent to the log, such as a computer printout, may be used if it contains as much detail as the OSHA No. 200 and is as readable and comprehensible as the OSHA No. 200 to a person not familiar with the equivalent form. It is important that the columns of the equivalent form have the same identifying number as the corresponding columns of the OSHA No. 200 because the instructions for completing the survey of occupational injuries and illnesses refer to log columns by number. It is advisable that employers have private equivalents of the log form reviewed by BLS to insure compliance with the regulations.

The portion of the OSHA No. 200 to the right of the dotted vertical line is used to summarize injuries and illnesses in an establishment for the calendar year. Every nonexempt employer who is required to keep OSHA records must prepare an annual summary for each establishment based on the information contained in the log for each establishment. The summary is prepared by totaling the column entries on the log (or its equivalent) and signing and dating the certification portion of the form at the bottom of the page.

B. The Supplementary Record of Occupational Injuries and Illnesses, OSHA No. 101

For every injury or illness entered on the log, it is necessary to record additional information on the supplementary record, OSHA No. 101. The supplementary record describes how the accident or illness exposure occurred, lists the objects or substances involved, and indicates the nature of the injury or illness and the part(s) of the body affected.

The OSHA No. 101 is not the only form that can be used to satisfy this requirement. To eliminate duplicate recording, workers' compensation, insurance, or other reports may be used as supplementary records if they contain all of the items on OSHA No. 101. If they do not, the missing items must be added to the substitute or included on a separate attachment.

Completed supplementary records must be present in the establishment within six workdays after the employer has received information that an injury or illness has occurred.

III. Location, Retention, and Maintenance of Records

Ordinarily, injury and illness records must be kept by employers for *each* of their establishments. This chapter describes what is considered to be an establishment for recordkeeping purposes, where the records must be located, how long they must be kept, and how they should be updated.

A. Establishments

If an employer has more than one establishment, a separate set of records must be maintained for each one. The recordkeeping regulations define an establishment as "a single physical location where business is conducted or where services or industrial operations are performed." Examples include a factory, mill, store, hotel, restaurant, movie theater, farm, ranch, bank, sales office, warehouse, or central administrative office.

The regulations specify that distinctly separate activities performed at the same physical location (for example, contract construction activities operated from the same physical location as a lumber yard) shall each be treated as a separate establishment for recordkeeping purposes. Production of dissimilar products; different kinds of operational procedures; different facilities; and separate management, personnel, payroll, or support staff are all indicative of separate activities and separate establishments.

B. Location of Records

Injury and illness records (the log, OSHA No. 200, and the supplementary record, OSHA No. 101) must be kept for every physical location where operations are performed. Under the regulations, the location of these records depends upon whether or not the employees are associated with fixed establishment. The distinction between fixed and nonfixed establishments generally rests on the nature and duration of the operation and not on the type of structure in which the business is located. A nonfixed establishment usually operates at a single location for a relatively short period of time. A fixed establishment remains at a given location on a long-term or permanent basis. Also, fixed establishments are generally places where clerical, administrative, or other business records are kept.

1. *Employees associated with fixed establishments.* Records for these employees should be located as follows:

a. Records for employees working at fixed locations, such as factories, stores, restaurants, warehouses, etc., should be kept at the work location.

b. Records for employees who report to a fixed location but work elsewhere should be kept at the place where the employees report each day. These employees are generally engaged in activities such as agriculture, construction, transportation, etc.

c. Records for employees whose payroll or personnel records are maintained at a fixed location, but who do not report or work at a single establishment, should be maintained at the base from which they are paid or the base of their firm's personnel operations. This category includes generally unsupervised employees such as traveling salespeople, technicians, or engineers.

2. *Employees not associated with fixed establishments.* Some employees are subject to common supervision, but do not report or work at a fixed establishment on a regular basis. These employees are engaged in physically dispersed activities that occur in construction, installation, repair, or service operations. Records for these employees should be located as follows:

a. Records may be kept at the field office or mobile base of operations.

b. Records may also be kept at an established central location. If the records are maintained centrally: (1) The address and telephone number of the place where records are kept must be available at the worksite; and (2) there must be someone available at the central location during normal business hours to provide information from the records.

C. Location Exception for the Log (OSHA No. 200)

Although the supplementary record and the annual summary must be located as outlined in the previous section, it is possible to prepare and maintain the *log* at an alternate location

or by means of data processing equipment, or both. Two requirements must be met: (1) Sufficient information must be available at the alternate location to complete the log within 6 workdays after receipt of information that a recordable case has occurred; and (2) a copy of the log updated to within 45 calendar days must be present at all times in the establishment. This location exception applies only to the log, and not to the other OSHA records. Also, it does not affect the employer's posting obligations.

D. Retention of OSHA Records

The log and summary, OSHA No. 200, and the supplementary record, OSHA No. 101, must be retained in each establishment for 5 calendar years following the end of the year to which they relate. If an establishment changes ownership, the new employer must preserve the records for the remainder of the 5-year period. However, the new employer is not responsible for updating the records of the former owner.

E. Maintenance of the Log (OSHA No. 200)

In addition to keeping the log on a calendar year basis, employers are required to update this form to include newly discovered cases and to reflect changes which occur in recorded cases after the end of the calendar year. Maintenance or updating of the log is different from the retention of records discussed in the previous section. Although all OSHA injury and illness records must be retained, only the log must be maintained by the employer.

If during the 5-year retention period, there is a change in the extent or outcome of an injury or illness which affects an entry on a previous year's log, then the first entry should be lined out and a corrected entry made on that log. Also, new entries should be made for previously unrecorded cases that are discovered or for cases that initially weren't recorded but were found to be recordable after the end of the year in which the case occurred. The entire entry should be lined out for recorded cases that are later found nonrecordable.

IV. Deciding Whether a Case Should Be Recorded and How To Classify It

This chapter presents guidelines for determining whether a case must be recorded under the OSHA recordkeeping requirements. These requirements should not be confused with recordkeeping requirements of various workers' compensation systems, internal industrial safety and health monitoring systems, the ANSI Z.16 standards for recording and measuring work injury and illness experience, and private insurance company rating systems. Reporting a case on the OSHA records should not affect recordkeeping determinations under these or other systems. Also,

Recording an injury or illness under the OSHA system does not necessarily imply that management was at fault, that the worker was at fault, that a violation of an OSHA standard has occurred, or that the injury or illness is compensable under workers' compensation or other systems.

A. Employees vs. Other Workers On Site

Employers must mantain injury and illness records for their own employees at each of their establishments, but they are *not* responsible for maintaining records for employees of other firms or for independent contractors, even though these individuals may be working temporarily in their establishment or on one of their jobsites at the time an injury or illness exposure occurs. Therefore, before deciding whether a case is recordable an employment relationship needs to be determined.

Employee status generally exists when the employer supervises not only the output, product, or result to be accomplished by the person's work, but also the details, means, methods, and processes by which the work is accomplished. Independent contractors are not considered employees; they are primarily subject to supervision by the using firm only in regard to the result to be accomplished or end product to be delivered.

Other Factors which should be considered in determining employee status are: (1) Whom the worker considers to be his or her employer; (2) who pays the worker's wages; (3) who withholds the worker's Social Security taxes; (4) who hired the worker; and (5) who has the authority to terminate the worker's employment.

B. Method Used for Case Analysis

The decisionmaking process consists of five steps:

1. Determine whether a case occurred; that is, whether there was a death, illness, or an injury;

2. Establish that the case was work related; that it resulted from an event or exposure in the work environment;

3. Decide whether the case is an injury or an illness;

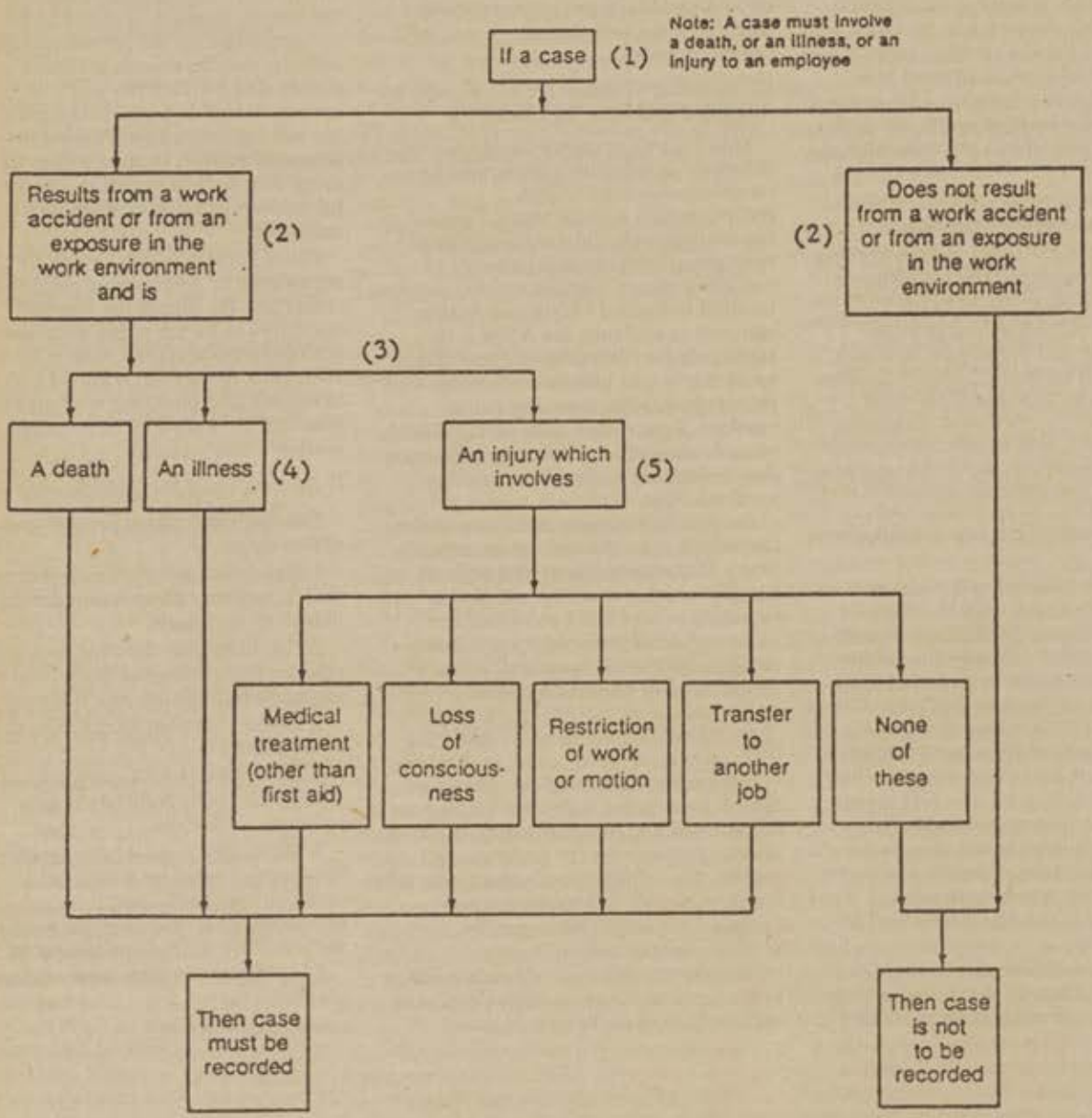
4. If the case is an illness, record it and check the appropriate illness category on the log;

5. If the case is an injury, decide if it is recordable based on a finding of medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.

Chart 1 presents this methodology in graphic form.

BILLING CODE 4510-24-M

Chart 1. Guide to Recordability of Cases Under the Occupational Safety and Health Act



BILLING CODE 4510-24-C

C. Determining Whether a Case Occurred

The first step in the decisionmaking process is the determination of whether or not an injury or illness has occurred. Employees have nothing to record unless an employee has experienced a work-related injury or illness. In most instances, recognition of these injuries and illnesses is a fairly simple matter. However, some situations have troubled employers over the years. Two of these are:

1. *Hospitalization for observation.* If an employee goes to or is sent to a hospital for a brief period of time for observation, it is not recordable, assuming no medical treatment was given, or no illness was recognized. The determining factor is not that the employee went to the hospital or the length of the stay, but whether the incident is recordable as a work-related illness or as an injury requiring medical treatment or involving loss of consciousness, restriction of work or motion, or transfer to another job.

2. *Differentiating a new case from the recurrence of a previous injury or illness.* Employers are required to make new entries on their OSHA forms for each new recordable injury or illness. However, new entries should not be made for the recurrence of symptoms from previous cases, and it is sometimes difficult to decide whether or not a situation is a new case or a recurrence. The following guidelines address this problem.

a. *Injuries.* The aggravation of a preexisting injury almost always results from some movement by the employee. Consequently, when work related, these new incidents should be recorded as new cases.

b. *Illnesses.* Generally, each occupational illness should be recorded with a separate entry on the OSHA No. 200. However, certain illnesses, such as silicosis, may have prolonged effects which recur over time. The recurrence of these symptoms should not be recorded as new cases on the OSHA forms. The recurrence of symptoms of previous illnesses may require adjustment of entries on the log for previously recorded illnesses to reflect possible changes in the extent or outcome of the particular case.

D. Establishing Work Relationship

The Occupational Safety and Health Act of 1970 requires employers to record only those injuries and illnesses that are work related. *Work relationship is established under the OSHA recordkeeping system when the injury or illness results from an event or exposure in the work environment. The work environment is primarily composed of: (1) The employer's premises, and (2) other locations where employees are engaged in work-related activities or are present as a condition of their employment.* When an employee is off the employer's premises, work relationship must be established; when on the premises, this relationship is presumed. The employer's premises encompass the total establishment, including not only the primary work facility, but also such areas as company storage facilities and restricted company parking lots. In addition to physical locations, equipment or materials used in the course of an employee's work are also considered part of the employee's work environment.

1. *Injuries and illnesses resulting from events or exposures on the employer's premises.* Injuries and illnesses that result from an event or exposure on the employer's premises are generally considered work related. The employer's premises consist of the total establishment. They include the primary work facilities and other areas which are considered part of the employer's general work area.

However, the presumption of work relationship for activities on the employer's premises is rebuttable. Situations where the presumption would not apply include: (1) When a worker is on the employer's premises as a member of the general public and not as an employee, and (2) when employees have symptoms that merely surface on the employer's premises, but are the result of a nonwork-related event or exposure off the premises.

The following subjects warrant special mention:

a. Company restrooms, hallways, and cafeterias are all considered to be *part* of the employer's premises and constitute part of the work environment. Therefore, injuries occurring in these places are generally considered work related.

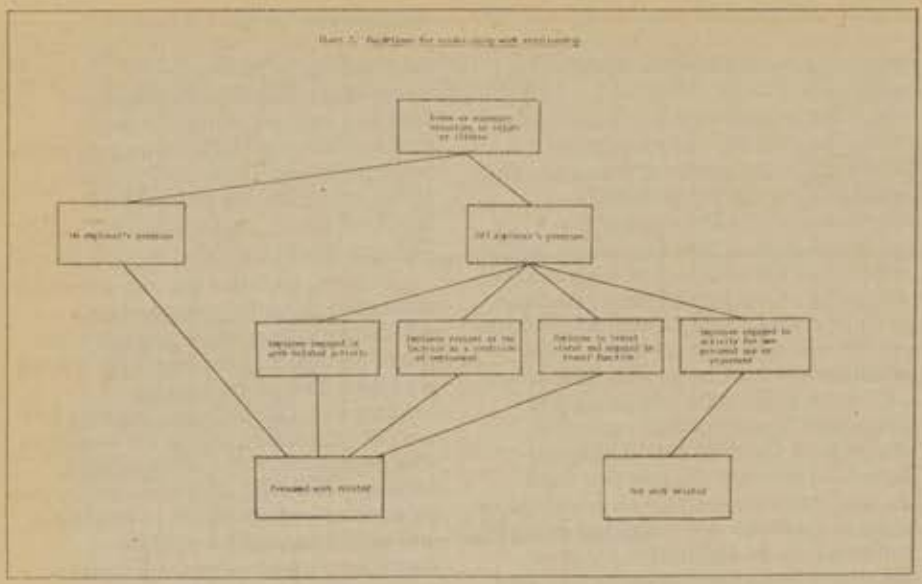
b. For OSHA recordkeeping purposes, the definition of work premises *excludes* employer controlled ball fields, tennis courts, golf courses, parks, swimming pools, gyms, and other similar recreational facilities which are *basically apart from the workplace and used primarily by employees during off-work hours.* However, recreational facilities located within the work environment are included as part of the work premises. These may include company controlled gymnasiums, handball courts, racketball courts, etc. *that are located within the work facility.*

c. Parking facilities that are generally accessible to both employees and members of the general public are *not* considered part of the employer's work premises. Therefore, injuries to employees on these public parking lots are not recordable unless the employee was engaged in some work-related activity. However, injuries to employees on parking lots restricted to employee and visitor use only would be considered on-premises and hence presumed work related.

2. *Injuries and illnesses resulting from events or exposures off the employers premises.* When an employee is off the employer's premises and suffers an injury or an illness exposure, work relationship must be established; it is not presumed. Injuries and illness exposures off premises are considered work related if the employee is engaged in a work activity or if they occur in the work environment. The work environment in these instances includes locations where employees are engaged in job tasks or work-related activities, or places where employees are present due to the nature of their job or as a condition of their employment.

Employees in travel status are treated somewhat differently than other employees working off premises. An employee in travel status is considered to be in the work environment 24 hours a day. All of the employee's activities required by the trip are considered to be work related. These include such necessary travel-related functions as working, eating, sleeping, and traveling. However, activities unrelated to the normal scope of the trip and solely for the employee's own personal use or enjoyment should not be recorded. Examples of these non-recordable events would be injuries on excursions, such as ski trips, or injuries which occur in public places when the employee is there only for recreational purposes.

Chart 2 provides a guide for establishing the work relationship of cases.



E. Distinguishing Between Injuries and Illnesses

Under the OSH Act, all work-related illnesses must be recorded, while injuries are recordable only when they require medical treatment (other than first aid), or involve loss of consciousness, restriction of work or motion, or transfer to another job. The distinction between injuries and illnesses, therefore, has significant recordkeeping implications.

Whether a case involves an injury or illness is determined by the nature of the original event or exposure which caused the case, not by the resulting condition of the affected employee. Injuries are caused by instantaneous exposures in the work environment. Cases resulting from anything other than instantaneous events are considered illnesses. This concept of illnesses includes acute illnesses which result from exposures of relatively short duration.

Some conditions may be classified as either an injury or an illness (but not both), depending upon the nature of the event that produced the condition. For example, a loss of hearing resulting from an explosion (an instantaneous event) is classified as an injury; the same condition arising from exposure to industrial noise over a period of time would be classified as an occupational illness.

F. Recording Occupational Illnesses

Employers are required to record the occurrence of all occupational illnesses, which are defined in the instructions of the log and summary as:

"Any abnormal condition or disorder, other than one resulting from an occupational injury, caused by exposure to environmental factors associated with employment. It includes acute and chronic illnesses or diseases which may be caused by inhalation, absorption, ingestion, or direct contact."

The instructions also refer to recording illnesses which were "diagnosed or recognized." Illness exposures ultimately result in conditions of a chemical, physical, biological, or psychological nature.

Occupational illnesses must be diagnosed to be recordable. However, they do not necessarily have to be diagnosed by a physician or other medical personnel. Diagnosis may be by a physician, registered nurse, or a person who by training or experience is qualified to make such a determination. Employers, employees, and others may be able to detect some illnesses such as skin diseases or disorders without the benefit of specialized medical training. However, a case more difficult to diagnose, such as silicosis, would require evaluation by properly trained medical personnel.

In addition to recording the occurrence of occupational illnesses, employers are required to record each illness case in 1 of the 7 categories on the front of the log. The back of the log form contains a listing of types of illnesses or disorders and gives examples for each illness category. These are only examples, however, and should not be considered as a complete list of types of illnesses under each category.

Recording and classifying occupational illnesses is difficult for employers, especially the chronic and long term latent illnesses. Many illnesses are not easily detected; and once detected, it is often difficult to determine whether an illness is work-related. Also, employees may not report illnesses because the symptoms may not be readily apparent, or because they do not think their illness is serious or work related.

The following material is provided to assist in detecting occupational illnesses and in establishing their work relationship.

1. *Detection and diagnosis of occupational illnesses.* An occupational illness is defined as any work-related abnormal condition or disorder (other than an occupational injury). Detection of these abnormal conditions or disorders, the first step in recording illnesses, is often difficult. When an occupational illness is suspected, employers may want to consider the following:

a. A routine medical examination of the employee's physiological systems:

- Head and neck;
- Eyes, ears, nose, and throat;
- Endocrine;
- Genitourinary;
- Musculoskeletal;
- Neurological;
- Respiratory;
- Cardiovascular;
- Gastrointestinal.

b. Observation and evaluation of behavior related to emotional status;

c. Specific examination for health effects of suspected or possible disease agents by competent medical personnel;

d. Comparison of date of onset of symptoms with occupational history;

e. Evaluation of results of any past biological or medical monitoring (blood, urine, other sample analysis) and previous physical examinations; and

f. Evaluation of laboratory tests: Routine (complete blood count, blood chemistry profile, urinalysis) and specific tests for suspected disease agents (e.g., blood and urine tests for specific agents, chest or other X-rays, liver function tests, pulmonary function tests.)

2. *Determining whether the illness is occupationally related.* The instructions on the back of the log define occupational illnesses as those "caused by environmental factors associated with employment." In some cases, such as contact dermatitis, the relationship between an illness and work-related

exposure is easy to recognize. In other cases, where the occupational cause is not direct and apparent, it may be difficult to determine accurately whether an employee's illness is occupational in nature. In these situations, it may help employers to ask the following questions:

a. Has an illness condition clearly been established?

b. Does it appear that the illness resulted from, or was aggravated by, suspected agents or other conditions in the work environment?

c. Are these suspected agents present (or have they been present) in the work environment?

d. Was the ill employee exposed to these agents in the work environment?

e. Was the exposure to a sufficient degree and/or duration to result in the illness condition?

f. Is the illness attributable to a nonoccupational exposure?

G. Deciding if Work-Related Injuries Are Recordable

Although the OSH Act requires that all work-related deaths and illnesses be recorded, the recording of injuries is limited to certain specific types of cases: Those which require medical treatment or involve loss of consciousness; restriction of work or motion; or transfer to another job. Minor injuries requiring only first aid treatment are *not* recordable.

1. *Medical treatment.* It is important to understand the distinction between medical treatment and first aid treatment since many work-related injuries are recordable only because medical treatment was given.

The regulations and the instructions on the back of the log and summary, OSHA No. 200, define medical treatment as any treatment, other than first aid treatment, administered to injured employees. Essentially, medical treatment involves the provision of medical or surgical care for injuries that are not minor through the application of procedures or systematic therapeutic measures.

The act also specifically states that work-related injuries which involve only first aid treatment need not be recorded. First aid is commonly thought to mean emergency treatment of injuries before regular medical care is available. However, first aid treatment has a different meaning for OSHA recordkeeping purposes. The regulations define first aid treatment as: "any one-time treatment, and any follow-up visit for the purpose of observation, of minor scratches, cuts, burns, splinters, and so forth, which do not ordinarily require medical care. Such one-time treatment, and follow-up visit for the purpose of observation, is considered first aid even though provided by a physician or registered professional personnel."

The distinction between medical treatment and first aid depends not only on the treatment provided, but also on the severity of the injury being treated. First aid is: (1) Limited to one-time treatment and subsequent observation; *and* (2) involves treatment of only minor injuries, *not* emergency treatment of serious injuries. Injuries are *not* minor if:

a. They can be treated only by a physician or licensed medical personnel;

b. They impair bodily function (i.e., normal use of senses, limbs, etc.)

c. They result in damage or harm to the physical structure of a nonsuperficial nature (e.g., hairline fractures); or

d. They involve complications requiring follow-up medical treatment.

Physicians or registered medical professionals, working under the standing orders of a physician, routinely treat minor injuries. Such treatment may constitute first aid. Also, some visits to a doctor do not involve treatment at all. For example, a visit to a doctor for an examination or other diagnostic procedure to determine whether the employee has an injury does not constitute medical treatment. Conversely, medical treatment can be provided to employees by someone other than a physician or registered medical personnel.

The following classifications list certain procedures as either medical treatment or first aid treatment.

Medical Treatment

The following are generally considered medical treatment. Work-related injuries for which the type of treatment was provided or should have been provided are almost always recordable.

—Treatment of INFECTION
—Application of ANTISPETICS during second or subsequent visits to medical personnel
—Treatment of SECOND OR THIRD DEGREE BURN(S)
—Application of BUTTERFLY ADHESIVE DRESSING(S)
—Application of SUTURES (stitches)
—Removal of FOREIGN BODIES EMBEDDED IN EYE
—Removal of FOREIGN BODIES from wound; if procedure is COMPLICATED because of depth of embedment, size, or location
—Use of PRESCRIPTION MEDICATIONS
—Use of hot or cold SOAKING THERAPY during second or subsequent visit to medical personnel
—Application of hot or cold COMPRESS(ES) during second or subsequent visit to medical personnel
—CUTTING AWAY DEAD SKIN (surgical debridement)
—Application of HEAT THERAPY during second or subsequent visit of medical personnel
—Use of WHIRPOOL BATH THERAPY during second or subsequent visit of medical personnel
—POSITIVE X-RAY DIAGNOSIS (fractures, broken bones, etc.)
—ADMISSION TO A HOSPITAL or equivalent medical facility for treatment or prolonged observation

First Aid Treatment

The following are generally considered first aid treatment (e.g., one-time treatment and subsequent observation of minor injuries) and need not be recorded if the work-related injury does not involve loss of consciousness, restriction of work or mortion, or transfer to another job.

—Application of ANTISEPTICS during first visit to medical personnel
—Treatment of FIRST DEGREE BURN(S)
—Application of BANDAGE(S) during first visit to medical personnel
—Use of ELASTIC BANDAGE(S) during first visit to medical personnel
—Removal of FOREIGN BODIES NOT EMBEDDED IN EYE if only irrigation is required
—Removal of FOREIGN BODIES from wound, if procedure is UNCOMPLICATED, and is, for example, by tweezers or other simple technique
—Use of NONPRESCRIPTION MEDICATIONS
—SOAKING THERAPY ON INITIAL VISIT to medical personnel or removal of bandages by SOAKING
—Application of hot or cold COMPRESS(ES) during first visit to medical personnel
—Application of OINTMENTS to abrasions to prevent drying or cracking
—Application of HEAT THERAPY during first visit to medical personnel
—Use of WHIRLPOOL BATH THERAPY during first visit to medical personnel
—NEGATIVE X-RAY DIAGNOSIS
—BRIEF OBSERVATION of injury during visit to medical personnel

Note.—The administration of a TETANUS SHOT or BOOSTER, by itself, is not considered medical treatment. However, these shots are often given in conjunction with the more serious injuries. Therefore, injuries requiring tetanus shots may be recordable for other reasons.

2. *Loss of consciousness.* If an employee loses consciousness as the result of a work-related injury, the case must be recorded no matter what type of treatment was provided. The rationale behind this recording requirement is that loss of consciousness is generally associated with the more serious injuries.

3. *Transfer to another job.* Injuries requiring transfer of the employee to another job are also considered serious enough to be recordable regardless of the type of treatment provided. Transfers are seldom the sole criterion for recordability because injury cases are almost always recordable on other grounds, primarily medical treatment or restriction of work or motion.

4. *Restriction of work or motion.* Restricted work activity occurs when the employee, because of the impact of a job-related injury, is physically or mentally unable to perform all or any part of his or her normal assignment during all or any part of the workday or shift. The emphasis is on the employee's ability to perform normal job duties. Restriction of work or motion may result in either a lost worktime injury or a non-lost worktime injury, depending upon whether the restriction extended beyond the day of injury.

V. Categories For Evaluating the Extent of Recordable Cases

Once the employer decides that a recordable injury or illness has occurred, the case must be evaluated to determine its extent or outcome. There are three categories of recordable cases: Fatalities, lost workday cases, and cases without lost workdays. Every recordable case must be placed in only one of these categories.

A. Fatalities

All work-related fatalities must be recorded, regardless of the time between the injury and the death, or the length of the illness.

B. Lost Workday Cases

Lost workday cases occur when the injured or ill employee experiences either days away from work, days of restricted work activity, or both. In these situations, the injured or ill employee is affected to such an extent that: (1) Days must be taken off from the job for medical treatment or recuperation; or (2) the employee is unable to perform his or her normal job duties over a normal work shift, even though employee may be able to continue working.

1. Lost workday cases involving days away from work are cases resulting in days the employee would have worked but could not because of the job-related injury or illness. The focus of these cases is on the employee's inability, because of injury or illness, to be present in the work environment during his or her normal work shift.

2. Lost workday cases involving days of restricted work activity are those cases where, because of injury or illness, (1) the employee was assigned to another job on a temporary basis, or (2) the employee worked at a permanent job less than full time, or (3) the employee worked at his or her permanently assigned job but could not perform all the duties normally connected with it. Restricted work activity occurs when the employee, because of the job-related injury or illness, is physically or mentally unable to perform all or any part of his or her normal workday or shift. The emphasis is on the employee's inability to perform normal job duties over a normal work shift.

Injuries and illnesses are not considered lost workday cases unless they affect the employee beyond the day of injury or onset of illness. When counting the number of days away from work or days of restricted work activity, do not include the initial day of injury or onset of illness, or any days on which the employee would not have worked even though able to work.

C. Cases Not Resulting in Death or Lost Workdays

These cases consist of the relatively less serious injuries and illnesses which satisfy the criteria for recordability but which do not result in death or require the affected employee to have days away from work or days of restricted work activity beyond the date of injury or onset of illness.

VI. Employer Obligations for Reporting Occupational Injuries and Illnesses

This chapter focuses on the requirements of Section 8(c)(2) of the Occupational Safety and Health Act of 1970 and Title 29, Part 1904, of the Code of Federal Regulations for employers to make reports of occupational injuries and illnesses. It does not include the reporting requirements of other standards or regulations of the Occupational Safety and Health Administration (OSHA) or of any other State or Federal agency.

A. The Annual Survey of Occupational Injuries and Illnesses

The survey is conducted on a sample basis, and firms required to submit reports of their injury and illness experience are contacted by BLS or a participating State agency. A firm not contacted by its State agency or BLS need not file a report of its injury and illness experience. Employers should note, however, that even if they are not selected to participate in the annual survey for a given year, they must still comply with the recordkeeping requirements listed in the preceding chapters as well as with the requirements for reporting fatalities and multiple hospitalization cases provided in the next section of this chapter.

Participants in the annual survey consist of two categories of employers: (1) Employers who maintain OHSA records on a regular basis; and (2) a small, rotating sample of employers who are regularly exempt from OSHA recordkeeping. The survey procedure is different for these two groups of employers.

1. *Participation of firms regularly maintaining OSHA records.* When employers regularly maintaining OSHA records are selected to participate in the Annual Survey of Occupational Injuries and Illnesses, they are mailed the survey questionnaire in February of the year following the reference calendar year of the survey. (A firm selected to participate in the 1984 survey would have been contacted in February of 1985.) The survey form, the Occupational Injuries and Illnesses Survey Questionnaire, OSHA No. 200–S, requests information about the establishment(s) included in the report and the injuries and illnesses experienced during the previous year. Information for the injury and illness portion of the report form usually can be copied directly from the totals on the log and summary, OSHA No. 200, which the employer should have completed and posted in the establishment by the time the questionnaire arrives. The survey form also requests summary information about the type of business activity and number of employees and hours worked at the reporting unit during the reference year.

2. *Participation of normally exempt small employers and employers in low-hazard industries.* A few regularly exempt employers (those with fewer than 11 employees in the previous calendar year and those in designated low-hazard industries) are also required to participate in the annual survey. Their participation is necessary for the production of injury and illness statistics that are comparable in coverage to the statistics published in years prior to the exemptions. These employers are notified prior to the reference calendar year of the survey that they must maintain injury and illness records for the coming year. (A firm selected to participate in the 1984 survey would

have been contacted in December 1983). At the time of notification, they are supplied with the necessary forms and instructions. During the reference calendar year, prenotified employers make entries on the log, OSHA No. 200, but are not required to complete a Supplementary Record of Occupational Injuries and Illnesses, OSHA No. 101, or post the summary of the OSHA No. 200 the following February (like the regularly participating employers).

B. Reporting Fatalities and Multiple Hospitalizations

All employers are required to report accidents resulting in one or more fatalities or the hospitalization of five or more employees.

The report is made to the nearest office of the Area Director of the Occupational Safety and Health Administration, U.S. Department of Labor, unless the State in which the accident occurred is administering an approved State plan under Section 18(B) of the OSH Act. Those 18(B) States designate a State agency to which the report must be made.

The report must contain three pieces of information: (1) Circumstances surrounding the accident(s), (2) number of fatalities, and/or (3) the number of hospitalized injuries. If necessary, the OSHA Area Director may require additional information on the accident.

VII. Access to OSHA Records and Penalties for Failure To Comply With Recordkeeping Obligations

The preceding chapters describe recordkeeping and reporting requirements. This chapter covers subjects related to insuring the integrity of the OSH recordkeeping process—access to OSHA records and penalties for recordkeeping violations.

A. Access to OSHA Records

All OSHA records, which are being kept by employers for the 5-year retention period, should be available for inspection and copying by authorized Federal and State government officials. Employees, former employees, and their representatives are provided access to only the log, OSHA No. 200.

Government officials with access to the OSHA records include: Representatives of the Department of Labor, including OSHA safety and health compilance officers and BLS representatives; representatives of the Department of Health and Human Services while carrying out that department's research responsibilities; and representatives of States accorded jurisdiction for inspections or statistical compliations. "Representatives" may include Department of Labor officials inspecting a workplace or gathering information, officials of the Department of Health and Human Services, or contractors working for the agencies mentioned above, depending on the provisions of the contract under which they work.

Employee access to the log is limited to the records of the establishment in which the employee currently works or formerly worked. All current logs and those being maintained for the 5-year retention period must be made available for inspection and copying by employees, former employees, and their representatives. An employee representative can be a member of a union representing the employee, or any person designated by the employee or former employee. Access to the log is to be provided in a reasonable manner and at a reasonable time. Redress for failure to comply with the access provisions of the regulations can be obtained through a complaint to OSHA.

B. Penalties for Failure To Comply With Recordkeeping Obligations

Employers committing recordkeeping and reporting violations are subject to the same sanctions as employers violating other OSHA requirements such as safety and health standards and regulations.

Glossary of Terms

Annual summary.—Consists of a copy of the occupational injury and illness totals for the year from the OSHA No. 200, and the following information: The calendar year covered; company name; establishment address; certification signature, title, and date.

Annual survey.—Each year, BLS conducts an annual survey of occupational injuries and illnesses to produce national statistics. The OSHA injury and illness records maintained by employers in their establishments serve as the basis for this survey.

Bureau of Labor Statistics (BLS).—The Bureau of Labor Statistics is the agency responsible for administering and maintaining the OSHA recordkeeping system, and for collecting, compiling, and analyzing work injury and illness statistics.

Certification.—The person who supervises the preparation of the Log and Summary of Occupational Injuries and Illnesses, OSHA No. 200, certifies that it is true and complete by signing the last page of, or by appending a statement to that effect to, the annual summary.

Cooperative program.—A program jointly conducted by the States and the Federal Government to collect occupational injury and illness statistics.

Employee.—One who is employed in the business of his or her employer affecting commerce.

Employee representative.—Anyone designated by the employee for the purpose of gaining access to the employer's log of occupational injuries and illnesses.

Employer.—Any person engaged in a business affecting commerce who has employees; this does not include the United States Government or any State or political subdivision of a State.

Establishment.—A single physical location where business is conducted or where services or industrial operations are performed; the place where the employees report for work, operate from, or from which they are paid.

First aid.—Any one-time treatment and subsequent observation of minor scratches, cuts, burns, splinters, and so forth, which do not ordinarily require medical care. Such treatment and observation is considered first aid even though provided by a physician or registered professional personnel.

First report of injury.—A workers' compensation form which may qualify as a substitute for the supplementary record, OSHA No. 101.

Incidence rate.—The number of injuries, illnesses, or lost workdays related to a common exposure base of 100 full-time workers. The common exposure base enables one to make accurate interindustry comparisons, trend analysis over time, or comparisons among firms regardless of size. This rate is calculated as:

$$\frac{N}{EH} \times 200{,}000$$

where:

N = number of injuries and illnesses or lost workdays

EH = total hours worked by all employees during calendar year

200,000 = base for 100 full-time equivalent workers (working 40 hours per week 50 weeks per year).

Low-hazard industries.—Selected industries in retail trade; finance, insurance, and real estate; and services which are regularly exempt from OSHA recordkeeping. To be included in this exemption, an industry must fall within an SIC not targeted for general schedule inspections and must have an average lost workday case injury rate for a designated 3-year measurement period at or below 75 percent of the private sector average rate.

Log and Summary (OSHA No. 200).—The OSHA recordkeeping form used to list injuries and illnesses and to note the extent of each case.

Lost workday cases.—Cases which involve days away from work or days of restricted work activity, or both.

Lost workdays.—The number of workdays (consecutive or not), beyond the day of injury or onset of illness, the employee was away from work or limited to restricted work activity because of an occupational injury or illness.

(1) Lost workdays—away from work. The number of workdays (consecutive or not) on which the employee would have worked but could not because of occupational injury or illness.

(2) Lost workdays—restricted work activity.

The number of workdays (consecutive or not) on which, because of injury or illness: (1) The employee was assigned to another job on a temporary basis; or (2) the employee worked at a permanent job less than full time; or (3) the employee worked at a permanently assigned job but could not perform all duties normally connected with it.

The number of days away from work or days of restricted work activity does not include the day of injury or onset of illness or any days on which the employee would not have worked even though able to work.

Medical treatment.—Includes treatment of injuries administered by physicians, registered professional personnel, or lay persons. Medical treatment does not include first aid treatment (one-time treatment and subsequent observation of minor scratches, cuts, burns, splinters, and so forth, which do not ordinarily require medical care) even though provided by a physician or registered professional personnel.

Occupational illness.—Any abnormal condition or disorder, other than one resulting from an occupational injury, caused by exposure to environmental factors associated with employment. It includes acute and chronic illnesses or diseases which may be caused by inhalation, absorption, ingestion, or direct contact, and which can be included in the categories listed below. The following categories should be used by employers to classify recordable occupational illnesses on the log in the columns indicated:

Column 7a. Occupational skin diseases or disorders.
Examples: Contact dermatitis, eczema, or rash caused by primary irritants and sensitizers or poisonous plants; oil acne; chrome ulcers; chemical burns or inflammations; etc.

Column 7b. Dust diseases of the lungs (pneumoconoioses).
Examples: Silicosis, asbestosis, coal worker's pneumoconiosis, byssinosis, and other pneumoconioses.

Column 7c. Respiratory conditions due to toxic agents.
Examples: Pneumonitis, pharyngitis, rhinitis or acute congestion due to chemicals, dusts, gases, or fumes, farmer's lung, etc.

Column 7d. Poisoning (systemic effects of toxic materials).
Examples: Poisoning by lead, mercury, cadmium, arsenic, or other metals; poisoning by carbon monoxide, hydrogen sulfide, or other gases; poisoning by benzol, carbon tetrachloride, or other organic solvents; poisoning by insecticide sprays such as parathion, lead arsenate; poisoning by other chemicals such as formaldehyde, plastics, and resins; etc.

Column 7e. Disorders due to physical agents (other than toxic materials).
Examples: Heatstroke, sunstroke, heat exhaustion, and other effects of environmental heat; freezing, frostbite, and effects of exposure to low temperatures; caisson disease; effects of ionizing radiation (isotopes, X-rays, radium); effects of nonionizing radiation (welding flash, ultra-violet rays, microwaves, sunburn); etc.

Column 7f. Disorders associated with repeated trauma.
Examples: Noise-induced hearing loss; synovitis, tenosynovitis, and bursitis; Raynaud's phenomena; and other conditions due to repeated motion, vibration, or pressure.

Column 7g. All other occupational illnesses.
Examples: Anthrax, brucellosis, infectious hepatitis, malignant and benign tumors, food poisoning, histoplasmosis, coccidioidomycosis, etc.

Occupational injury.—Any injury such as a cut, fracture, sprain, amputation, etc., which results from a work accident or from a single instantaneous exposure in the work environment.

Note.—Conditions resulting from bites, such as insect or snake bites, and from one-time exposure to chemicals are considered to be injuries.

Occupational injuries and illnesses; extent and outcome.—All occupational injuries or illnesses result in either:

(1) Fatalities, regardless of the time between the injury and death, or the length of illness; or

(2) Lost workday cases, other than fatalities, that result in lost workdays; or

(3) Nonfatal cases without lost workdays.

Occupational Safety and Health Administration (OSHA).—OSHA is the Federal agency within the Department of Labor responsible for developing, implementing, and enforcing safety and health standards and regulations. OSHA works with employers and employees to foster effective safety and health programs which reduce workplace hazards.

Premises, employer's.—Consist of the employer's total establishment; they include the primary work facility and other areas in the employer's domain such as company storage facilities, cafeterias, restrooms, and restricted company parking lots.

Posting.—The annual summary of occupational injuries and illnesses must be posted at each establishment by February 1 and remain in place until March 1 to provide employees with the record of their establishment's injury and illness experience for the previous calendar year.

Recordable cases.—All work-related deaths and illnesses, and those work-related injuries which result in: Loss of consciousness, restriction of work or motion, transfer to another job, or require medical treatment beyond first aid.

Recordkeeping system.—Refers to the nationwide system for recording and reporting occupational injuries and illnesses mandated by the Occupational Safety and Health Act of 1970 and implemented by Title 29, Code of Federal Regulations, Part 1904. This system is the only source of reliable national statistics on job-related injuries and illnesses occurring in the private sector.

Regularly exempt employers.—Employers regularly exempt from OSHA recordkeeping include: (A) All employers with no more than 10 full- or part-time employees at any one time in the previous calendar year; and (B) all employers in retail trade; finance, insurance, and real estate; and services industries; i.e., SIC's 52–89 (except building materials and garden supplies, SIC 52, general merchandise and food stores, SIC's 53 and 54; hotels and other lodging places, SIC 70; repair services, SIC's 75 and 76; amusement and recreation services, SIC 79; and health services, SIC 80).

Report form.—Refers to survey form OSHA No. 200–S which is completed and returned by the surveyed reporting unit.

Restriction of work or motion.—Occurs when the employee, because of the result of a job-related injury or illness, is physically or mentally unable to perform all or any part of his or her normal assignment during all or any part of the workday or shift.

Small employers.—Employers with no more than 10 employees among all the establishments of their firm at any one time during the previous calendar year.

Standard Industrial Classification (SIC).—A classification system developed by the Office of Management and Budget, Executive Office of the President, for use in the classification of establishments by type of activity in which engaged. Each establishment is assigned an industry code for its major activity which is determined by the product or services rendered. Establishments may be classified in 2-, 3-, or 4-digit industries according to the degree of information available.

State (when mentioned alone).—Refers to a State of the United States, the District of Columbia, and U.S. territories and jurisdictions.

State agency.—State agency administering the OSHA recordkeeping and reporting system. Many States cooperate directly with BLS in administering the OSHA recordkeeping and reporting programs. Some States have their own safety and health laws which may impose different or additional obligations.

Supplementary Record (OSHA No. 101).—The form (or equivalent) on which additional information is recorded for each injury and illness entered on the log.

Title 29 of the Code of Federal Regulations, Parts 1900–1999.—The parts of the Code of Federal Regulations which contain OSHA regulations.

Workers' compensation systems.—State systems that provide medical benefits and/or indemnity compensation to victims of work-related injuries and illnesses.

Work environment.—Consists of the employer's premises and other locations where employees are engaged in work-related activities or are present as a condition of their employment. The work environment includes not only physical locations, but also the equipment or materials used by the employee during the course of his or her work.

U.S. Department of Labor

Bureau of Labor Statistics Regional Offices

Region I—Boston

John F. Kennedy Federal Bldg., Boston, Mass. 02203, Phone: 617–223–4533
Connecticut
Maine
Massachusetts
New Hampshire
Rhode Island
Vermont

Region II—New York

1515 Broadway, Suite 3400, New York, N.Y. 10036, Phone: 212–944–3114
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New York
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Virginia
West Virginia

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Order Form

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City, State, Zip Code _____

	Quantity
*Recordkeeping pamphlet—Recordkeeping Requirements Under the Occupational Safety and Health Act of 1970	
*OSHA No. 200 Forms	
*OSHA No. 101 Forms	
*Recordkeeping Guidelines for Occupational Injuries and Illnesses	
*Recordkeeping Guidelines for Occupational Injuries and Illnesses: Ready Reference	

Please complete this form and mail it to the appropriate BLS regional office.

SECTION II

Recordkeeping Guidelines for Occupational Injuries and Illnesses

The Occupational Safety and Health Act of 1970 and 29 CFR 1904

U.S. Department of Labor, Bureau of Labor Statistics, 1985

The Occupational Safety and Health (OSH) Act of 1970 requires covered employers to prepare and maintain records of occupational injuries and illnesses. The Bureau of Labor Statistics of the U.S. Department of Labor is responsible for administering the recordkeeping system established by the act. The recordkeeping regulations in 29 CFR 1904 provide specific recording and reporting requirements which comprise the framework of the OSH recording system.

Under this system it is essential that data recorded by employers be uniform

to assure the validity of the statistical data. To assure uniformity, BLS has issued guidelines which provide official agency interpretations, answers and explanations to questions employers most frequently ask about recordkeeping and reporting of accupational injuries and illnesses. On reviewing the guidelines, the Office of Management and Budget (OMB) has indicated that the guidelines are not regulations, but rather supplemental instructions to the OSHA recordkeeping forms (OSHA Nos. 200, 101, and 200–S). This document replaces all previous editions of the BLS recordkeeping guidelines.

For recordkeeping and reporting questions not covered in this publication, employers may contact the BLS regional office or the participating State agency serving their area. Addresses and telephone numbers for the regional offices are listed on the back cover; those for the State agencies are in appendix D. Recordkeeping forms can be obtained by completing the order form on page 94 and mailing it to the appropriate BLS regional office.

The information included here deals only with the requirements of the Occupational Safety and Health Act of 1970 and Part 1904 of Title 29, Code of Federal Regulations, for recording and reporting occupational injuries and illnesses. Some employers may be subject to additional recordkeeping and reporting requirements not covered in this report. Many specific standards and regulations of the Occupational Safety and Health Administration (OSHA) have additional requirements for the maintenance and retention of records for medical surveillance, exposure monitoring, inspections, and other activities and incidents relevant to occupational safety and health, and for the reporting of certain information to employees and to OSHA. For information on these requirements, which are not covered in this report, employers should refer directly to the OSHA standards or regulations or contact their OSHA regional office.

These guidelines were prepared in the Office of Occupational Safety and Health Statistics, by Stephen Newell, under the general direction of William M. Eisenberg, Acting Associate Commissioner.

User's Guide

This document is formatted to make the information on OSHA recordkeeping easy to access and comprehend. Recordkeeping requirements have been categorized into several major subject areas. Each subject area is divided into two parts: The first reviews relevant sections of the act or regulations and provides basic concepts of recordability; the second provides answers to questions most frequently asked about recording and reporting occupational injuries and illnesses. These questions and answers elaborate on the basic recordkeeping concepts and further define the subject matter in each section.

Chapter I. Provides information which should enable you to determine whether or not your establishment must keep OSHA records.

Chapter II. Describes which forms should be used and how the forms should be completed.

Chapter III. Outlines where the OSHA records must be located, how they should be updated, and the length of time they must be kept.

Chapter IV. Provides a brief description of the types of decisions employers make in the recordkeeping process. Also, this chapter shows how to distinguish between employees, whose injuries employers must record, and other workers at the establishment (such as independent contractors).

Chapter V. If you have any questions concerning whether or not a particular case should be recorded on the log, turn to Chapter V. This chapter provides guidelines for determining the key issues of recordability: which cases are work-related; what constitutes an occupational injury; how to distinguish medical treatment from first aid; criteria for detecting occupational illnesses; etc.

Chapter VI. Provides guidelines for determining the extent or outcome of recordable cases, and for making appropriate entries in columns 1–6 or 8–13 on the OSHA log.

Chapter VII. Describes employer obligations for reporting occupational injuries and illnesses. This reporting may be through the BLS annual survey, or in the case of a fatality or multiple hospitalization, it may be directly to an OSHA area office.

Chapter VIII. Discusses some of the checks and balances built into the system to ensure accurate recording and reporting of occupational injuries and illnesses.

The appendices provide a glossary of terms and sample recordkeeping and reporting forms. Appendix C lists illness conditions that have been associated with exposure in the workplace. Addresses and telephone numbers of participating State agencies and OSHA Regional Offices are listed in appendixes D and E. Appendix F provides capsule guidelines for distinguishing medical treatment from first aid.

Finally, included at the back of this publication is a detailed index which lists particular subjects in alphabetical order along with the page numbers where each topic may be referenced.

Contents

Chapter I. Employers Subject to OSHA Recordkeeping Requirements

The coverage of the Occupational Safety and Health Act of 1970 is very extensive. However, the requirements under the act for recording and reporting occupational injuries and illnesses have been modified by regulation to reduce the burden on employers and permit the focusing of safety and health efforts on high-risk industries and establishments. This chapter describes which industries and employers are subject to OSHA recordkeeping and reporting requirements.

A. Coverage of the Occupational Safety and Health Act

The OSHA Act covers nearly all employers in the private sector. Section 2(b) of the act describes its purpose as providing safe and healthful working conditions for "every working man and woman in the Nation." Section 4(a) defines the scope of the act's coverage:

> This Act shall apply with respect to employment performed in a workplace in a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, Wake Island, Outer Continental Shelf Lands, defined in the Outer Continental Shelf Lands Act, Johnson Island, and the Canal Zone.

The act's coverage is defined in terms of two criteria: Work activities and geographic areas. The activities covered relate to "employment performed in a workplace." The boundaries of geographic coverage are limited to the United States and its territories.

The employment described in Section 4(a) is not limited to the execution of specific work assignments. Section 2 of the act addresses injuries and illnesses arising out of "work situations." Sections 2(b) (1), (2), and (4) of the act refer to "places of employment" and the provision of safe and healthful "working conditions." Section 2(b)(7) of the act deals with preventing employee illness as a result of their "work experience." These and other references in the act indicate that its coverage is intended to go beyond specific job tasks to encompass the total work environment. Also, the scope of employments covered is extensive. The act defines an employer in Section 3(5):

> The term "employer" means a person engaged in a business affecting commerce who has employees, but does not include the United States or any State or political subdivision of a State.

(See section E of this chapter for a special discussion of State and local government coverage.)

It should be noted the term "employer" applied to persons engaged in "a business affecting commerce," not just "interstate commerce." Therefore, the coverage of the act is extensive since there are few employers who do not affect commerce.

Part 1975.3(d) of the regulations also interprets the term "business" as:

> . . . any commercial or noncommercial activity affecting commerce and involving the employment of one or more employees. . . .

Part 1975.4(a) states:

> Any employer employing one or more employees would be an "employer engaged in a business affecting commerce who has employees" and, therefore, he is covered by the Act as such.

However, despite the broad coverage afforded by the act, the regulations have excluded the following groups of employers:

1. *Religious establishments.* The performance of, or participation in, religious services does not constitute employment under the act according to Part 1975.4(c) of the regulations. However, churches are considered employers when they employ one or more persons in secular activities.

2. *Employers of household workers.* Those who employ persons for ordinary domestic household tasks are not considered to be employers under Part 1975.6 of the regulations.

A–1. Q. Who is considered to be an employee under the OSH Act?

A. Section 3(6) of the act defines an employee as one who is employed in the business of his employer.

The traditional common law definition of an employer is one who has the right to control and direct his employees, not only regarding the result to be accomplished by the work, but also as to the details and means by which the work objective is accomplished.

The term "employee" has been broadly interpreted under the OSH Act.

Employee status involves a current employment relationship. Under the act, this status is generally limited to situations where the employee receives some sort of compensation (not necessarily money) from the employer for services rendered.

A–2. Q. Are volunteer workers considered employees under the Occupational Safety and Health Act?

A. Volunteer workers may or may not be considered employees under the act; their status would depend upon the facts of the particular situation.

Volunteers are generally not considered employees for recordkeeping purposes if they serve of their own free will and do not receive compensation. Compensation in this context may be wages or salaries, or it may consist solely of nonmoney benefits. The fact that paid workers may normally perform the same duties or functions has no bearing on this determination. Under these criteria, hospital volunteers are usually not considered to be employees for the purposes of the act; volunteer firemen are usually considered to be employees.

A–3. Q. Are people working in sheltered workshops considered employees? What about persons in job training programs?

A. If these workers receive some form of compensation and satisfy the criteria listed in question A–1, they are considered employees under the act.

A–1. Q. Are stockholders in a corporation considered employers?

A. No. The corporation is the employer. On the other hand, stockholders employed by the corporation are employees; these include managers and corporate officers.

A–5. Q. Two partners operate a small electrical contracting firm. They have no employees. Are they covered by the OSH Act?

A. No. Partners are not considered employees. A firm with no employees is not covered by the act and does not have to maintain OSHA records.

A–6. Q. Are activities of self-employed individuals covered by the Occupational Safety and Health Act?

A. No. These activities are not covered because self-employed individuals are not considered employers under the act. Part 1975.4(a) of the regulations limits employer status to those individuals employing one or more employees.

A–7. Q. Does the act cover persons employed by charitable and nonprofit organizations?

A. Yes. Whether or not an organization is operated at a profit is not important since Part 1975.4(b)(4) provides that ". . . any charitable or nonprofit organization which employs one or more employees is covered under the . . . Act. . . ."

A–8. Q. Since the OSH Act governs all establishments engaged in interstate commerce, how are such establishments identified? For example, would a local grain elevator or farm feed and seed retail store be covered?

A. Yes. These operations would be covered. Coverage of the OSH Act is *not* limited to establishments engaged in interstate commerce. The law says "affecting commerce," which is far broader than "engaged in interstate commerce." Section 3(3) of the act broadly defines the term "commerce" as meaning "trade, traffic, commerce, transportation, or communications. . . ." Use of equipment made out-of-State has been deemed sufficient.

A–9. Q. Are farmers covered under the OSH Act?

A. A very broad interpretation has been given to the coverage of the act. Farmers are included, according to Part 1975.4(b)(2) of the regulations, because they affect commerce. However, small farmers (those with fewer than 11 employees) have been exempt from recordkeeping requirements since 1976.

A–10. Q. Are the working family members of farmers or ranchers considered employees? Must the farmer maintain records to cover them?

A. No. Immediate family members of farm employers are not regarded as employees under Part 1975.4(b)(2) of the regulations, even though they may receive compensation. Consequently, OSHA records need not be maintained for them.

A–11. Q. How does the act apply to migrant labor camps? Is it the same as for other areas of the economy?

A. Yes. Migrant labor camps are covered the same as any other segment of the economy. (See question A–5 of chapter IV for an explanation of who must keep the OSHA records for migrant laborers.)

A–12. Q. Do records have to be maintained for employees traveling overseas on business?

A. No. Records need not be kept for these employees when they are outside the geographic scope of coverage prescribed by Section 4(a) of the act—the United States and its territories.

A–13. Q. What about airline employees working aboard airplanes? When are these activities covered?

A. These activities are covered under the act while the airplane is in the official air space of the United States and its territories.

A–14. Q. Are employers required to keep records of injuries and illnesses occurring to employees aboard ships? When are the employees engaged in these activities covered by the OSH Act?

A. The coverage of the Occupational Safety and Health Act is limited to the United States and its territories. Therefore, work activities would be covered aboard ships on inland and intercoastal waterways and up to the boundary of State jurisdiction, which is usually the 3-mile limit. (In Louisiana and Texas, the State boundaries extend 12 miles into the Gulf of Mexico.)

A–15. Q. Are churches or religious organizations required to keep records under the act if they employ persons in secular activities?

A. Yes. The act covers hospitals, schools, commercial establishments, and administrative or office personnel employed by religious organizations. Excluded from coverage are clergy and other participants in religious services.

A–16. Q. Do injury and illness records have to be kept for domestics?

A. No. According to Part 1975.6 of the regulations, employers of domestics in the employers' private residence for the usual purposes of housekeeping or child care, or both, are not required to keep records.

B. Employers Required To Keep OSHA Records

The recordkeeping requirements of the Occupational Safety and Health Act of 1970 apply to most private sector employers. Part 1904.1 of the regulations covers the purpose and scope of the recordkeeping regulations:

> These sections provide for recordkeeping and reporting by employers covered under the Act, as necessary or appropriate for enforcement of the Act, for developing information regarding causes and prevention of occupational accidents and illnesses, and for maintaining a program of collection, compilation, and analysis of occupational safety and health statistics.

Initially, the regulations for employer recordkeeping mirrored the broad coverage of the act as described in the preceding section. However, the regulations have been modified to exempt certain employers with historically low rates of injuries and illnesses.

B–1. Q. Must employers keep OSHA injury and illness records if they are not covered by the Occupational Safety and Health Act?

A. No. Employers must maintain OSHA records only if they are within the coverage of the Occupational Safety and Health Act of 1970. The scope of the OSHA recordkeeping regulations presently does not exceed the scope of the OSH Act.

C. Employers Regularly Exempt From OSHA Recordkeeping

Federal regulations have made the following employers regularly exempt from OSHA recordkeeping, i.e., from keeping the log of injuries and illnesses, completing a supplementary record, and filling our and posting an annual summary:

1. *Small employers.* Although subject to the overall coverage of the Occupational Safety and Health Act of 1970, most small employers are not required to keep injury and illness records because of their exemption in 29 CFR 1904.15. (A few States still require all small employers to maintain OSHA records. Check with your State.) This section of the regulations was promulgated to reduce the burden on employers after findings of relatively low levels of hazard in small establishments. Part 1904.15 states:

> An employer who had no more than ten (10) employees at any time during the calendar year immediately preceding the current calendar year need not comply with any of the requirements of this part except the following:
>
> (a) Obligation to report under Part 1904.8 concerning fatalities or multiple hospitalization accidents; and
>
> (b) Obligation to maintain a log of occupational injuries and illnesses under Part 1904.2 and to make reports under Section 1904.21 upon being notified in writing by the Bureau of Labor Statistics that the employer has been selected to participate in a statistical survey of occupational injuries and illnesses.

For the purposes of the small employer exemption, the employment figure refers to the calendar year immediately *preceding* the year for which records will be kept. Also, the test for the small employer exemption is the number of employees in the entire *firm*, not the number in an individual establishment. Therefore, a firm with two establishments, each of which had six employees during the previous calendar year, has to keep OSHA injury and illness records during the current year because the total employment of the firm was greater than 10. Partners, self-employed, and family members on a farm are not considered employees.

2. *Employers in low-hazard industries.* In most States, employers in low-hazard industries in retail trade; finance, insurance, and real estate; and services are exempt from OSHA recordkeeping under Part 1904.16 of the regulations:

An employer whose establishment is classified in SIC's 52–89, (excluding 52–54, 70, 75, 76, 79, and 80) need not comply, for such establishment, with any of the requirements of this part except the following:

(a) Obligation to report under Section 1904.8 concerning fatalities or multiple hospitalization accidents; and

(b) Obligation to maintain a log of occupational injuries and illnesses under Section 1904.2 and make reports under Section 1904.21 upon being notified in writing by the Bureau of Labor Statistics that the employer has been selected to participate in a statistical survey of occupational injuries and illnesses.

The Federal exemption applies to all employers in low-hazard industries in States under exclusive Federal jurisdiction. States with approved State plans under Section 18(b) of the act may continue to require employers in these industries to maintain records. The following States and territories currently operate their own OSHA programs under Section 18(b): Alaska, Arizona, California, Connecticut, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, the Virgin Islands, Washington, and Wyoming. In these areas, employers should contact their respective State agency to determine if the low-hazard industry exemption has been adopted. State agency addresses and telephone numbers are listed in appendix D.

The exempt industries are identified and categorized according to the *Standard Industrial Classification Manual (SIC)*. They include:

Some retail trade industries (SIC's 55–59) which include establishments engaged in selling merchandise to the general public for personal or household consumption. Some of these retail trades are: automotive dealers, apparel and accessory stores, furniture and home furnishings stores, and eating and drinking places.

All finance, insurance, and real estate industries (SIC's 60–67) including establishments engaged in banking, credit other than banking, security dealings, insurance, and real estate.

Some service industries (SIC's 70–89, except 70, 75, 76, 79, and 80) including establishments with a variety of services for individuals, businesses, government agencies, and other organizations. Some of these service industries are: personal and business services in addition to legal, educational, social, and cultural services, and membership organizations.

In order to be included in this exemption, the major industry group has to meet two criteria: (1) The industry must fall within SIC's not now targeted for general schedule inspections; and (2) for a designated 3-year measurement period, the industry must have had an average lost workday case injury rate at or below 75 percent of the comparable private sector average.

Therefore, building materials and garden supplies (SIC 52); general merchandise and food stores (SIC's 53, 54); hotels and other lodging places (SIC 70); repair services (SIC's 75, 76); amusement and recreation services (SIC 79); and health services (SIC 80) were not included among the industries initially proposed for exemption. These industries, although not targeted for general schedule inspections, have lost workday case injury rate averages above 75 percent of the private sector average for the 3-year period.

C–1. Q. Is the small employer exemption determined by the number of employees currently working in the establishment?

A. No. The small employer exemption focuses on the number of employees working for the entire *firm* at any time during the *previous* calendar year.

C–2. Q. For the purposes of the small employer exemption, how do you distinguish between an establishment and a firm?

A. The distinction between an establishment and a firm refers to the structure of the business. An establishment is a single physical location where business is conducted or where services or industrial operations are performed. A firm consists of the entire business enterprise (the corporation, company, partnership, etc.) and may include one or more establishments.

C–3. Q. How is the number of employees determined for the small employer exemption? Do employers qualify if they had an average of no more than 10 employees during the previous calendar year?

A. No. The average number of employees is not the determining factor. To qualify, employers *must not have had more than 10 employees at any one time* in the previous calendar year.

C–4. Q. Two partners operate an automobile repair shop with nine employees. Does the small employer exemption apply to them?

A. Yes. The partners themselves are employers; therefore, the auto repair shop has only nine employees. As long as the firm has no more than 10 employees at any one time during the previous calendar year, it qualifies for the small employer exemption.

C–5. Q. How were the industries selected for the low-hazard industry exemption?

A. Safety statistics were examined for major industry groups. An industry group was exempted if it was not currently targeted for routine safety inspections and had a lost workday case rate for injuries at or below 75 percent of the private sector average for a designated 3-year period.

C–6. Q. How do employers determine the appropriate SIC code for their establishment to see if they qualify for the exemption of low-hazard industries?

A. First, employers should determine the principal activity of the establishment. If an establishment does more than one kind of business, it is classified in the category that generates the greatest dollar volume. Employers may then refer to the 1972 edition of the *Standard Industrial Classification Manual* (SIC) prepared by the Executive Office of the President, Office of Management and Budget. This publication is usually available in most corporate or public libraries or can be purchased from the Government Printing Office. Employers may also contact their State or BLS regional offices for assistance in making the proper SIC determination. Addresses and telephone numbers for the BLS regional offices are listed on the back cover; those for the State agencies are in appendix D.

C–7. Q. Must employers in the exempted low-hazard industries have written certification from BLS or OSHA that their firm is exempt from OSHA recordkeeping?

A. No. Written certification is not necessary since public notification was made in the **Federal Register**, news releases, etc.

C–8. Q. Does the exemption for low-hazard industries supply to all low-hazard establishments?

A. No. Only establishments in the specified major industry groups are exempt. The fact that an establishment in a high-risk industry has an excellent safety record or that its workers have jobs that seem as safe as those in the exempted industries does not mean that it is exempt.

C–9. Q. How do large employers with multiple establishments handle the exemption of low-hazard activities?

A. Large employers with multiple establishments may find that some of their establishments qualify for exemption while others do not. For exemple, an automobile manufacturer may have assembly plants and retail sales offices. The manufacturing establishments would not be exempt from OSHA recordkeeping; the sales offices would.

C–10. Q. Do recordkeeping exemptions apply uniformly in all States and territories?

A. The exemption for small employers is in effect in all States and territories except Wyoming and the Virgin Islands.

The recordkeeping exemption for low-hazard industries applies to all eligible workplaces under the jurisdiction of Federal OSHA and to establishments in many States with approved State plans under Section 18(b) of the act. However, some States with approved State plans have not adopted the low-hazard exemption. Employers in States with approved plans should contact their State agency to determine if it has adopted the exemptions. State agency addresses and telephone numbers are listed in appendix D, which also indicates those States with approved plans.

D. Exceptions to Exemption for Small Employers and Employers in Low-Hazard Industries

There are two exceptions to the exemption from OSHA recordkeeping for small employers and employers in low-hazard industries:

1. Although OSHA recordkeeping requirements are normally eliminated for small employers and employers in low-hazard industries, they must still comply with OSHA standards, display the OSHA poster, and report to OSHA within 48 hours any work-related accident which results in a fatality or the hospitalization of five or more employees. (Some States have more stringent catastrophic reporting requirements.)

2. A small percentage of the regularly exempt employers have to maintain records for 1 year if they are selected to participate in the Annual Survey of Occupational Injuries and Illnesses. As stated in Parts 1904.15(b) and 1904.16(b) of the regulations, each year BLS selects a rotating sample of small employers and employers in low-hazard industries to participate in the annual survey. These employers, required by law to participate, are notified prior to the beginning of the reference calendar year that they have been selected. They are required to maintain a log and summary (OSHA No. 200), but do not have to prepare any other OSHA injury and illness records. At the end of the calendar year, they must report their injury and illness experience on the survey questionnaire, the OSHA No. 200–S. They are not required to post a summary of their injury and illness experience at the end of the reference year.

D–1. Q. Why are some regularly exempt small employers and employers in low-hazard industries selected each year to keep records and participate in the Annual Survey of Occupational Injuries and Illnesses?

A. A small sample of these regularly exempt employers is required to participate each year so that their injury and illness experience can be incorporated in the BLS survey data. This is necessary to produce estimates which are comparable in coverage to estimates for pre-exemption years.

D–2. Q. How is the survey sample selected for the regularly exempt firms that will be required to keep records? If a regulary exempt firm is selected to participate 1 year, will it be required to participate every year thereafter?

A. The regularly exempt firms notified in advance that they must participate in the annual survey are selected on a random sample basis. Usually, other firms will be selected to participate in subsequent surveys. In some situations, however, a firm may be asked to participate more than once; i.e., when there are not enough firms in a particular industry or employment-size group to insure adequate coverage from a rotating sample.

E. State and Local Government

All States that operate their own safety and health plans require all employers, including State and local government agencies, to maintain records of injuries and illnesses. Part 1952.4(a) of the regulations provides:

> States must adopt recordkeeping and reporting regulations which are identical to 29 CFR Part 1904 "Recording and Reporting Occupational Injuries and Illnesses" except for Part 1904.13 of this chapter, which provides for variances.

Part 1956.10(i) requires these State and local government employers to maintain records and make reports in conformance with the standards and procedures required of private sector employers under the act. State and local government agencies are usually exempt in States which do not operate their own State plans.

E–1. Q. What is the legal basis for the requirement that certain State and local government agencies are required to participate in the recordkeeping and reporting provisions of the act?

A. Section 18(c)(6) of the Federal OSH Act requires States with approved State plans to have State and local government agencies participate in recordkeeping and reporting activities to the extent permitted by State law. Also, nonplan States may require recordkeeping under their own laws and regulations. Participating States, like private sector employers, may use their own recordkeeping forms as long as they are substantially the same as the Federal forms.

E–2. Q. Which States have plans requiring participation of State and local government agencies in OSHA recordkeeping and reporting?

A. The States and territories listed in section C of this chapter have approved plans requiring State and local government participation. These States are identified in appendix D.

E–3. Q. Must private universities and colleges keep records?

A. Although covered by the act, these institutions normally do not have to keep OSHA records because of the recordkeeping exemption discussed in section D above. However, as with other normally exempt industries, a small sample will have to keep records for 1 year if asked to participate. When this occurs, these private universities and colleges must keep records of injuries and illnesses for their employees; students are not included unless they are employed on a full- or part-time basis. Graduate students with paid teaching and research assignments are covered.

State and local government colleges and universities must keep OSHA records if their State has a plan approved for implementing the provisions of the act.

E–4. Q. Are employees of local school districts covered by the act?

A. These employees are covered only in States which have an approved State plan for implementing the provisions of the act.

F. Applicability of OSHA Recordkeeping Requirements to Employers Subject to Other Federal Safety and Health Regulations

Many employers subject to injury and illness recordkeeping requirements of other Federal safety and health regulations are not exempt from OSHA recordkeeping. However, records used to comply with other Federal recordkeeping obligations may also be used to satisfy the OHSA recordkeeping requirements. The forms and definitions used must be equivalent to the OSHA forms and definitions.

F–1. Q. To what extent are motor carriers covered by OSHA recordkeeping regulations since they are under Department of Transportation safety regulations?

A. Motor carriers must maintain injury and illness records in conformance with or equivalent to the OSHA records required by 29 CFR 1904.

F–2. Q. Is the mining industry, which generally comes under the inspection jurisdiction of the Mine Safety and Health Administration, required to participate in the OSHA recordkeeping program?

A. No. A recordkeeping and reporting system has been developed by the Mine Safety and Health Administration (in cooperation with the Bureau of Labor Statistics) whcih provides information on mining activities equivalent to the OSHA injury and illness statistics.

However, the injury and illness experience of some mining company employees working in establishments not related to mining will be maintained on OSHA records. For example, if a mining company has a company store, and the Mine Safety and Health Administration does not require that injury and illness records be kept for the store, it would fall under OSHA jurisdiction.

F–3. Q. Are railroad employers required to keep records of injuries and illnesses of their employees?

A. Yes. In recent years, the Federal Railroad Administration has adopted the definitions of the OSHA recordkeeping system. Railroad employers report occupational injury and illness data annually to the Federal Railroad Administration, which in turn provides the data to BLS for statistical purposes.

Chapter II. The Mechanics of OSHA Recordkeeping

Only two forms are used for OSHA recordkeeping. One form, the OSHA No. 200, serves two purposes: (1) As the Log of Occupational Injuries and Illnesses on which the occurrence, extent, and outcome of cases are recorded during the year; and (2) as the Summary of Occupational Injuries and Illnesses which is used to summarize the log at the end of the year to satisfy employer posting obligations. The other form, the Supplementary Record of Occupational Injuries and Illnesses, OSHA No. 101, provides additional information on each of the cases that have been recorded on the log. (These forms are provided in appendix B.)

A. The Log of Occupational Injuries and Illnesses, OSHA No. 200

The log is used for recording and classifying recordable occupational injuries and illnesses, and for noting the extent and outcome of each case. The log shows when the occupational injury or illness occurred, to whom, what the injured or ill person's regular job was at the time of the injury or illness exposure, the department in which the person was employed, the kind of injury or illness, how much time was lost, and the final determination of the case.

Part 1904.2 of the *Code of Federal Regulations* (CFR) provides the basic requirements for the Log and Summary of Occupational Injuries and Illnesses:

(a) Each employer shall except as provided in paragraph (b) of this section, (1) maintain in each establishment a log and summary of all recordable occupational injuries and illnesses for that establishment; and (2) enter each recordable injury and illness on the log and summary as early as practicable but no later than 6 working days after receiving information that a recordable injury or illness has occurred. For this purpose, form OSHA No. 200 or an equivalent which is as readable and comprehensible to a person not familiar with it shall be used. The log and summary shall be completed in the detail provided in the form and instructions on form OSHA No. 200.

(b) Any employer may maintain the log of occupational injuries and illnesses at a place other than the establishment or by means of data-processing equipment, or both. Under the following circumstances:

(1) There is available at the place where the log is maintained sufficient information to complete the log to date within 6 working days after receiving information that a recordable case has occurred as required by paragraph (a) of this section.

(2) At each of the employer's establishments, there is available a copy of the log which reflects separately the injury and illness experience of that establishment complete and current to a date within 45 calendar days.

The log consists of three parts: A descripitve section which identifies the employee and briefly describes the injury or illness; a section covering the extent of the injuries recorded; and a section on the type and extent of illnesses. A complete OSHA No. 200 log form is shown in appendix B.

While most of the columns seem self-explanatory, there are some important requirements to be considered when completing the log. The following information pertains to the descriptive section of the log shown on the following page.

Column A. Enter a number that is unique for each case. This is very important because each case must be identified and examined "separately. The simplest method of numbering may be the best; i.e. 1, 2, 3. Employers may also number cases by month, for example, 7–15 would indicate the 15th case occurring during July.

Column B. For occupational injuries, enter the date of the work accident which resulted in injury. For occupational illnesses, enter date of initial diagnosis of illness, or, if absence from work occurred before diagnosis, enter the first day of absence attributable to the illness which was later diagnosed or recognized. Cases do not necessarily fall consecutively by date, because injuries and illnesses are recorded as an employer learns that a case has occurred.

Column C. Insert 1 of 2 entries: (1) First name, middle initial, and last name; or (2) first initial, middle initial, and last name.

Column D. Specify the injured or ill employee's regular job title even if the employee was working outside his or her regularly assigned occupation at the time of the injury or illness exposure.

Column E. State the department in which the injured or ill person *is regularly employed.* Enter the department in which the injury or illness exposure occurred only if it is the regularly assigned station. If an employee is regularly assigned in the maintenance department, but was injured while working in the shipping department, the correct entry would be "maintenance."

Column F. Briefly describe the nature of the injury or illness and part(s) of the body affected. For example, amputation—finger, is not sufficiently detailed. A correct entry would be amputation—second joint, forefinger, left hand. This tells which hand, which finger, and to what degree. The examples listed in the heading for column *F* on the log form are good indications of how entries should be made.

The injury portion of the log is reproduced on the following page. The following instructions concern entries made in this section.

Column 1. The date of death must be entered if an occupational injury results in a fatality. In some cases, an employee may be injured, but not die until several weeks or months later. It does not matter how much time has elapsed; if the injury was work-related, the entry on the log must be changed to reflect a fatality; the entries in columns 2 through 6 must be lined out, and the date of death entered in column 1.

Column 2. If a case involves lost workdays due to an injury, check this column. Lost workdays include both days away from work and days of restricted work activity, or both. The number of lost workdays should *not* include the day of injury or any days on which the employee would not have worked even though able to work (i.e., weekends, paid holidays, etc.).

BILLING CODE 4510-24-M

Bureau of Labor Statistics
Log and Summary of Occupational
Injuries and Illnesses

U.S. Department of Labor

For Calendar Year 19 ____

Company Name

Establishment Name

Establishment Address

Form Approved
O.M.B. No. 1220029

NOTE: This form is required by Public Law 91-596 and must be kept in the establishment for 5 years. Failure to maintain and post can result in the issuance of citations and assessment of penalties. (See posting requirements on the other side of form.)

RECORDABLE CASES: You are required to record information about every occupational death; every nonfatal occupational illness; and those nonfatal occupational injuries which involve one or more of the following: loss of consciousness, restriction of work or motion, transfer to another job, or medical treatment (other than first aid). (See definitions on the other side of form.)

Case or File Number	Date of Injury or Onset of Illness	Employee's Name	Occupation	Department	Description of Injury or Illness	Extent of and Outcome of INJURY	Type, Extent of, and Outcome of ILLNESS
(A)	(B)	(C)	(D)	(E)	(F)	(1)–(6)	(7)–(13)
					PREVIOUS PAGE TOTALS		
					TOTALS		

INJURIES

ILLNESSES

OSHA No. 200

Certification of Annual Summary Totals By ____ Title ____ Date ____

OSHA No. 200

POST ONLY THIS PORTION OF THE LAST PAGE NO LATER THAN FEBRUARY 1.

BILLING CODE 4510-24-C

Column 3. Check if the injury involves days away from work.

Column 4. Enter the actual number of days away from work.

Column 5. Enter the actual number of days of restricted work activity.

Column 6. If no entry was made in columns 1 or 2, but the injury is recordable according to the guidelines in this report or the instructions on the OSHA No. 200, a check must be entered to indicate that it was an injury without lost workdays.

Extent of and Outcome of INJURY					
Fatalities	Nonfatal injuries				
Injury Related	Injuries With Lost Workdays				Injuries Without Lost Workdays
Enter DATE of death. Mo./day/yr.	Enter a CHECK if injury involves days away from work, or days of restricted work activity, or both.	Enter a CHECK if injury involves days away from work.	Enter number of DAYS away from work.	Enter number of DAYS of restricted work activity.	Enter a CHECK if no entry was made in columns 1 or 2 but the injury is recordable as defined above.
(1)	(2)	(3)	(4)	(5)	(6)

The illness portion of the log follows on the next page with instructions relating to the columns in this section.

Column 7. For occupational illnesses, an entry should be placed in one of the columns 7a through 7g, depending upon which column is applicable. It is important to keep in mind that illnesses must be evaluated individually. For example, a sunstroke would require a check in column 7e; eczema or rash would require a check in column 7a, etc. The reserve side of the log form gives examples of cases under each illness category.

Column 8. The date of death must be entered if an occupational illness results in a fatality.

Column 9. Check if the illness involves days away from work or days of restricted work activity, or both.

Column 10. Enter a check if the illness involves days away from work.

Column 11. Enter the actual number of days away from work resulting from the illness.

Column 12. Enter the number of days of restricted work activity resulting from the illness.

Column 13. Enter a check if no entry was made in columns 8 or 9 since the illness did not involve lost workdays.

For illnesses only, when a termination or permanent transfer is involved, place an asterisk (*) to the right of the entry in columns 7a through 7g (type of illness).

A–1. Q. Who must maintain the log?

A. Every employer who is subject to the recordkeeping requirements of the OSH Act must maintain at each establishment a log of all recordable occupational injuries and illnesses which occur at the establishment.

A–2. Q. How must the log be maintained and retained?

A. The log must be maintained on a calendar (not fiscal) year basis. Logs must be kept current and retained for 5 years following the end of the calendar year to which they relate. If there is a change in the extent or outcome of a case entered on the log, the first entry should be lined out and a corrected entry made. An entry may be lined out if a case is later found to be nonrecordable. Entries should be made for previously unrecorded cases that are discovered or found to be recordable after the end of the year in which the case occurred. The new entry should be made on a log for the year in which the case occurred.

A–3. Q. When must an employer make an entry on the log?

A. Normally, an employer must make an entry on the log no later than 6 working days after receiving information that a recordable case has occurred.

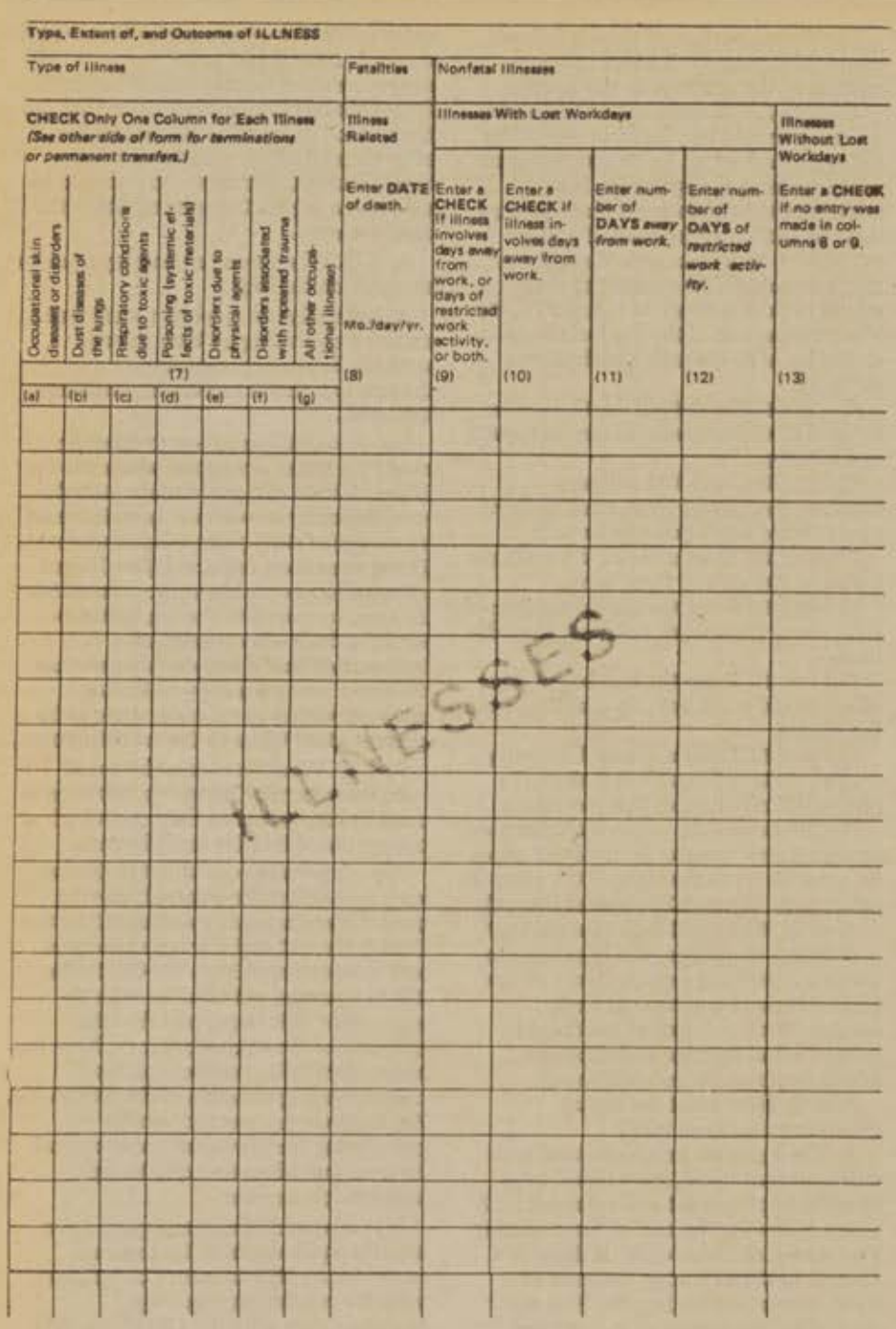
However, an exception to this rule exists for those situations where the log is maintained at a place other than the establishment or where it is maintained by means of data processing equipment. These situations require: (1) Sufficient information available at the alternative location to complete the log within 6 working days after receipt of information that a recordable case has occurred; and (2) a copy of the log updated within 45 calendar days to be present at all times in the establishment.

A–4. Q. What form must be used?

A. Usually, the OSHA No. 200 form is used by employers as their record of occupational injuries and illnesses.

Also, a private equivalent to the log, such as a computer printout, may be used if it contains as much detail as the OSHA No. 200 and if it is as readable and comprehensible as the OSHA No. 200 to a person not familiar with the equivalent. It is important that the columns of the equivalent form have the same identifying numbers as the corresponding columns of the OSHA No. 200 because the instructions for completing the survey of occupational injuries and illnesses refer to log columns by number.

It is advisable that employers have private equivalents of the log form reviewed by BLS to insure compliance with the regulation requiring comparability with the OSHA No 200.



Type, Extent of, and Outcome of ILLNESS												
Type of Illness							Fatalities	Nonfatal Illnesses				
CHECK Only One Column for Each Illness (See other side of form for terminations or permanent transfers.)							Illness Related	Illnesses With Lost Workdays				Illnesses Without Lost Workdays
Occupational skin diseases or disorders	Dust diseases of the lungs	Respiratory conditions due to toxic agents	Poisoning (systemic effects of toxic materials)	Disorders due to physical agents	Disorders associated with repeated trauma	All other occupational illnesses	Enter DATE of death. Mo./day/yr.	Enter a CHECK if illness involves days away from work, or days of restricted work activity, or both.	Enter a CHECK if illness involves days away from work.	Enter number of DAYS away from work.	Enter number of DAYS of restricted work activity.	Enter a CHECK if no entry was made in columns 8 or 9.
(7)							(8)	(9)	(10)	(11)	(12)	(13)
(a)	(b)	(c)	(d)	(e)	(f)	(g)						

ILLNESSES

A–5. Q. Can additional information be included on private equivalents to the log?

A. Yes. Equivalents to the log may contain additional information if they retain the same identifying column numbers as the OSHA No. 200 and are as readable and comprehensible as the OSHA No. 200 to a person not familiar with the equivalent form.

A–6. Q. Is an employer required to have a log for any year in which there were no recordable cases?

A. No. An employer is not required to have a log for any year during which there were no recordable cases. However, the summary portion of the OSHA No. 200 should be completed with zero entries and retained for the 5-year period.

A–7. Q. Can OSHA records be kept on microfiche or magnetic tape?

A. Yes. If the information is always available during working hours and is retrievable upon demand, and if the format used to store the information is equivalent to the format of the OSHA forms.

B. The Summary of Occupational Injuries and Illnesses, OSHA No. 200

The portion of the OSHA No. 200 to the right of the dotted vertical line is used to summarize injuries and illnesses in an establishment for the previous calendar year. Every nonexempt employer who is required to keep OSHA records must prepare an annual summary for each establishment, based on the information contained in the log for each establishment. The summary is prepared by totaling the column entries on the log (or its equivalent) and signing and dating the certification portion of the form at the bottom of the page.

Part 1904.5 of the Code of Federal Regulations states the requirements for the annual summary of occupational injuries and illnesses:

(a) Each employer shall post an annual summary of occupational injuries and illnesses for each establishment. This summary shall consist of a copy of the year's totals from the form OSHA No. 200 and the following information from that form: calendar year covered, company name, establishment address, certification signature, title, and date. . . . If no injuries or illnesses occurred in the year, zeros must be entered on the totals line, and the form must be posted.

(b) The summary shall be completed by February 1, beginning with calendar year 1979.

(c) Each employer, or the officer or employee of the employer who supervises the preparation of the log and summary of occupational injuries and illnesses, shall certify that the annual summary of occupational injuries and illnesses is true and complete.

(d)(1) Each employer shall post a copy of the establishment's summary in each establishment in the same manner that notices are required to be posted under Section 1903.2(a)(1) of this chapter. The summary covering the previous calendar year shall be posted no later than February 1, and shall remain in place until March 1. . . .

(2) A failure to post a copy of the establishment's annual summary may result in the issuance of citations and assessment of penalties pursuant to Sections 9 and 17 of the Act.

Part 1903.2(a) of the regulations governs employer posting obligations. The following requirements pertain to posting the summary:

(a) Such notice or notices shall be posted by the employer in each establishment in a conspicuous place or places where notices to employees are customarily posted. Each employer shall take steps to insure that such notices are not altered, defaced, or covered by other material.

Before preparing the summary which is shown on the next page, the employer should review the log to be sure the entries are correct and current. Each case should be checked to make sure that it is in only one of the "extent" categories on the log (fatalities, lost workday cases, nonfatal cases without lost workdays). Any open case involving a loss of workdays which is continuing at the time the summary is prepared should be completed by estimating the number of future workdays the employee will lose. The estimated number of future lost workdays should be added to the number of workdays already lost, and the combined total entered on the log and included in the summary. (The log should be revised at a later date to reflect the number of days that were actually lost.)

The yearly totals on the log are all that is needed for posting. Employers may prepare the summary in 1 of 2 ways: (1) They can use the last page of the log they have been maintaining during the year by folding the log so that the portion to the left of the dotted line is turned under to conceal the names of the injured or ill employees; or (2) they can use a photocopy or separate form, such as a blank OSHA No. 200.

Completing the summary is a relatively simple procedure. The right hand portion of the log (to the right of the dotted fold line) is used for this purpose. Employers complete the top portion of the page by entering the year to which the records relate, the company name (and the establishment name, if different from the company), and the address. Then the entries in columns 1 through 13 are added vertically and totaled on the bottom line. Note that, although all the column entries for cases and lost workdays must be totaled, employers need not total the asterisks on the log signifying illnesses resulting in termination of employment or permanent transfer, since these are primarily for the information of authorized Federal or State officials. The summary is completed with the signature of the person responsible for the summary information and the date of that person's signature at the bottom of the page.

B–1. Q. What is supposed to be accomplished by posting an annual summary in the workplace?

A. Posting the annual summary: (1) Provides employees with their establishment's record of injuries and illnesses; (2) makes employers and employees more safety conscious; and (3) promotes joint labor-management safety and health efforts.

B–2. Q. What form must be used for the summary?

A. The OSHA No. 200 or a private equivalent may be used. Employers are allowed to use private equivalents if they are readable and comprehensible to persons not familiar with the equivalents. A blank copy of the OSHA No. 200 is often posted beside the equivalent for clear understanding by employees. Copies of the OSHA No. 200 can be obtained from BLS regional offices or from the BLS national office. (See back cover for BLS regional office addresses and telephone numbers.)

B–3. Q. How long must the summary be posted at each establishment?

A. The annual summary is to be posted by February 1 of each year and is to remain in place until March 1. It must be posted at each establishment in a conspicuous place where notices to employees are customarily posted.

B–4. Q. Who is responsible for the preparation of the annual summary?

A. The employer is ultimately responsible for preparation of the annual summary. However, in many instances an employee actually prepares and certifies the annual summary.

BILLING CODE 4510-24-M

U.S. Department of Labor

For Calendar Year 19 _____ Page ___of___

Company Name

Establishment Name

Establishment Address

Form Approved
O.M.B. No. 1220-0029

Extent of and Outcome of INJURY						Type, Extent of, and Outcome of ILLNESS												
Fatalities	Nonfatal Injuries					Type of Illness							Fatalities	Nonfatal Illnesses				
Injury Related	Injuries With Lost Workdays				Injuries Without Lost Workdays	CHECK Only One Column for Each Illness (See other side of form for terminations or permanent transfers.)							Illness Related	Illnesses With Lost Workdays				Illnesses Without Lost Workdays
Enter DATE of death. Mo./day/yr.	Enter a CHECK if injury involves days away from work, or days of restricted work activity, or both.	Enter a CHECK if injury involves days away from work.	Enter number of DAYS away from work.	Enter number of DAYS of restricted work activity.	Enter a CHECK if no entry was made in columns 1 or 2 but the injury is recordable as defined above.	Occupational skin diseases or disorders	Dust diseases of the lungs	Respiratory conditions due to toxic agents	Poisoning (systemic effects of toxic materials)	Disorders due to physical agents	Disorders associated with repeated trauma	All other occupational illnesses	Enter DATE of death. Mo./day/yr.	Enter a CHECK if illness involves days away from work, or days of restricted work activity, or both.	Enter a CHECK if illness involves days away from work.	Enter number of DAYS away from work.	Enter number of DAYS of restricted work activity.	Enter a CHECK if no entry was made in columns 8 or 9.
(1)	(2)	(3)	(4)	(5)	(6)	(7) (a)	(b)	(c)	(d)	(e)	(f)	(g)	(8)	(9)	(10)	(11)	(12)	(13)

INJURIES

ILLNESSES

Certification of Annual Summary Totals By _____ Title _____ Date _____

FOLD

OSHA No. 200

POST ONLY THIS PORTION OF THE LAST PAGE NO LATER THAN FEBRUARY 1.

BILLING CODE 4510-24-C

B–5. Q. What is meant by certification of the summary?

A. The summary must be signed and dated by the employer, or whoever is delegated responsibility for completing it, to certify that it is true and complete to the best of that person's knowledge.

B–6. Q. If no recordable cases occurred during a reporting period, must a summary be prepared?

A. Yes. Even though there were no recordable cases during the previous year, the summary portion of the OSHA No. 200 must be completed and posted in each establishment no later than February 1 and remain in place until March 1. Zeros should be entered in all categories on the "totals" line. All summaries must be retained for 5 years following the end of the year to which they relate.

B–7. Q. Can the summary at the end of the year be on a total company basis, or does it have to be completed for each establishment?

A. A summary must be prepared for each establishment and posted in each establishment.

B–8. Q. Must a copy of the annual summary be posted on evey bulletin board, or will the posting of only one copy comply with the requirements of the law?

A. It depends upon the particular establishment. The regulations state that the annual summary is to be posted "at each establishment in a conspicuous place where notices to its employees are posted customarily." In some circumstances, this may require more than one posting.

B–9. Q. How do workers review the annual summary when they don't work at a fixed worksite?

A. During the posting period, employers are required to present or mail a copy of the annual summary to employees with no fixed worksite.

B–10. Q. Is it necessary to post the annual summary if an establishment closes?

A. It is not necessary to post a summary in an establishment which has closed by the time the summary is prepared. The primary purpose of posting is to inform employees of the past year's injury and illness record.

B–11. Q. Must the employer post the annual summary at the jobsite of a seasonal operation if the site is shut down during the posting period?

A. Posting informs the employees of the past year's injury and illness experience for that establishment. Since posting in a vacated establishment would not accomplish this purpose, posting is not required. However, employers in these situations shall present or mail a copy of the annual summary to their permanent employees.

B–12. Q. When will an establishment have to send its annual summary to the Bureau of Labor Statistics?

A. Never. The employer must retain the recordkeeping forms, the log and summary, OSHA No. 200, and the supplementary record, No. 101, in the establishment for 5 years after the reference year of the records. Establishments selected to participate in the statistical survey will receive a survey reporting form in the mail. If an establishment does not receive a form, the employer need only maintain and retain the records according to the regulations.

B–13. Q. How is a lost workday case handled on the summary if it carries over into the next year? What if, for example, an employee is injured in December 1983 and is still out on January 31, 1984?

A. Two important considerations are involved: (1) The same case should not appear in the records for 2 years; and (2) it is important not to lose the count of the actual number of lost workdays, which is a measure of the severity of the case.

The original entry for this case should be on the 1983 log. At the end of calendar year 1983, the employer should estimate the number of workdays the employee is expected to lose in 1984 and add that to the count of workdays lost up to the time of making that estimate. That number should be entered in column 4 or column 11 of the 1983 log, depending on the type of case. When the employee returns to work and is able to perform all the duties of his or her regular job or the count of lost workdays is otherwise ended, the employer should verify the actual count of lost workdays (days away from work and any days of restricted activity) and correct the entry on the 1983 log as necessary. No entries should be made for this case on the 1984 log. Also, the summary for 1983 does not have to be corrected.

C. The Supplementary Record of Occupational Injuries and Illnesses, OSHA No. 101

For every injury or illness entered on the log, it is necessary to record additional information on the supplementary record, OSHA No. 101. The supplementary record describes how the accident or illness exposure occurred, lists the objects or substances involved, and indicates the nature of the injury or illness and the part(s) of the body affected.

Part 1904.4 of the *Code of Federal Regulations* provides the requirements for the supplementary record:

> In addition to the log of occupational injuries and illnesses provided for under Section 1904.2, each employer shall have available for inspection at each establishment within 6 working days after receiving information that a recordable case has occurred, a supplementary record for each occupational injury or illness for that establishment. The record shall be completed in the detail prescribed in the instructions accompanying Occupational Safety and Health Administration Form OSHA No. 101. Workmen's compensation insurance or other reports are acceptable alternative records if they contain the information required by Form OSHA No. 101. If no acceptable alternative record is maintained for other purposes, Form OSHA No. 101 shall be used or the necessary information shall be otherwise maintained.

Most items in the supplementary record shown on the next page are self-explanatory. However, the following items are highlighted:

The OSHA case or file number must be the same number used to identify the case or file number in column *A* of the log, OSHA No. 200.

Occupation (item 8) refers to the employee's *regular* job title. If an employee is working in a capacity other than the regular occupation at the time of an injury or illness exposure, item 8 must show the regular job title. This is the same title used in column *D* of the log.

Department (item 9) refers to the department or division in which the employee is *regularly* employed, even if an employee should be temporarily working in another department at the time of the injury or illness exposure. This is the same department named in column *E* of the log.

Premises (item 11) refers to whether the accident or exposure occurred on the employer's premises.

Injury or illness and part(s) of body affected (item 14) should be in agreement with the information entered in column *F* of the log.

C–1. Q. When must a supplementary record be prepared?

A. A supplementary record must be prepared for each case within the same time frame required for entering a case on the log—within 6 workdays after receipt of information that a recordable case has occurred.

C–2. Q. Must all employers complete the OSHA No. 101 or equivalent for any case entered on the log of occupational injuries and illnesses?

A. Yes, all employers regularly keeping OSHA records must complete a supplementary record for each entry on the log, OSHA No. 200.

However, there is one exception to this rule. As noted in section D, chapter

II, a small percentage of firms regularly exempt from OSHA recordkeeping is selected each year to participate in the Annual Survey of Occupational Injuries and Illnesses. Those selected are required to maintain a log of occupational injuries and illnesses but are not required to complete any other OSHA records.

C–3. Q. What form must be used as the supplementary record?

A. Either the OSHA No. 101 or any other form which contains the same information may be used. Employers are not required to prepare an OSHA No. 101 if they complete any other form which contains identical information. Many State workers' compensation first report of injury forms contain all the OSHA No. 101 items. In addition, many large employers prepare internal accident report forms which contain all the necessary items.

C–4. Q. Does this mean employers don't need to complete OSHA No. 101 if they presently use a State workers' compensation form?

A. It depends upon the particular workers' compensation form used. Workers' compensation first report of injury forms are acceptable if they contain all the items on the OSHA No. 101 or are supplemented to do so. Employers should be sure that all OSHA No. 101 items are on the first report forms; otherwise, missing items may be entered on a separate attachment. Many States have modified their first report forms to include this information. Employers should consult the State agency which is cooperating in the program with the Bureau of Labor Statistics or the BLS regional or national office to determine whether any items are missing from their State's form. The addresses and telephone numbers of these agencies and offices are listed in the appendix D and on the back cover of this report.

C–5. Q. Our State workers' compensation form lists only disabling injuries. How can we use this in place of OSHA No. 101?

A. If a State requires reports of disabling injuries only, the employer will have to complete additional forms to comply with the OSHA requirements. The OSHA No. 101 or some acceptable substitute such as an insurance form or internal accident report form may be used to record the nondisabling injuries.

C–6. Q. Who evaluates a State's first report of injury form to insure that it satisfies the requirements of the OSHA No. 101?

A. The Bureau of Labor Statistics is available to evaluate State first report of injury forms upon request.

C–7. Q. If a company's injury form, which is generally similar to OSHA No. 101, does not include information such as social security number, sex, etc., must the company apply to BLS for a variance?

BILLING CODE 4510-24-M

Bureau of Labor Statistics
Supplementary Record of
Occupational Injuries and Illnesses

U.S. Department of Labor

This form is required by Public Law 91-596 and must be kept in the establishment for *5 years.* Failure to maintain can result in the issuance of citations and assessment of penalties.

Case or File No.

Form Approved
O.M.B. No. 1220-0029

Employer

1. Name

2. Mail address *(No. and street, city or town, State, and zip code)*

3. Location, if different from mail address

Injured or Ill Employee

4. Name *(First, middle, and last)* | Social Security No.

5. Home address *(No. and street, city or town, State, and zip code)*

6. Age | 7. Sex: *(Check one)* Male ☐ Female ☐

8. Occupation *(Enter regular job title, not the specific activity he was performing at time of injury.)*

9. Department *(Enter name of department or division in which the injured person is regularly employed, even though he may have been temporarily working in another department at the time of injury.)*

The Accident or Exposure to Occupational Illness

If accident or exposure occurred on employer's premises, give address of plant or establishment in which it occurred. Do not indicate department or division within the plant or establishment. If accident occurred outside employer's premises at an identifiable address, give that address. If it occurred on a public highway or at any other place which cannot be identified by number and street, please provide place references locating the place of injury as accurately as possible.

10. Place of accident or exposure *(No. and street, city or town, State, and zip code)*

11. Was place of accident or exposure on employer's premises? Yes ☐ No ☐

12. What was the employee doing when injured? *(Be specific. If he was using tools or equipment or handling material, name them and tell what he was doing with them.)*

13. How did the accident occur? *(Describe fully the events which resulted in the injury or occupational illness. Tell what happened and how it happened. Name any objects or substances involved and tell how they were involved. Give full details on all factors which led or contributed to the accident. Use separate sheet for additional space.)*

Occupational Injury or Occupational Illness

14. Describe the injury or illness in detail and indicate the part of body affected. *(E.g., amputation of right index finger at second joint; fracture of ribs; lead poisoning; dermatitis of left hand, etc.)*

15. Name the object or substance which directly injured the employee. *(For example, the machine or thing he struck against or which struck him; the vapor or poison he inhaled or swallowed; the chemical or radiation which irritated his skin; or in cases of strains, hernias, etc., the thing he was lifting, pulling, etc.)*

16. Date of injury or initial diagnosis of occupational illness | 17. Did employee die? *(Check one)* Yes ☐ No ☐

Other

18. Name and address of physician

19. If hospitalized, name and address of hospital

Date of report	Prepared by	Official position

OSHA No. 101 (Feb. 1981)

A. No. Also, it is not mandatory that the OSHA form be used as the supplementary record; any other form may be used if it contains all of the OSHA No. 101 items or is supplemented to do so. In this case, a longhand entry concerning the individual's sex, social security number, and other missing information would satisfy the need. An alternative record which does not contain all of the OSHA No. 101 items can be supplemented by adding the missing items.

C–8. Q. Does information on the supplementary record (OSHA No. 101) need to be on one form? What if a company wants to split this information between the mailing department, safety department, and workers' compensation department?

A. Yes. This information must be on one form, either the OSHA No. 101 or a satisfactory substitute. Therefore, the information should not be split between different departments.

Chapter III. Location, Retention, and Maintenance of Records

Ordinarily, injury and illness records must be kept for each establishment covered by the Occupational Safety and Health Act. The regulations require that records be located and maintained at this level to assist government agencies in administering and enforcing the act, to increase employer-employee awareness, and to promote injury and illness prevention. This chapter describes requirements for location of records and employer responsibilities for records retention and maintenance.

A. Establishments Required To Keep and Maintain Records

The establishment is the basic organizational unit in the private sector among different firms and operations in different industries. It is the focus of the requirements for records location and maintenance, since the regulations require that records be kept at the establishment level. Therefore, it is imperative that everyone involved in the recordkeeping process have a clear understanding of what constitutes an establishment for recordkeeping purposes.

Part 1904.12(g)(1) of the regulations provides a concise definition of the term "establishment." An establishment is defined as a single physical location where business is conducted or where services or industrial operations are performed. The examples provided include a factory, mill, store, hotel, restaurant, movie theater, farm, ranch, bank, sales office, warehouse, or central administrative office.

The regulations specify that distinctly separate activities performed at a single physical location (for example, where contract construction activities are operated from the same physical location, as a lumber yard), shall each be treated as a separate establishment for recordkeeping purposes.

A–1. Q. What is the definition of a "single physical location?"

A. While the regulations do not require that worksites be contiguous to comprise a single physical location, these sites should at least be in proximity to one another. This relationship is a matter of degree—depending upon the size and nature of the operations of the unit under consideration.

A–2. Q. Our company has several different operations at several different locations. For unemployment insurance purposes, these units have always been considered one establishment. In addition, we are mailed only one survey form for all these operations when we are selected to participate in the BLS Annual Survey of Occupational Injuries and Illnesses. Must we keep more than one set of injury and illness records for these operations?

A. Yes. The regulations require that injury and illness records be maintained for each establishment, which is defined as a single physical location where business is conducted or where operations are performed. The fact that employers may consolidate records for survey reporting and other purposes does not affect this requirement.

A–3. Q. Even though individual establishments must maintain individual records, may a company file a consolidated report of these operations to the Bureau of Labor Statistics in Washington or to the regional offices? If so, how do employers know which operations to include?

A. Reports of injuries and illnesses need not be filed with BLS unless the company is selected to participate in the BLS annual survey. If a company is selected to participate, it will be mailed a survey form on which to report its occupational injuries and illnesses. The form will identify which establishments are to be included in the report. Sometimes all establishments in a specified area, such as a county, are included; sometimes they are not.

A–4. Q. What is meant by the term, "a distinctly separate activity?"

A. There is no clear-cut definition of what constitutes a "distinctly separate activity." Production of dissimilar products; different kinds of operational procedures; different facilities; and separate management, personnel, payroll, or support staff are all indicative of separate activities and separate establishments.

A–5. Q. How many sets of records must be kept in the following case? At one location, workers in Division A make metal tools, while workers in Division B make wooden chairs.

A. If Divisions A and B are managed independently of each other, then they would be considered separate establishments and each division would keep its own records.

A–6. Q. What about auxiliary operations, such as personnel offices or medical facilities?

A. These may be either separate establishments or subunits, departments, or divisions within an establishment, depending on the nature of operations and degree of autonomy the particular unit has in relation to the main organization. (See question A–4 above.)

A–7. Q. Would a manufacturing operation with a warehouse attached need to keep separate records for the warehouse?

A. Only if the warehouse is a distinctly separate activity. Factors to consider include whether the warehouse is an integral part of the manufacturing operation and whether it stores materials for any operation other than the manufacturing facility. Other factors to evaluate are listed in question A–4.

A–8. Q. Do separate OSHA records have to be kept for trucking operations associated with manufacturing facilities?

A. If a trucking fleet is a distinctly separate activity, it requires separate OSHA records. There are, of course, situations where separate OSHA records for truckdrivers would not be kept. These involve operations with a limited number of trucks under the same supervision as the rest of the facility. In these situations, it is usually difficult to differentiate between truckdrivers and other employees in the employment records. Question A–4 of this section lists other considerations.

A–9. Q. A firm has several operational facilities at several locations, each having its own management. However, all facilities utilize one medical department and one personnel office. Are separate records required for each of these facilities or can one set of records be kept for all the facilities?

A. These facilities constitute separate establishments, and hence require separate records. The regulations require that records be maintained at the establishment level so that both management and employees have information on their injury and illness experience.

A–10. Q. How are records kept for a firm that rotates its employees among several different fixed establishments?

A. Separate records shall be kept for each separate establishment. Each establishment's records should reflect the injuries and illnesses which occurred in that particular establishment. (See chapter VI, question B–21, for recording lost workdays in these situations.)

A–11. Q. Must employers maintain separate records for exposure hours for each establishment in situations where the employees are rotated among the firm's different establishments?

A. Separate records for exposure hours do not necessarily have to be maintained. However, employers should at least be able to provide an estimate of the exposure hours worked at each establishment.

B. Location of Records

Injury and illness records (the log and summary, OSHA No. 200, and the supplementary record, OSHA No. 101) must be kept for every physical location where operations are performed. Under the regulations, the location of the records depends upon whether or not the employees are associated with fixed establishments.

1. *Employees associated with fixed establishments.* Records for these employees should be located as follows:

a. Records for employees working at fixed locations, such as factories, stores, restaurants, warehouses, etc., should be kept at the work location.

b. Records for employees who report to a fixed location but work elsewhere should be kept at the place to which the employees report each day. These employees are generally engaged in activities such as agriculture, construction, transportation, etc.

c. Records for employees whose payroll or personnel records are maintained at a fixed location, but who do not report or work at a single establishment, should be maintained at the base from which they are paid or the base of their firm's personnel operations. This category includes generally unsupervised employees such as traveling salespeople, technicians, or engineers.

2. *Employees not associated with fixed establishments.* Some employees are subject to common supervision, but do not report or work at a fixed establishment on a regular basis. These employees are engaged in physically dispersed activities that occur in construction, installation, repair, or service operations. Records for these employees should be located as follows:

a. Records may be kept at the field office or mobile base of operations.

b. Records may also be kept at an established central location. If the records are kept centrally: (1) The address and telephone number of the place where the records are kept must be available at the worksite; and (2) there must be someone available at the central location during normal business hours to provide information from the records.

B–1. Q. I manage a grocery store that is part of a supermarket chain. May we keep the OSHA records for our employees at our company's central administrative office?

A. No. The OSHA records for these employees should be maintained at the work location to satisfy the requirements of the regulations and to insure maximum effectiveness of the records in injury and illness prevention. However, even though the summary and supplementary records must be kept at the establishment, see the next section for the location exception for the log, OSHA No. 200.

B–2. Q. Our company employs several salesmen who operate within a limited geographic area on a commission basis. Where should the records for these people be located?

A. If these employees do not ordinarily report to a single location and are generally unsupervised in their daily work, the records should be kept at the location from which they are paid or the base of their firm's personnel operations.

If these employees report to a given location each day before beginning their sales activities, the records should be kept at the place to which they report.

B–3 Q. Do construction subcontractors and construction contractors have to keep OSHA records at each individual jobsite, or can the records be located at their regional or central office?

A. Location of the records depends upon the nature of the operation. If the employees report to a given place each day but work elsewhere, OSHA records should be kept at the location where they report. For example, if an employer is a plumbing contractor with trucks going from the shop to different sites each day, the establishment is the shop. This is the location where records must be kept. However, if the employees of a plumbing firm report directly to transient jobsites each day, the firm has discretion regarding where the rocords are kept. Records for employees subject to common supervision who do not report or work at a fixed establishment on a regular basis may be kept at either: (1) The field office or mobile base of operations; or (2) at an established central location, provided the employer satisfies the two requirements listed above for employees not associated with fixed establishments.

B–4. Q. How do you distinguish between fixed and nonfixed establishments for the purpose of determining where OSA records should be kept?

A. The distinction between these two types of establishments generally rests on the nature and duration of the operation and not on the type of structure in which the business is located.

A nonfixed establishment usually operates at a single location for a relatively short period of time. A fixed establishment remains at a given location on a long-term or permanent basis and often involves repetitious activities. Also, fixed establishments are generally places where clerical, administrative, or other business records are kept. For examle, a construction crew repairing a bridge for 2 months is considered working in a nonfixed establishment, while a crew repairing a bridge for a year and half is considered working at a fixed establishment.

C. Location Excaption for the Log (OSHA No. 200)

Although the supplementary record and the annual summary must be located as outlined in the previous section, it is possible to prepare and maintain the *log* at an althernate location or by means of data processing equipment, or both. Two requirements must be met: (1) Sufficient information must be available at the alternative location to complete the log within 6 workdays after receipt of information that a recordable case has occurred; and (2) a copy of the log updated to within 45 calendar days must be present at all times in the establishment. This location exception applies only to the log, and not to the other OSHA records. Also, it does not affect the employer's posting obligations.

C–1. Q. Can we maintain the logs for our different facilities in one central administrative office rather than in each individual establishment?

A. Yes. For centralized recordkeeping, the log, OSHA No. 200, may be maintained in some place other than the establishment, such as the central office. If that is done, the requirements listed above must be followed. Note, however, that separate records must be maintained for each establishment.

C–2. Q. To qualify for the location exception for the log, must I use a computer to maintain the records at the alternative location?

A. A computer may be used for this purpose, but it is not mandatory.

D. Retention of OSHA Records

The regulations require that the log and summary, OSHA No. 200, and the

supplementary record, OSHA 101, must be retained in each establishment for 5 calendar years following the end of the year to which they relate. This requirement pertains to the log and summary, OSHA No. 200, and to the supplementary record, OSHA No. 101.

D–1. Q. Must a new owner retain the OSHA records of an existing establishment he or she just purchased?

A. When a change in ownership of an establishment occurs, the new owner must retain OSHA injury and illness records of the previous owner for 5 years following the end of the year to which they relate. However, the new owner does not have to update these records.

D–2. Q. Must a construction company retain OSHA records for completed projects, such as completed buildings, bridges, etc., if the company's business continues at another location after the completion?

A. Yes. In these situations, the OSHA records must be retained by the company for the 5-year retention period.

D–3. Q. When a firm goes out of business, does the employer still have to retain the OSHA records?

A. In this situation, the firm ceases to exist at the time the employer closes down operations. The employer no longer has to retain the OSHA records once the firm ceases to exist.

D–4. Q. Must records still be retained if a firm undergoes a fundamental change in business structure, such as changing from a privately owned enterprise to a corporation?

A. Yes. The OSHA records must still be retained since the existence of the establishment remains unchanged.

D–5. Q. What is the employer's responsibility for retention of OSHA records if the establishment goes bankrupt?

A. The employer's responsibility in this situation depends upon the nature of the proceeding in bankruptcy. If the firm undergoes a reorganization in bankruptcy, the employer must retain the OSHA, records. If a firm undergoes a bankruptcy that results in liquidation, the employer's responsibility terminates upon liquidation. The difference between these two situations is that, in the former, the establishment continues to exist as an organization entity; in the latter, it does not.

D–6. Q. Does an establishment cease to exist for recordkeeping purposes when it seasonally closes down operations? Do these employers have to retain their OSHA records?

A. Just because a firm temporarily closes down operations on a seasonal or cyclical basis does not mean that it ceases to exist as an establishment. If the firm's operations are basically ongoing in nature, the employer is still required to retain the OSHA records. The retention requirement ceases only when the establishment permanently goes out of business.

D–7. Q. An employer with a number of establishments is dissolving her business. Some establishments are being transferred to another firm; some are being closed. What should be done with the OSHA records?

A. For those establishments in which there is a change of ownership, the occupational injury and illness records should be transferred to the new owner. The new owner must preserve those records for 5 years following the end of the year to which they relate; however, the new owner is not responsible for updating log entries. The new owner will, of course, be responsible for work injury and illness records subsequent to the takeover date.

For those establishments which are discontinued as part of a general dissolution, the obligation to preserve or maintain the injury and illness records is ended. If the employer's business were continuing, the injury and illness records for the discontinued establishments should be transferred to a central office (or another establishment if there is no central office) and maintained for the 5-year retention period.

E. Maintenance of the Log (OSHA No. 200)

In addition to keeping the log on a calendar year basis, employers are required to update this form to reflect changes which occur in recorded cases after the end of the calendar year. Maintenance or updating of the log is different from the retention of records discussed in the previous section. Although all OSHA injury and illness records must be retained, only the log must be maintained by the employer.

If, during the 5-year retention period, there is a change in the extent or outcome of an injury or illness which affects an entry on a previous year's log, then the first entry should be lined out and a corrected entry made on that log. Also, new entries should be made for previously unrecorded cases that are discovered or for cases that initially weren't recorded but were found to be recordable after the end of the year in which the case occurred.

E–1. Q. If a change in the ownership of an establishment occurs, does the new owner have to maintain the previous owner's log?

A. No. Although the new owner must retain the previous owner's OSHA records for 5 years, he or she is not responsible for maintaining the previous owner's log.

E–2. Q. Must the new owner maintain the previous owner's log when a change of ownership occurs during mid-year?

A. No. The new owner should retain the previous owner's records, but he doesn't have to maintain them. Instead he should prepare and maintain OSHA injury and illness records which begin with his assumption of ownership and go through the end of the calendar year.

E–3. Q. If an employer reorganizes the structure of his or her business from a private owned enterprise to a corporation, must he or she still maintain logs for the establishment prior to the reorganization?

A. It depends upon the degree of reorganization and the amount of control the original owner still exercises over the operation. New owners need not maintain a previous employer's records. However, records must still be maintained where a firm merely reorganizes its business structure while continuing under the direction and control of the original owner.

E–4. Q. When a firm goes out of business, does the employer have to maintain the OSHA log?

A. No. Employers no longer have to retain their OSHA records or maintain the OSHA log once the establishment goes out of business.

Chapter IV. Employer Decisionmaking

This chapter covers questions which often arise regarding recordkeeping decisions which must be made at the establishment level. It focuses on the legislative and regulatory assignment of decisionmaking authority to employers, and describes the safeguards built into the system to insure the integrity of the records and the validity of the statistics that the records provide.

A. Types of Decisions Employers Make in the Recordkeeping Process

1. *Distinguishing between employees and other workers on site.* The Occupational Safety and Health Act of 1970 and Part 1904 of the *Code of Federal Regulations* require employers to maintain injury and illness records for their own employees at each of their establishments. Employers are not responsible for maintaining records for employees of other firms or for independent contractors, even though these individuals may be temporarily at work in their establishment or on one of their jobsites at the time an injury or illness exposure occurs. Therefore, before deciding whether a case is recordable, an employment relationship needs to be determined.

2. *Deciding if injuries and illnesses occurring to employees are recordable. Employers decide which cases are to be entered on the OSHA records.* This decision must be made in good faith, according to the requirements of the act and Part 1904 of the regulations. Chapter V of this report provides a detailed description of these recordkeeping requirements and furnishes criteria for determining recordability. It presents an overview of the Department of Labor recordkeeping interpretations and guidelines which have been followed by most employers in making recordkeeping determinations since their original issuance in 1972.

3. *Determining the extent or outcome of recordable cases.* Employers must also determine the extent and outcome of the recordable cases. Part 1904.12(c) of the regulations provides the categories in which recordable cases must be classified. These categories are discussed at length in chapter VI.

A–1. Q. How do you differentiate between employees and independent contractors for recordkeeping purposes?

A. This should be evaluated on a case-by-case basis. Employee status generally exists when the employer supervises not only the output, product, or result to be accomplished by the person's work, but also the details, means, methods, and processes by which the work objective is accomplished.

Independent contractors are primarily subject to supervision by the using firm only in regard to the result to be accomplished or end product to be delivered.

Other factors which should be considered in determining employee status are: (1) Whom the worker considers to be his or her employer; (2) who pays the worker's wages; (3) who withholds the worker's Social Security taxes, (4) who hired the worker; and (5) who has the authority to terminate the worker's employment.

People considered independent contractors for other reasons may be considered employees for OSHA recordkeeping purposes.

A–2. Q. Sometimes, businesses use workers from temporary help supply services on a contract basis. Should the using firm record the injuries and illnesses of these temporary workers, or should the service?

A. If the temporary workers are being supplied for indefinite periods of time, or if they are subject to the supervision of the using firm, the temporary help supply service contractor is acting merely as a personnel department for the using firm, and the using firm must keep the records for the personnel supplied by the service.

If the temporary workers are supplied for short periods, and remain subject primarily to the supervision of the supply service, the records must be kept by the service. (See question A–1 above for other considerations.)

A–3. Q. If an employee working in a plant on a contract basis is injured, is the injury recorded on the plant's records or on the records of the contractor?

A. In most situations, the contractor supervises the employee's general work activities and is responsible for maintaining the employee's injury and illness records.

There are exceptional situations, however, where the contractor has no responsibility for supervision of the employee's day-to-day work activities. In these cases, the using firm assumes responsibility for recording his or her injury and illness experience on its records; hours worked for this group of employees should also be obtained.

A–4. Q. Are independent truckdrivers operating on a contract basis considered employees of the company for which they are hauling?

A. Generally, these workers are not considered employees of the using firm. However, see the preceding questions for other factors to be considered in making this evaluation.

A–5. Q. Who is responsible for maintaining records in migrant labor camps?

A. Employing farmers are responsible for maintaining these records if they exercise supervision over the day-to-day work activities of the migrant laborers.

However, if the migrant workers are supplied to the farmers on a purely contractual basis, the farm labor contractors should maintain OSHA records for the migrant laborers. (See question A–1 above for the other considerations in making this determination.)

B. Decisionmaking Authority for Recordkeeping Determinations

1. *Delegation of authority by the Occupational Safety and Health Act of 1970 and Part 1904 of the Code of Federal Regulations.* Both the recordkeeping portion of the act and Part 1904 of the regulations are explicit in assigning recordkeeping responsibilities to employers. Section 8(c)(1) of the act requires employers to complete and preserve records of occupational injuries and illnesses:

> Each employer shall make, keep and preserve, and make available to the Secretary or the Secretary of Health, Education, and Welfare, such records regarding his activities relating to this Act as the Secretary, in cooperation with the Secretary of Health, Education, and Welfare, may prescribe by regulation as necessary or appropriate for the enforcement of this Act or for developing information regarding the causes and prevention of occupational accidents and illnesses.

In addition, Part 1904.2(a) of the regulations carefully states employer recordkeeping obligations:

> Each employer shall, except as provided in paragraph (b) of this section, (1) maintain in each establishment a log and summary of all recordable occupational injuries and illnesses for that establishment; and (2) enter each recordable injury and illness on the log and summary as early as practicable. . . .

Parts 1904.4 and 1904.5 of the regulations describe employer responsibilities concerning the supplementary record and the annual summary.

2. Requirement of good faith. Although employers ultimately decide if and how a particular case should be recorded, their decision must not be an arbitrary one, but should be made in accordance with the requirements of the act, regulations, the instructions on the forms, and the guidelines in this report. Information from medical, hospital, or supervisors' records should be reviewed along with other pertinent information, and the employee should be interviewed to determine his or her medical condition and ability to perform normal job duties.

3. Checks and balances within the recordkeeping system. The validity of the records is enhanced by the involvement of all participants in the recordkeeping and reporting system. Employers need accurate and meaningful injury and illness information so that they can focus safety and health efforts on high-risk areas and activities to eliminate workplace hazards. Consequently, they should make every effort to accurately record their firm's injury and illness experience. In addition, OSHA periodically reviews workplace records to verify their accuracy. Further, the posting and access provisions in Part 1904 of the regulations allow employees to review the records to insure the validity of recordkeeping determinations. Chapter II of this report discusses the posting requirements; employee access is covered in chapter VIII.

4. Penalties for recordkeeping violations. Part 1904.9(a) provides the penalties for falsification of records or reports. This part incorporates the language of Section 17(g) of the act:

Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Act shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment, for not more than 6 months, or both.

Additional information is available on penalties for recordkeeping violations in chapter VIII.

B–1. Q. What entries, if any, need to be made in instances of employer-employee disputes involving State workers' compensation measures to determine the facts related to alleged injuries, illnesses, or deaths?

A. Workers' compensation determinations should not impact the OSHA recordability of cases under OSHA. Some cases may be covered by workers' compensation but are not recordable; others may be OSHA recordable but are not covered by workers' compensation. Cases should be evaluated solely on the basis of OSHA requirements.

B–2. Q. Who decides if an injured employee is capable of working?

A. This decision must be the employer's. There will be a few cases in which the employer and the employer's physician feel certain that an employee is perfectly able to work, but the employee disagrees. If the employer is absolutely certain about the case, it should not be entered on the log, OSHA No. 200. However, if the employer has any doubt about the case, it should be entered on the log and lined out later if it turns out that, in fact, the employee was able to perform his or her job. The employee may file a complaint if he disagrees with the employer's decision.

B–3 Q. Why does the employer always decide what is recordable? Why can't it be the company doctor since the doctor or the medical department usually decides whether an employee is capable of working after an injury?

A. The act says that the employer is responsible for keeping the records. The employer may delegate the responsibility to someone else, or may rely on the determination of a doctor. However, the decision is ultimately the employer's.

B–4. Q. Who has the legal liability for making recordkeeping determinations—the person who signs the forms, the local manager, or the company executive officer?

A. The liability belongs to the employer who is ultimately responsible for recording and reporting. Each of the aforementioned persons is a representative of the employer.

B–5. Q. The act states that whoever supplies false information is subject to penalty. Does this cover both the employer and the employee if either knowingly supplies false information?

A. Most of the penalty provisions in Section 17 of the act apply to "any employer," but the penalty for false statements applies to "whoever knowingly makes any false statement. . . ." This has been interpreted by the Occupational Safety and Health Review Commission to include both employers and employees.

B–6. Q. How are disagreements on recordability or the extent of a case resolved when a dispute arises between an employer and an employee, or between an employer and an OSHA compliance officer?

A. Employers have the final responsibility for making bona fide recordkeeping determinations. However, employers' decisions may be challenged. Persons challenging these decisions may contact OSHA, who, in turn, will contact the employer. If no resolution can be obtained through discussions, the following steps are involved: (1) After examining the records and investigating the work situation, an OSHA compliance officer may request that the employer make changes in his OSHA records; (2) if the employer refuses, the compliance officer may recommend to the OSHA Area Director that a citation be issued; (3) if a citation is issued, the employer has an opportunity for an informal conference with the OSHA Area Director to present his viewpoint (the OSHA Area Director may uphold or reduce the proposed penalty as a result of this conference); (4) if the dispute remains unresolved, the employer can still contest the citation; (5) contested cases are litigated before an administrative law judge of the Occpuational Safety and Health Review Commission; and (6) thereafter are subject to the statutory appeals process.

Employers and other parties interested in the enforcement process should contact their closest OSHA area office or their OSHA regional office. This process is described in detail in the OSHA pamphlet, *Employer Rights and Responsibilities Following an OSHA Safety Inspection.* Addresses and telephone numbers for OSHA regional offices are listed in appendix E of this report.

Chapter V. Analysis of Recordability of Cases

This chapter presents guidelines for determining whether a case must be recorded under the recordkeeping requirements of the Occupational Safety and Health Act of 1970, as well as how to classify recorded cases. These requirements should not be confused with recordkeeping requirements of various workers' compensation systems, internal industrial safety and health monitoring systems, the ANSI Z.16 standards for recording and measuring work injury and illness experience, and private insurance company rating systems. Reporting a case on the OSHA records should not affect recordkeeping determinations under these or other systems. Also:

Recording an injury or illness under the OSHA system does not necessarily imply that management was at fault, that the worker was at fault, that a violation of an OSHA standard has occurred, or that the injury or illness is compensable under worker's compensation or other systems.

At the outset, it should be noted that the scope of recordability of the OSHA system detailed in this chapter is broader and more inclusive than that of most other recordkeeping systems. Some injuries and illnesses are included that may not be "compensable" in the workers' compensation context, or "recordable" under individual company safety and health recordkeeping systems. These cases were included in order to make the system as simple and equitable as possible. The alternative of developing a detailed list of exceptions for not recording specific injuries and illnesses was felt to impose far greater administrative and reporting burdens on most employers than requiring that a relatively small number of borderline cases be recorded. The relatively simple OSHA recording boundaries assure a valid, consistent, and uniform recordkeeping system that is capable of producing reliable statistical information.

The OSH Act provides a basic description of which cases are to be recorded. The recordkeeping regulations in 29 CFR Part 1904 provide specific recording and reporting requirements which comprise the framework of the OSH recordkeeping system. The regulations also expand upon the basic definition of recordability in the act.

In a few situations, the criteria of the act, regulations, or the guidelines listed in this report may seem inappropriate. However, it would be virtually impossible to enact legislation, draft regulations, or issue guidelines that address every possible recordkeeping situation. The recordkeeping system currently encompasses over 5 million workplaces throughout the United States. Wide variations exist in the training of individuals making recordkeeping determinations and the resources firms can allocate to the recordkeeping process. Recordkeeping

criteria must be sufficient to meet the needs of safety and health professional maintaining complex programs, while also remaining comprehensible to those maintaining records without the benefit of specialized safety and health training (such as some employers with small-sized establishments) and the approximately 75 million employees involved in the recordkeeping process through the posting and access provisions of the regulations.

Although generally well intentioned, employers or trade associations are discouraged from formulating their own guidelines for recordability which differ in substance from these guidelines or deviate from the OSHA regulations. If employers follow different guidelines, differences in interpretation might be injected into the system which could jeopardize the uniformity of the records and the validity of the statistical data. The BLS guidelines represent official agency interpretations of employer recordkeeping requirements. They provide recordkeeping principles that were developed through a cooperative effort between government, business, and labor prior to and following the implementation of the act, and have been followed by most employers in making recordkeeping determinations since their issuance in 1972. The guidelines provide the Department of Labor's interpretation of the requirements of the OSH Act and regulations, and are considered supplemental instructions to the recordkeeping forms.

Employers with questions on OSHA recordkeeping and reporting not specifically addressed in this report should contact the State agency cooperating with BLS in administering the recordkeeping program or the BLS regional or National offices.

A. Method Used for Case Analysis

Sections 8(c)(2) and 24(a) of the Occupational Safety and Health Act provide the basic definition of the types of cases to be recorded:

> . . . work-related deaths, injuries and illnesses other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.

Part 1904.12(c) of the *Code of Federal Regulations* contains a definition of recordable injuries and illnesses which follows this language and incorporates criteria for determining the extent or outcome of these cases. Under this part, injuries and illnesses are classified as deaths, lost-time cases, or non-lost-time cases.

The definition of a recordable case in the heading of the log (OSHA No. 200) reflects the language of the act and regulations:

> RECORDABLE CASES: You are required to record information about every occupational *death;* every nonfatal occupational *illness;* and those nonfatal occupational *injuries* which involve one or more of the following: loss of consciousness, restriction of work or motion, transfer to another job, or medical treatment (other than first aid).

This definition provides sufficient guidance for the analysis of the vast majority of cases under the OSHA recordkeeping system. Chart I presents this methodology in graphic form and outlines the line of thought employers should apply in deciding whether or not to record a particular case. Only a very small proportion of the cases require additional criteria to determine recordability.

The decisionmaking process consists of five steps:

1. Determine whether a case occurred; that is, whether there was a death, illness, or an injury;
2. Establish that the case was work related; that it resulted from an event or exposure in the work environment;
3. Decide whether the case is an injury or an illness;
4. If the case is an illness, record it and check the appropriate illness category on the log;
5. If the case is an injury, decide if it is recordable based on a finding of medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.

B. Determining Whether or Not a Case Occurred

The first step in the decisionmaking process is the determination of whether or not an injury or illness occurred. Employers have nothing to record unless an employee has experienced a work-related injury or unless a work-related illness is recognized. In most instances, recognition of these injuries and illnesses is a fairly simple matter. However, some of the following situations have troubled employers over the years.

B–1. Q. If an injury or illness occurs, does it matter for the purposes of recordability who was at fault in causing the accident or illness exposure?

A. No. Fault plays no role in the OSHA recordkeeping system. Injury and illness statistics produced by such a system would not accurately reflect overall worker experience (i.e., it would be missing those cases reported for which employers are not at fault) and consequently would not satisfy the coverage requirements of the Occupational Safety and Health Act of 1970. Section 2(b)(12) of the act states that one of its purposes is to provide for appropriate reporting procedures ". . . which will accurately describe the nature of the occupational safety and health problem." Sections 8(c)(2) and 24(a) of the act specifically define what is a recordable injury. They make no distinction between incidents that are compensable under State workers' compensation laws, incidents caused by employer neglect, incidents that are preventable, or the random incidents that seem to happen when no one is at fault.

In addition, there are serious practical limitations. Recording cases on the basis of fault would necessitate the introduction of extremely complex recording criteria to be evaluated by both employers and employees. And whose judgment would prevail as to who was at fault in causing the injury or illness? Such determinations would almost certainly result in employers and employees contesting a significant number of recordkeeping decisions.

The concept of fault has never been a consideration in any recordkeeping system of the Department of Labor, nor has it been incorporated into various State workers' compensation systems or statistical systems of other agencies such as the American National Standards Institute.

B–2. Q. Does it matter for OSHA recordkeeping purposes whether or not the injuries and illnesses are preventable?

A. No. Recording only those injuries and illnesses that are preventable would not produce sufficient information to meet the coverage requirements of the OSH Act and 29 CFR Part 1904, nor would it satisfy the needs of the Occupational Safety and Health Administration for comprehensive injury and illness information. Focusing on whether or not the injuries and illnesses experienced were preventable would result in employers and employees contesting a significant number of recordkeeping decisions, and would unduly complicate many recordkeeping determinations.

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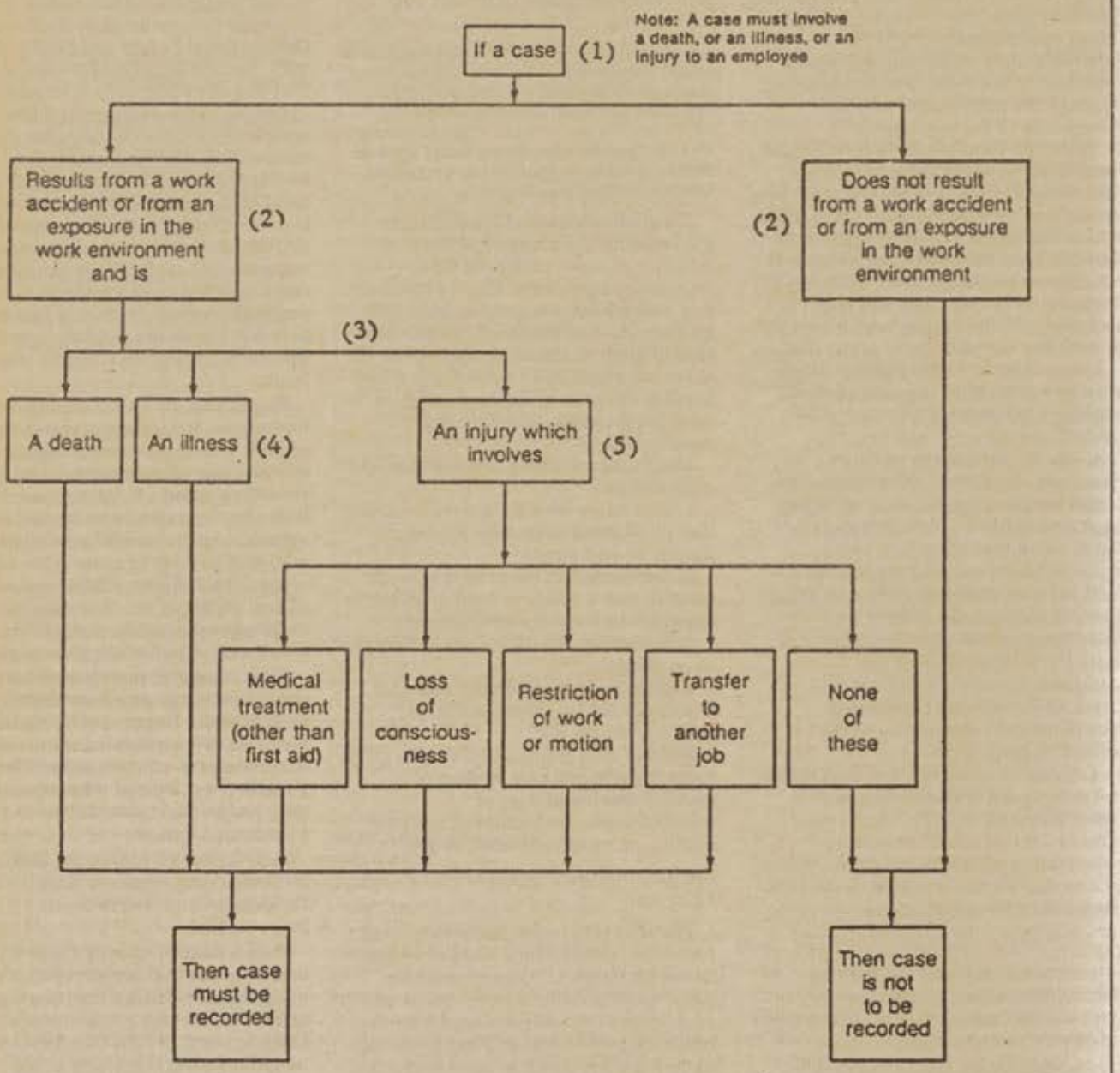
Chart 1. Guide to Recordability of Cases Under the Occupational Safety and Health Act



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B–3. Q. Must an employee be involved in a specific job task for an injury or illness to be recordable?

A. No. For a case to be recordable, the worker must have been an employee of the firm at the time of the injury or illness exposure. Workers are considered employees while in pay status. In this context, pay status refers to the overall employment relationship whereby the worker is receiving wages or some other form of compensation for the employer for services rendered. It does not mean that the worker must be involved in some specific job task at the time of the injury or illness exposure for the case to be recordable, or that cases are recordable only if they occur during hours for which wages are paid. (See section C of this chapter for a discussion of work relationship.)

B–4. Q. Are cases recordable if they are discovered after the injured or ill employee has been terminated or has retired?

A. These cases are recordable throughout the 5-year record retention period (see chapter III), so long as the employee was on active duty or in pay status when the injury or illness exposure occurred. The worker does not need to be an active employee or in pay status at the time the case is recorded. Such cases should be recorded on the log of the year of the injury or illness exposure.

B–5. Q. Are there time limits in recording cases. Suppose a worker says he hurt his back 2 weeks ago, but there was no record or report of it at that time. Is it subsequently recordable on this OSHA No. 200?

A. Yes. If it is established that a recordable back injury did occur, it must be included on the OSHA No. 200, even though the determination was made several weeks after the injury occurred. The actual date of injury should be entered in column *B* of the log.

Employers are required to make entries on the OSHA logs for all recordable injuries and illnesses experienced by their employees. This obligation exists not only during the year that the injury or illness exposure took place, but also throughout the 5-year maintenance and retention period. (See chapter III, sections D and E.)

B–6. Q. Are exposures to harmful substances recordable?

A. These exposures, in and of themselves, are not recordable under Part 1904 of the regulations. Entries on the log, OSHA No. 200, and on the supplementary record, OSHA No. 101, need be made only when the exposure results in a recordable work injury or illness.

However, in addition to the general recording requirements in Part 1904, some specific OSHA standards or State regulations may require the recording of exposures to particular substances. These requirements are not addressed in this report. Employers should consult the appropriate OSHA standards or State regulations to ascertain their additional recordkeeping obligations.

B–7. Q. Are permanent or temporary transfers to another job to remove employees from further exposure to hazards considered recordable cases for the purposes of OSHA recordkeeping?

A. If these transfers are preventive in nature, and if no work-related illness has occurred, they are not considered recordable events.

Employers usually make such transfers either: (1) To control the amount of employee exposure during a specific period of time, or (2) to remove an employee from an area to control adverse health effects.

B–8. Q. If a driver involved in an auto accident is sent for a physical examination without any specific injury, should the case be recorded?

A. This would be in the nature of preventive medicine and would not be recorded unless the examination reveals that a recordable injury resulted from the accident.

B–9. Q. If a hospital employee contracts an illness from a patient and all employees in the hospital unit are inoculated to prevent spread of the illness, is each person so treated considered a recordable case?

A. No. Such cases would not be recordable because the employees are receiving preventive care and are not injured or ill. Of course, the case of the hospital employee who contracted the illness should be recorded.

B–10. Q. Is hospitalization for observation recordable?

A. If an employee goes to or is sent to a hospital for a brief period of time for observation, it is not recordable, provided that no medical treatment was given, or no illness was recognized. While hospitalization for observation under these circumstances is not recordable on the OSHA 200 form, if 5 or more such hospitalizations occurs as the result of a single incident at a worksite, the incident shall be reported to OSHA within 48 hours. (See 29 CFR 1904.8, chapter VII, section B of these guidelines, or the OSHA Field Operation Manual Instructions.)

B–11. Q. What if the employee is admitted to the hospital or stays in the hospital for observation for several hours? Is this still not recordable?

A. These cases are recordable. The focus, however, is not on the length of the stay, but on whether medical treatment was provided or whether the incident is recordable on one of the other grounds. Prolonged hospital stays are usually associated with the more serious cases and often involve some form of medical treatment, even though they may be initiated for primarily diagnostic purposes.

B–12. Q. How do you differentiate between a new incident and the recurrence or further complication of a previous injury or illness? What is the difference between these two situations for OSHA recordkeeping purposes?

A. Employers are required to make new entries on their OSHA forms for each new recordable injury or illness. New entries should not be made for the recurrence of symptoms from previous cases.

Injuries. The aggravation of a preexisting injury almost always results from some movement by the employee. Consequently, when work-related, these new incidents should be recorded as new cases on the OSHA forms, assuming they meet the criteria for recordability described in sections C, D, and E of this chapter.

Illnesses. Deciding whether the emergence of illness symptoms constitutes a new event or the recurrence of a previous illness is more complex. Generally, each occupational illness should be recorded with a separate entry on the OSHA No. 200. However, certain illnesses, such as silicosis, may have prolonged effects which recur over time. The recurrence of these symptoms should not be recorded as a new case on the OSHA forms.

The recurrence of symptoms of previous illnesses may require adjustment of entries on the log for previously recorded illnesses to reflect possible changes in the extent or outcome of the particular case.

B–13. Q. Should an employee's pre-existing condition be taken into account in making OSHA recordkeeping determinations?

A. Pre-existing conditions are not considered relevant in making determinations of recordability under the OSH Act except for the recurrence of symptoms of work-related illnesses discussed in B–12 above. Employers should record each case resulting from an event (such as a slip, trip, fall, or overexertion) and each exposure that results in a recordable work injury or illness regardless of the employee's pre-existing condition. This is essential to the maintenance of a workable system that produces statistics that accurately reflect the incidence (and not

prevalence) of work injuries and illnesses.

B–14. Q. Does this mean that when an employee is hired with a known physical defect, such as a trick knee, a work accident partially attributable to this defect would result in a recordable case?

A. Yes. An employee's physical defect or pre-existing physical condition does not affect the determination of recordability. If such a case results from an event or exposure in the work environment and meets the other criteria for recordability, the employer must enter it on the OSHA forms without regard to the employee's pre-existing physical condition. If injury results *solely* from a physical defect (i.e., employee falls while walking when trick knee gives way AND there is no environmental factor), it is *not* occupational. However, if the work environment or a work event contributes (i.e., employee steps on stone or slips, trick knee gives way, and he falls), any resulting injury is occupational.

B–15. Q. Are there specific requirements for evaluating the occurrence of back or hernia cases?

A. No. Back and hernia cases should be evaluated in the same manner as any other case. Questions concerning the recordability of these cases usually revolve around: (1) The impact of a previous back or hernia condition on the recordability of the case, or (2) whether or not the back injury or hernia was work related.

Pre-existing conditions generally do not impact the recordability of cases under the OSHA system. (See preceding questions 13 and 14.)

For a back or hernia case to be considered work related, it must have resulted from a work-related event or exposure in the work environment. Employers may sometimes be able to distinguish between back injuries that *result* from an event in the work environment, and back injuries that are caused elsewhere and merely *surface* in the work environment. The former are recordable; the latter are not. (See section C of this chapter for a discussion of work relationship.)

B–16. Q. An employee's back goes out while performing routine activity at work. Assuming the employee was not involved in any stressful activity, such as lifting a heavy object, is the case recordable?

A. Particularly stressful activity is not required. If an event occurred in the work environment that caused or contributed to the injury, the case would be recordable, assuming it meets the other requirements for recordability.

B–17. Q. Must there be an identifiable event or exposure in the work environment for there to be a recordable case? What if someone experiences a backache, but cannot identify the particular movement which caused the injury?

A. Usually, there will be an identifiable event or exposure to which the employer or employee can attribute the injury or illness. However, this is not necessary for recordkeeping purposes. If it seems likely that an event or exposure in the work environment either caused or contributed to the case, the case is recordable, even though the exact time or location of the particular event or exposure cannot be identified.

If the backache is known to result from some nonwork-related activity outside the work environment and merely surfaces at work, then the employer need not record the case. In these situations, employers may want to document the reaons they feel the case is not work related.

B–18. Q. What about cases where the employee alleges that an injury or illness has occurred? Must employers record these cases without any medical verification?

A. Medical verification is not required for recordability. However, employers have ultimate responsibility for making good-faith recordkeeping determinations. If an employer doubts the validity of an employees' alleged injury or illness and there is no substantive or medical evidence supporting the allegation, the employer need not record the case.

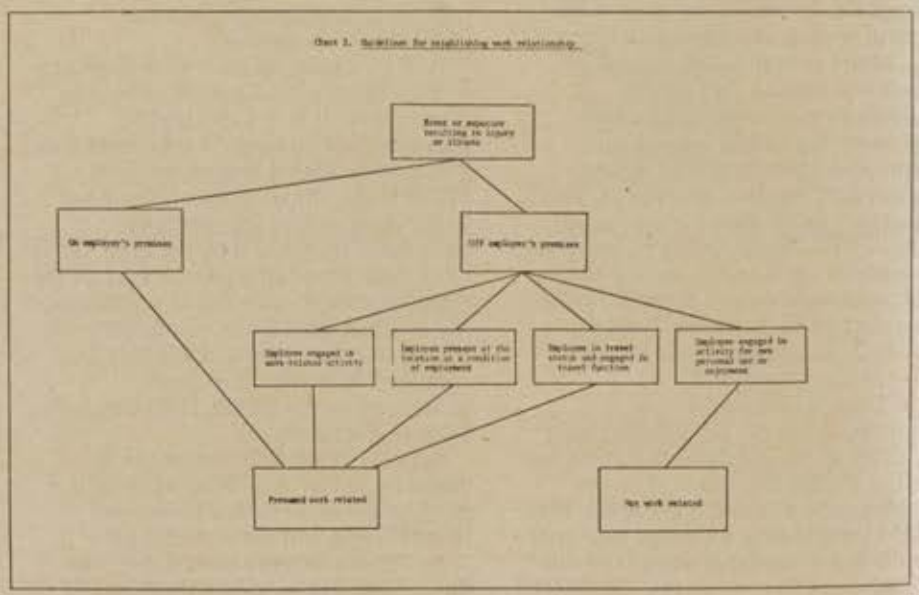
B–19. Q. Must occupational injuries and illnesses that are disputed be recorded?

A. Within 6 workdays after receiving information that an injury or illness has occurred, the employer must determine whether the case is recordable. Questionable cases should be entered on the log, OSHA No. 200, and lined out at a later date if they are found not recordable.

C. Establishing Work Relationship

Work relationship is the next requirement for recordability. The Occupational Safety and Health Act of 1970 requires employers to record injuries and illnesses that are work related. *Work relationship is established under the OSHA recordkeeping system when the injury or illness results from an event or exposure in the work environment. The work environment is primarily composed of: (1) The employer's premises, and (2) other locations where employees are engaged in work-related activities or are present as a condition of their employment.* When an employee is off the employer's premises, work relationship must be established; when on the premises, this relationship is presumed. The employer's premises encompass the total establishment. This includes not only the primary facility, but also such areas as company storage facilities and restricted company parking lots. In addition to physical locations, equipment, or materials used in the course of an employee's work are also considered part of the employee's work environment.

Chart 2 provides a guide for establishing the work relationship of cases.



1. *Injuries and illnesses resulting from events or exposures on the employer's premises.* Generally, injuries and illnesses that result from an event or exposure on the employer's premises are considered work related. The employer's premises consist of the total establishment. They include the primary work facility and other areas which are considered part of the employer's general work area.

C–1. Q. Are injuries of employees in company restrooms, hallways, or cafeterias considered to be work related?

A. Yes. These areas are generally all considered to be part of the employer's premises and constitute part of the work environment. Injuries occurring in the work environment are considered work related. The specific activity the employee was engaged in at the time of the injury is not the controlling factor.

C–2. Q. Do the employer's premises include employer controlled recreational facilities such as company ball fields, golf courses, etc.?

A. For OSHA recordkeeping purposes, the definition of work premises excludes employer controlled ball fields, tennis courts, golf courses, parks, swimming pools, and other similar recreational facilities which are *basically apart from the workplace and dedicated primarily to employee use during off-work hours.* However, recreational facilities located within the work environment are included as part of the work premises. These may include company controlled gymnasiums, handball courts, racketball courts, etc. *that are located within the work facility.*

C–3. Q. Are company parking lots considered part of the employer's work premises?

A. Parking facilities that are generally accessible to both employees and members of the general public are not considered part of the employer's work premises. Therefore, injuries to employees on these public parking lots are not recordable unless the employee was engaged in some specific work activity. However, injuries to employees on parking lots restricted to employee and visitor use only would be considered on premises and hence presumed work related.

Visitor parking spaces are distinguished from parking for general public by the firm's ability to limit or revoke driver access.

C–4. Q. An employer neither owns nor leases the property on which he conducts his business operations. Under the regulations, would the property be considered part of the employer's premises?

A. The determination of whether a particular location constitutes part of the employer's premises depends upon whether the location is considered part of the employer's domain, not whether he owns or leases it. As a general rule, if the site is part of an establishment of the employer, it is considered part of his premises.

An establishment is a single physical location where business is conducted or where services or industrial operations are performed.

C–5. Q. Is a right-of-way used by a utility company considered to be part of the utility company's premises?

A. Yes. A utility company has a sufficient relationship to these rights-of-way to have them considered part of its premises. Injuries and illnesses occurring to utility workers in these areas are presumably work related.

C–6. Q. What about cases that occur on the premises during nonduty hours? If a case occurs either before or after normal work hours, or on the weekends and holidays when work is not scheduled, is it recordable?

A. Presence on the employer's premises is normally sufficient to establish work relationship. It does not matter whether or not the incident occurs during regular working hours if the worker is present to perform some job task or receive some employment benefit, or if his presence is in some way *related to his status as an employee.* (For further clarification, see the answers to questions C–9 and C–10.)

C–7. Q. Is every case resulting from an event or exposure on the employer's premises considered work related?

A. No. The general rule is that all injuries and illnesses which result from events or exposures occurring to employees on the employer's premises are presumed to be work related. Under the recordkeeping system, the premises include the total establishment. The nature of activity which the employee is engaged in at the time of the event or exposure, the degree of employer control over the employee's activity, the preventability of the incident, or the concept of fault do not affect the determination.

There are cases which occur on the employer's premises and which do not seem to have anything to do with the work but which must still be recorded to maintain the simplicity of the recording criteria and the integrity of the statistics. Some examples are: employee chokes while eating lunch in company cafeteria; injuries resulting from employee horseplay; and, an employee injured while playing basketball in the company gymnasium during lunch break. These are included to keep relatively simple recording boundaries necessary for maintaining a workable system which can be used by the 5 million employers and 75 million employees subject to the recordkeeping regulations.

C–8. Q. Under the OSHA recordkeeping system, work relationship is presumed when the employee is on the employer's premises. Is this presumption rebuttable? If so, describe some situations where the employee's presence on the premises would not be sufficient, by itself, to establish work relationship.

A. The presumption is rebuttable. One situation where the presumption would not apply would be where a worker is on the employer's premises as a member of the general public and not as an employee. (See question C–9, for a further description of these situations.) Another example would be a case, with symptoms that merely surface on the employer's premises, where the symptoms are the result of a nonwork-related event or exposure off premises. (See questions B–15 and B–17 for the application of this type of analysis to back cases.)

C–9. Q. How do you determine those situations where a worker is off duty and is on the employer's premises as a member of the general public and not as an employee? For example, a department store employee returns to the store during off-duty hours solely to shop and is injured. Is this case work related?

A. No. The case is not work related. For cases such as this to be recordable, there must be some relationship between the persons's presence on the premises and his or her status as an employee. Employers should ask themselves: Would the person have been on the premises but for the fact that he or she was an employee? It is important to note that the focus is on the *status* of the person as an employee, not on the activity the person was engaged in at the time of the event or exposure.

The example provided above is not recordable because the worker was present on the premises solely to shop; his presence on the premises had no relationship whatsoever to his status as an employee. Any member of the general public could come into the store to shop. This exclusion applies even if the employee is receiving some employment benefit such as an employee discount in a department store, or using public restrooms while on the employer's work facilities for

personal reasons, e.g., filling station employee working on his or her own car. Identical cases which occur when an employee is in work status would, however, be considered work related and hence recordable. The following situations illustrate cases where there is sufficient connection between an off-duty employee and the job to establish work relationship:

1. The employee is injured on the premises while going to or from a work shift.

2. The employee is injured on the premises while picking up a pay check during off-duty hours.

3. An employee is injured on the premises during lunch or coffee breaks.

C–10. Q. Please define "premises" for the trucking industry. Is the cab of the truck the premises? What about loading and unloading? Is the area about the truck used for loading and unloading considered part of the premises?

A. A truck on the road or loading and unloading away from its home base would be off the employer's premises. However, injury or illness exposures experienced during these activities would still be work related because the employees are engaged in work-related activities. The truck and its surroundings are considered part of the work environment even though they are not part of the employer's premises.

C–11. Q. Why record injuries and illnesses other than those that occur during the execution of a specific work assignment undertaken at the direction of management?

A. The stated purpose of the Occupational Safety and Health Act of 1970 requires a broader scope of coverage than "the execution of specific work assignments." Section 2 of the act addresses injuries and illnesses arising out of "work situations." Sections 2(b)(1), (2), and (4) of the act refer to "place of employment" and the provisions of safe and healthful "working conditions." Section 2(b)(7) of the act deals with preventing employee ill health as a result of the "work experience." Section 2(b)(12) states that one of the purposes of the act is to provide for appropriate reporting procedures ". . . which will accurately describe the nature of the occupational safety and health problem." These and other references throughout the act indicate that its coverage is intended to go beyond specific job tasks to encompass the total work environment.

In addition, the inclusion of these cases is necessary for the maintenance of a simple and equitable recordkeeping system capable of furnishing statistically reliable information.

C–12. Q. Do employers have to record an injury on the employer's premises that occurs to an employee as a result of horseplay? Would they have to record a case if it resulted from a robbery?

A. Yes. Both would be recordable. Activities on the employer's premises are presumed to be work related. The basis for determining work relationship for OSHA recordkeeping purposes is that the event occurred in the work environment.

Sections 8(c)(2) and 24(a) of the OSH Act specifically define recordable injuries and illnesses. They make no distinction between incidents that are compensable under State workers' compensation laws, incidents that are caused by worker negligence, incidents caused by employer neglect, incidents that are preventable, or the random incidents that seem to happen when no one is at fault.

2. *Injuries and illnesses resulting from events or exposures off premises.* When an employee is off the employer's premises and suffers an injury or an illness exposure, work relationship must be established; it is not presumed. Injuries and illness exposures off premises are considered work related if the employee is engaged in a work activity or if they occur in the work environment. The work environment in these instances includes locations where employees are engaged in job tasks or work-related activities, or places where employees are present due to the nature of their job or as a condition of their employment.

C–13. Q. Our employees participate in many off premises activities such as picnics, impromptu softball games at noon, bowling leagues at night, and a football team which plays its games on weekends. If any of our employees are injured in these activities and require medical treatment, should the injuries be recorded?

A. They need only be recorded if they are connected with the injured person's job. If the employees are paid for sports activities or are required by their employer to participate, any resulting injuries are work related and should be recorded. If not, the injuries which occur are not recordable, even though the employer may be providing uniforms and equipment.

C–14. Q. Is a case recordable if an employee is injured while walking to work on a public sidewalk from a public parking lot? What if an employee gets into a fight or is attacked in this situation?

A. These cases do not appear to be work related since the injuries did not occur in the work environment, and the employees were not engaged in work-related activities. Public places are generally not part of the work environment unless the employee has begun work and is performing a work-related activity, or is present at the public location as a condition of his or her employment. For example, the work environment for a route salesperson may include public streets, highways, sidewalks, etc.

C–15. Q. Would an injury which took place after a person checked into work, but occured while he or she was off the company permises on an errand be recordable?

A. This case is recordable if the employee was engaged in a work-related activity or if the person's presence at the location of the injury was required by his or her job. If the errand was personal in nature, the injury should not be recorded.

C–16. Q. Are the employee's activities off the employer's premises all deemed work related once the employee's work shift has begun?

A. No. Work relationship must be established for employee activities off premises—it is not presumed. To be engaged in a work-related activity off premises, the employee must have been performing some job, task, or sevice for the employer, or must have been present at the off-premises location in connection with his or her employment. If the employee is off the employer's premises, and leaves the normal area of operations entirely for his or her own purpose, then these activities would not be considered work related.

C–17. Q. Is an injury occuring during the lunch of an employee working off the employer's premises in nontravel status considered work related?

A. This case would be work related if it occurred in the off-premises work environment or if it was a work-related luncheon.

C–18. Q. Are injuries considered work related when they occur to employees who work on the employer's premises, but leave the premises for lunch and are injured?

A. No. Injuries occurring to employees while they are off the employer's premises and out of the work environment on lunch are not recordable unless the luncheon is in some way required by their job.

C–19. Q. How are employees in travel status handled differently?

A. All of the employee's activities required by the trip are considered to be work related. The rationale is that the traveling employee would not be exposed at this location but for the travel requirement of his or her job.

An employee's work-related activities on a business trip include such necessary travel-related functions as eating, sleeping and traveling. However, extraneous activities unrelated to the normal scope of the trip and solely for the employee's own personal use or enjoyment should not be recorded. Examples of these non-recordable events would be injuries on excursions, such as ski trips, or injuries which occur in public places when the employee is there for recreational purposes only.

C–20. Q. Are there any time limitations imposed on the work relationship designation for employees in travel status?

A. An employee in travel status is considered to be in the work environment 24 hours a day. However, see question C–19 above for the substantive limitations.

C–21. Q. When is work relationship first established for an employee in travel status? When he or she leaves home? At the airport, train station, etc.?

A. For recordkeeping purposes, work-related activities begin when the employee leaves home, assuming the employee did not intend to report to his or her office prior to beginning the trip. If the employee first reports to the office, travel status begins when the employee leaves the office to begin the trip. Travel status ends once the employee returns to the point of origin of the trip. (Employers should refer to questions A–12–14 in chapter I for a discussion of the geographic coverage limitations on travel status.)

C–22. Q. How do you differentiate between employees working off premises in nontravel status and employees in travel status?

A. Employees off premises in nontravel status still work within their normally scheduled hours and normal geographic area of operation. Employees in travel status must either be: (1) Outside their normal area of operation, or (2) working off premises for more than a normal workday (such as staying overnight).

D. Distinguishing Between Injuries and Illnesses

Under the OSH Act, all work-related illnesses must be recorded, while only those injuries which required medical treatment (other than first aid), or involve loss or consciousness, restriction of work or motion, or transfer to another job are recordable. The distinction between injuries and illnesses, therefore, has significant recordkeeping implications.

The determination of whether a case involves an injury or illness is determined by the nature of the original event or exposure which caused the case, not by the resulting condition of the affected employee. Injuries are caused by *instantaneous* exposures in the work environment. Cases resulting from anything other than instantaneous events are considered illnesses. This concept of illnesses includes acute illnesses which result from exposures of relatively short duration.

An occupational injury is defined on the back of the log and summary form, OSHA No. 200, as follows:

Occupational Injury is any injury such as a cut, fracture, sprain, amputation, etc., which results from a work accident or from an exposure involving a single incident in the work environment.

Note.—Conditions resulting from animal bites, such as insect or snake bites, or from one-time exposure to chemicals are considered to be injuries.

A single incident involving a *one-time instantaneous* exposure to chemicals is classified as an injury. Occupational injuries are analyzed in detail in the following section of this chapter.

An occupational illness is defined on the back of the log and summary form, OSHA No. 200:

Occupational Illness of an employee is any abnormal condition or disorder, other than one resulting from an occupational injury, caused by exposure to environmental factors associated with employment. It includes acute and chronic illnesses or diseases which may be caused by inhalation, absorption, ingestion, or direct contact.

Some conditions may be classified as either an injury or an illness (but not both), depending upon the nature of the event that produced the condition. For example, a loss of hearing resulting from an explosion (an instantaneous event) is classified as an injury; the same condition arising from exposure to industrial noise over a period of time would be classified as an occupational illness. Similarly, irritation of the throat from exposure to chlorine gas fumes could be classified as either an injury or an illness. If the exposure was instantaneous and occurred when a cyclinder of gas ruptured, the case would be considered an injury. The case would be an illness if the employee was exposed to the agent over time, such as working in an area where chlorine fumes from a bleaching process were present.

This seeming inconsistency in recording certain types of cases has its foundation in industrial safety practice. The safety measures rquired to avoid instantaneous events are considered fundamentally different from those required to prevent exposures over a period of time which result in conditions of ill health. The classification of a case as an injury or an illness is intended to reflect this distinction.

D–1. Q. Should an adverse reaction to a tetanus shot given for a laceration be classified as an injury or an illness?

A. This should be classified as an injury because the classification is based on the original event—the laceration—not on the subsequent developments.

D–2. Q. Should the following two cases be recorded differently; if so, what is the rationale behind the differentiation?

a. Lacerations resulting from a chemical explosion.

b. A respiratory ailment resulting from a chemical explosion.

A. Both of these cases would be classified as injuries because of the nature of the original event, a chemical explosion.

D–3. Q. How do you distinguish an injury from an illness? For example, it appears that a burn can be one or the other.

A. The basic definition of an occupational injury includes those cases which result from a work accident or from an exposure involving a *single instantaneous incident* in the work environment. Contact with a hot surface or a caustic chemical which produces a burn in a single instantaneous moment of contact is an injury. Sunburn or welding flash burns which result from prolonged exposure to sunrays or welding flashes are considered illnesses. Similarly, a one-time blow which damages the tendons of the hand is considered an injury; while repeated trauma or repetitious movement which produces tenosynovitis is considered an illness.

The basic determinant is the single-incident concept. If the case resulted from something that happened in one instant, it is classified as an injury. If the case resulted from something that was not instantaneous, such as prolonged exposure to hazardous substances or other environmental factors, it is considered an illness.

D–4. Q. How should back cases be classified—as injuries or illnesses? What about a situation where an employee complains of his back hurting, but is unable to associate it with a single instantaneous event?

A. Back cases should be classified as injuries because they are usually triggered by an instantaneous event.

Classifying back cases as injuries is appropriate not only for cases resulting from identifiable events, but also for cases where the specific event cannot be pinpointed, since back cases are usually triggered by some specific movement. Such generalizations are necessary to keep recordkeeping

determinations as simple and equitable as possible.

D-5. Q. Should carpal tunnel syndrome be classified as an injury or an illness?

A. Carpal tunnel syndrome is a condition involving compression of the median nerve in the wrist which results in tingling, discomfort, and numbness in the thumb, index, and long fingers. Because carpal tunnel syndrome cases almost always result from repetitious movement, they should be classified as occupational illnesses. The entry for these cases should be in column 7(f) of the log for disorders associated with repeated trauma.

D-6. Q. Is the following case recordable? A chemical worker contracted a mild case of dermatitis on both hands while working in a solution for several hours. The employee was sent to the doctor, who recommended application of a topical lotion (a commercial, nonprescription remedy). The employee bought a bottle of the lotion and treated the rash for a few days until it disappeared. There were no subsequent visits to the doctor. The rash did not prevent the employee from performing all the duties of the job.

A. The case is a recordable occupational illness. The answer to this question is based on the distinction between an injury and an illness. If considered an injury, the case would not be recordable since no medical treatment was provided. However, since the case almost certainly did not involve a single instantaneous exposure, it should be classified as an occupational illness. Consequently, the kind of treatment given by the doctor (none in this case) is immaterial, since all occupational illnesses are recordable.

E. Recording Occupational Illnesses

The Occupational Safety and Health Act of 1970 and the recordkeeping regulations in 29 CFR Part 1904 require employers to record the occurrence of all occupational illnesses. However, neither the act nor the regulations provide a precise definition of what constitutes an occupational illness.

An occupational illness is defined in the instructions on the back of the log and summary form, OSHA No. 200:

> Occupational Illness of an employee is any abnormal condition or disorder, other than one resulting from an occupational injury, caused by exposure to environmental factors associated with employment. It includes acute and chronic illnesses or diseases which may be caused by inhalation, absorption, ingestion, or direct contact.

The instructions also refer to recording illnesses which were "diagnosed or recognized."

Therefore, for OSHA recordkeeping purposes occupational illnesses include any abnormal condition or disorder, other than one resulting from an occupational injury, caused by exposure to environmental factors associated with employment. Illness exposures ultimately result in conditions of a chemical, physical, biological, or psychological nature.

Occupational illnesses must be diagnosed to be recordable. However, they do not necessarily have to be diagnosed by a physician or other medical personnel. Diagnosis may be by a physician, registered nurse, or a person who by training or experience is qualified to make such a determination. Employers, employees, and others may be able to detect some illnesses, such as skin diseases or disorders, without the benefit of specialized medical training. However, a case more difficult to diagnose, such as silicosis, would require evaluation by properly trained medical personnel.

In addition to recording the occurrence of occupational illnesses, employers are required to record each illness case in 1 of the 7 categories on the front of the log.

The back of the log form contains a listing of types of illness or disorders and gives examples for each illnesses category. These are only examples, however, and should not be considered as a complete list of types of illnesses under each category. See Appendix A—Glossary of Terms for a list of these illness categories.

Recording and classifying occupational illnesses is difficult for employers, especially the chronic and long term latent illnesses. Many illnesses are not easily detected; and it is often difficult to determine whether an illness is work related. Also, employees may not report illnesses because the symptoms may not be readily apparent, or because they do not think their illness is serious or work related.

Lack of expertise in occupational medicine is not limited to employers and employees. Few doctors in private practice have adequate training in occupational medicine. Even physicians in the workplace have difficulty determining the influence of a job on a worker's health.

The following material is provided to *assist* in detecting occupational illnesses and in determining their work relationship.

1. Detection and diagnosis of occupational illnesses.

An occupational illness is defined in the instructions on the log as any work-related abnormal condition or disorder (other than an occupational injury). Detection of these abnormal conditions or disorders, the first step in recording illnesses, is often difficult. When an occupational illness is suspected, employers may want to consider the following:

a. A routine medical examination of the employee's physiological systems; e.g.,

- Head and neck;
- Eyes, ears, nose and throat;
- Endocrine;
- Genitourinary
- Musculoskeletal;
- Neurological;
- Respiratory;
- Cardiovascular; and
- Gastrointestinal.

b. Observation and evaluation of behavior related to emotional status;

c. Specific examination for health effects of suspected or possible disease agents by competent medical personnel;

d. Comparison of date of onset of symptoms with occupational history;

e. Evaluation of results of any past biological or medical monitoring (blood, urine, other sample analysis) and previous physical examinations; and

f. Evaluation of laboratory tests: routine (complete blood count, blood chemistry profile, urinalysis) and specific tests for suspected disease agents (e.g., blood or urine tests for specific agents, chest or other X-rays, liver function tests, pulmonary function tests).

In addition the National Institute for Occupational Safety and Health (NIOSH) has prepared a Sentinal Health Event (Occupational) List (SHEO) which encompasses disease conditions potentially linked to the workplace. A Sentinal Health Event is defined by NIOSH as a disease, disability, or untimely death which is occupationally related and whose occurrence may: 1) provide the impetus for epidemiologic or industrial hygiene studies; or 2) serve as a warning signal that materials substitution, engineering control, personal protection, or medical care may be required. The list includes only those conditions for which NIOSH found "objective documentation of an associated agent, industry, and occupation . . . in the scientific literature." NIOSH has indicated that the list will be expanded in the future.

Appendix C of this report contains a table of work-related illnesses based upon the NIOSH Sentinal Health Event List. The table is provided for information purposes only to *assist* employers in recognizing certain illnesses and diseases. The table lists illness conditions, the industry and/or

occupation where each condition is likely to occur, symptoms associated with each condition, the agent likely to cause the condition, and the appropriate illness column to be checked on the log. OSHA No. 200. *IT DOES NOT INCLUDE EVERY CONDITION, ILLNESS, OR DISEASE THAT MAY RESULT FROM AN EXPOSURE IN THE WORK ENVIRONMENT. FURTHER, IT SHOULD NOT BE INTERPRETED TO MEAN THAT A SPECIFIC CONDITION CAN ONLY BE CONTRACTED IN THE INDUSTRIES OR OCCUPATIONS LISTED. IT ALSO DOES NOT MEAN THAT EVERY CONDITION LISTED IS RECORDABLE IF EXPERIENCED BY EMPLOYEES IN THESE INDUSTRIES AND/OR OCCUPATIONS. FOR THE CASE TO BE OSHA RECORDABLE, EMPLOYERS MUST STILL ESTABLISH THAT THE CONDITION IS A RESULT OF AN EXPOSURE IN THEIR WORK ENVIRONMENT.*

2. Determining whether the illness is occupationally related.

The instructions on the back of the log define occupational illnesses as those "caused by environmental factors associated with employment". In some cases, such as contact dermatitis, the relationship between an illness and work-related exposure is easy to recognize. In other cases, where the occupational cause is not direct and apparent, it may be difficult to accurately determine whether an employee's illness is occupational in nature. In these situations it may help employers to ask the following questions:

a. Has an illness condition clearly been established?

b. Does it appear that the illness resulted from, or was aggravated by, suspected agents or other conditions in the work environment?

c. Are these suspected agents present (or have they been present) in the work environment?

d. Was the ill employee exposed to these agents in the work environment?

e. Was the exposure to a sufficient degree and/or duration to result in the illness condition?

f. Was the illness attributable to a non-occupational exposure?

Employers may want to check the "material data sheet" for those substances suspected of causing employee illnesses to verify the relationship between the exposure and the resulting symptoms.

E–1. Q. Should employers record only those occupational illnesses which require treatment beyond the initial day of onset of illness?

A. No. Any diagnosed occupational illness reported to the employer is recordable, whether or not medical treatment is given or lost workdays are involved.

E–2. Q. Do occupational illnesses have to be diagnosed by a physician to be recordable?

A. No. "Diagnosis" is commonly defined as the act or process of deciding the nature of a diseased condition by examination of the symptoms. Diagnosis may be by a physician, registered nurse, or a person who by training or experience is qualified to make such a determination.

E–3. Q. Does this mean that employers are capable of diagnosing occupational illnesses?

A. Yes. However, their ability to properly diagnose cases depends upon their training and experience and the nature of the particular illness in question. Employers, employees, and others may be able to detect various illnesses, such as skin diseases or disorders, without the benefit of specialized medical training. However, a case more difficult to diagnose, such as silicosis, would require evaluation by properly trained medical personnel.

E–4. Q. What is meant by an "abnormal condition or disorder"?

A. An "abnormal condition or disorder" is an atypical condition of the employee which may be of either a chemical, physical, biological, or psychological nature. These conditions are recordable when they result from exposure in the work environment.

E–5. Q. Are the illnesses listed in appendix C the only illnesses that need be recorded on the log, OSHA No. 200?

A. No. These are a listing of disease conditions of which NIOSH found objective documentation of association between occupation/industry/agent in the scientific literature. In addition to the Sentinel Health Event (Occupational) List, many other abnormal conditions or diseases may be OSHA recordable.

E–6. Q. Do employers record only those illnesses directly caused by work-related exposures, or is it sufficient for the work exposure to be a contributing factor to an illness or to aggravate a pre-existing illness condition?

A. Yes, it is sufficient for the exposure to be a contributing and/or aggravating factor to the illness.

E–7. Q. What are the reporting requirements for test results which indicate an elevated blood-lead level?

A. Employers are required to conduct surveillance and monitoring tests for employees working with hazardous substances, such as lead. However, test results showing elevated blood-lead levels are not recordable in and of themselves. See question E–10 below.

On the other hand, employers are still required to record cases where the worker: (1) Has symptoms of lead poisoning, such as colic, nerve, or renal damage, anemia, and gum problems; or (2) receives medical treatment for lead poisoning or to lower blood-lead levels. Usually, elevated blood-lead levels above 50 micrograms per 100 grams of whole blood are accompanied by some of the recordable symptoms of lead poisoning mentioned above.

Employers may want to reference the OSHA lead standard 29 CFR 1910.1025 for additional information.

E–8. Q. The chest X-ray of an employee is found to have an abnormality due to a prolonged exposure at work. However, the abnormality does not impair his lung function or cause him to lose workdays. Is this a recordable occupational illness?

A. Yes. An occupational illness is defined as any abnormal condition or disorder, other than one resulting from an injury, caused by exposure to environmental factors associated with employment. Any such abnormality reported to the employer is recordable, whether or not functional impairment is present or lost workdays are involved.

E–9. Q. Is fibrosis the only asbestos-related disorder that must be recorded on the OSHA No. 200?

A. No. Asbestos-related disease encompasses not only fibrosis, but also various cancers of the lung, stomach, and pleural lining and asbestos-induced pleural abnormalities (e.g., pleural plaques and calcifications).

E–10. Q. What is the basis for the distinction between the recordability of asbestos-related disorders and the nonrecognition of elevated blood-lead levels for recordkeeping purposes?

A. Identifiable asbestos-related abnormalities constitute abnormal conditions or disorders of the affected employee. Elevated blood-lead levels are considered a precursor to the illness, and are recordable if accompanied by any other conditions which are indicative of lead poisoning. The overall biological effect—lead toxicity—constitutes the illness that is recordable. (See question E–7 for other recordable symptoms of lead poisoning.)

E–11. Q. Is hearing loss recordable? If so, how should it be recorded?

A. Hearing loss should be evaluated solely on the existing criteria for recordability contained in the Occupational Safety and Health Act and 29 CFR Part 1904. Once work-related hearing loss is established, it may be classified as either an injury or an

illness, depending upon the type of event or exposure which caused the loss. If the hearing loss resulted from or was aggravated by an instantaneous exposure, it is considered an injury, and is recordable only if it involves medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job. If the hearing loss resulted from or was aggravated by anything other than an instantaneous exposure it should be classified as an occupational illness. All job-related illnesses are recordable.

E–12. Q. Is this case recordable? An employee goes to a doctor who informs her that prescription glasses must be worn as a result of work-related eye deterioration caused by the nature of her job.

A. Assuming that work relationship could be established, this case would be recordable as an occupational illness since it involves the recognition of an abnormal condition or disorder. However, employers should distinguish work-related eye problems from those due to aging or heredity factors unrelated to the job.

E–13. Q. How should a massive heart attack be classified?

A. Work-related heart attacks are classified as illnesses because they normally do not result from work accidents or single instantaneous incidents in the work environment. When they occur, an entry should be made in column 7(g) of the log under "All other occupational illnesses"

E–14. Q. Must a heart attack occur in the work environment to be recordable?

A. Heart attacks must satisfy the same requirements for work relationship as any other type of illness before they are recordable on the OSHA No. 200. Under the OSHA system, this does not mean that heart attacks are recordable if they occur in the work environment, but rather that they must result from an exposure in the work environment. (See section C of this chapter for an analysis of work relationship.)

E–15. Q. How should a work-related illness, diagnosed as stress, be classified? Is this a disorder associated with repeated trauma?

A. "Disorders associated with repeated trauma," column 7(f) of the log, OSHA No. 200, involve conditions caused by repeated contact or repetitious movement. Cases involving work-related stress should be classified as "All other occupational illnesses" in column 7(g) of the log.

E–16. Q. Is high blood pressure recordable?

A. High blood pressure is an abnormal condition or disorder. Consequently, it is recordable *if* it can be attributed to exposure in the work environment. Cases of high blood pressure should be classified as "All other occupational illnesses" in column 7(g) of the log.

E–17. Q. Does the difference in individual tolerances to specific substances affect decisions on recordability?

A. No. Variations in the characteristics of particular employees or their susceptibility to various illnesses should not affect decisions of recordability. If a recordable illness occurs, employers should enter it on the OSHA No. 200.

F. Deciding if Work-Related Injuries Are Recordable

Although the act requires that all work-related deaths and illnesses be recorded, it limits the recording of injuries to certain specific types of cases. Sections 8(c)(2) and 24(a) of the act refer to maintaining records for work injuries ". . . other than minor injuries requiring only first aid treatment, and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job." Consequently, a work-related injury must involve at least 1 of these 4 conditions before it is deemed recordable. Minor injuries requiring only first aid treatment are not recordable.

1. *Medical treatment.* It is important to understand the distinction between medical treatment and first aid treatment since may work-related injuries are recordable only because medical treatment was given.

Part 1904.12(d) of the regulations and the instructions on the back of the log and summary, OSHA No. 200, define medical treatment as any treatment, other than first aid treatment, administered to injured employees. Essentially, medical treatment involves the provision of medical or surgical care for injuries that are not minor through the application of procedures or systematic therapeutic measures.

The act also specifically states that work-related injuries which involve only first aid treatment must *not* be recorded. Therefore, the definition of first aid treatment has important implications for evaluating potential medical treatment cases. First aid is commonly thought to mean emergency treatment of injuries before regular medical care is available. However, first aid treatment has a different meaning for OSHA recordkeeping purposes. Part 1940.12(e) of the regulations defines first aid treatment as:

> any one-time treatment, and any followup visit for the purpose of observation, of minor scratches, cuts, burns, splinters, and so forth, which do not ordinarily require medical care. Such one-time treatment, and followup visit for the purpose of observation is considered first aid even though provided by a physician or registered professional personnel.

The distinction between a medical treatment and first aid depends not only on the treatment provided, but also on the severity of the injury being treated. First aid is: (1) Limited to *one-time treatment* and subsequent observation; *and* (2) involves treatment of only *minor* injuries, *not* emergency treatment of serious injuries. Injuries are *not* minor if:

(a) They can be treated *only* by a physician or licensed medical personnel;

(b) They impair bodily function (i.e., normal use of senses, limbs, etc.);

(c) They result in damage or harm to the physical structure of a nonsuperficial nature (e.g., hairline fractures); or

(d) They involve complications requiring follow up medical treatment.

Physicians or registered medical professionals, working under the standing orders of a physician, routinely treat minor injuries. Such treatment constitutes first aid. Also, some visits to a doctor do not involve treatment at all. For example, a visit to a doctor for an examination or other diagnostic procedure to determine whether the employee has an injury does not constitute medical treatment. Conversely, medical treatment can be provided to employees by someone other than a physician or registered medical personnel.

The following classifications list certain procedures as either medical treatment of first aid treatment. These criteria are also listed in the one-page Recordkeeping Summary provided in appendix F.

The following are generally considered medical treatment. Work-related injuries for which this type of treatment was provided or should have been provided are almost always recordable.

—Treatment of INFECTION
—Application of ANTISEPTICS during second or subsequent visits to medical personnel
—Treatment of SECOND OR THIRD DEGREE BURN(S)
—Application of BUTTERFLY ADHESIVE DRESSING(S)
—Applications of SUTURES (stitches)
—Removal of FOREIGN BODIES EMBEDDED IN EYE
—Removal of FOREIGN BODIES from wound; if procedure is COMPLICATED because of depth of embedment, size, or location
—Use of PRESCRIPTION MEDICATIONS

—Use of hot or cold SOAKING THERAPY during second or subsequent visit to medical personnel
—Application of hot or cold COMPRESS(ES) during second or subsequent visit to medical personnel
—CUTTING AWAY DEAD SKIN (surgical debridgement)
—Application of HEAT THERAPY during second or subsequent visit to medical personnel
—Use of WHIRLPOOL BATH THERAPY during second or subsequent visit to medical personnel
—POSITIVE X-RAY DIAGNOSIS (fractures, broken bones, etc.)
—ADMISSION TO A HOSPITAL or equivalent medical facility for treatment or prolonged observation.

The following are generally considered first aid treatment (e.g., one-time treatment and subsequent observation of minor injuries) and need not be recorded if the work-related injury does not involve loss of consciousness, restriction of work or motion, or transfer to another job:
—Application of ANTISEPTICS during first visit to medical personnel
—Treatment of FIRST DEGREE BURN(S)
—Application of BANDAGE(S) during any visit to medical personnel
—Use of ELASTIC BANDAGE(S) during first visit to medical personnel
—Removal of FOREIGN BODIES NOT EMBEDDED IN EYE if only irrigation is required
—Removal of FOREIGN BODIES from wound, if procedure is UNCOMPLICATED, and is, for example, by tweezers or other simple technique
—Use of NONPRESCRIPTION MEDICATIONS
—SOAKING THERAPY ON INITIAL VISIT to medical personnel or removal of bandages by SOAKING
—Application of hot or cold COMPRESS(ES) during first visit to medical personnel
—Application of OINTMENTS to abrasions to prevent drying or cracking
—Application of HEAT THERAPY during first visit to medical personnel
—Use of WHIRLPOOL BATH THERAPY during the first visit to medical personnel
—NEGATIVE X-RAY DIAGNOSIS
—BRIEF OBSERVATION of injury during visit to medical personnel

The following procedure, by itself, is considered medical treatment:
—Administration of TETANUS SHOT(S or BOOSTER(S. However, these shots are often given in conjunction with the more serious injuries; injuries requiring tetanus shots may be recordable for other reasons.

2. *Loss of consciousness.* If an employee loses consciousness as the result of a work-related injury, the act requires that the case be recorded no matter what type of treatment was provided. The rationale behind this requirement is that loss of consciousness is generally associated with the more serious injuries.

3. *Transfer to another job.* Injuries requiring transfer of the employee to another job are also considered serious enough to be recordable regardless of the type of treatment provided. Transfers are seldom the sole criterion for recordability because injury cases are almost always recordable on other grounds, primarily medical treatment or restriction of work or motion.

4. *Restriction of work or motion.* Restriction of work or motion is the fourth criterion specified by the act for determining whether an injury is serious enough to be recorded. The decision that a case involves restricted work activity should be made solely on the rules set forth in Part 1904.12(f) of the *Code of Federal Regulations* and in the instructions to the Log and Summary of Occupational Injuries and Illnesses, OSHA No. 200. The central concept established in these sections is that restricted work activity occurs when the employee, because of the impact of a job-related injury or illness, is physically or mentally unable to perform *all* or *any part* of his or her normal assignment during *all* or *any part* of the workday or shift. The emphasis is on the employee's *ability* to perform normal job duties. Restriction of work or motion may result in either a lost worktime injury or a nonlost worktime injury, depending upon whether the restriction extended beyond the date of injury. This distinction is discussed at length in chater VI.

Restriction of work or motion sometimes is the sole reason for recording a case. For example, if an employee suffers a cut on a joint of the first finger and the wound requires only a small bandage, the bandage may prevent bending the finger. This case involves a work-related injury, but is it recordable? The employer can reasonably conclude that no medical treatment was involved nor was there any loss of consciousness or transfer to another job. The case would be recordable only if it involves restriction of work motion; that is if the motion that was limited affected the employee's ability to perform his or her normal job duties. It is important to differentiate that concept from limitation of motion in the abstract. In this situation, the case would be recordable if it involved a typist who was unable to type, but probably not if it involved an executive.

F-1. Q. Are all first aid injury cases nonrecordable?

A. Medical treatment is only one criterion for determining whether or not injuries are recordable. Injuries which require only first aid treatment are recordable if they involve loss of consciousness, restriction of work or motion, or transfer to another job.

F-2. Q. Our plant does not have a nurse available on the second and third shifts. Injuries on these shifts are sent to the hospital. If this is the only time the injury is treated, does it have to be recorded?

A. If medical treatment is administered, the case is recordable. If only first aid treatment is administered, then the case is not recordable. (See the definitions in the preceding narrative section.) The *kind of treatment* which is, or should have been, provided is the determining factor, not the place or person providing the treatment.

F-3. Q. Can medical treatment be provided by anyone other than a physician or trained medical personnel?

A. The regulations have been interpreted to mean that medical treatment may be administered by medical or nonmedical personnel. The treatment is the main factor to consider in distinguishing medical treatment from first aid, not the person who is administering it.

In distinguishing between medical treatment and first aid, Congress intended to foucs on the seriousness of the injury. Doctors or medical personnel often provide first aid treatment for minor injuries; nonmedical personnel often provide medical treatment for certain injuries that are relatively serious in nature.

F-4. Q. If an employee is treated in the medical department for an injury such as a cut, burn, etc., but does not need a doctor's care, does a report need to be made of the injury?

A. If the case comes under the definition of "medical treatment" rather than "first aid," a record would have to be maintained. On the other hand, first aid treatment would not be recorded, even if given by a doctor. Again, the key factor to be considered is the type of treatment which was, or should have been, provided, not the person administering it.

F-5. Q. Does the requirement for recording medical-treatment injuries encompass only those injuries where the treatment was actually provided to the individual?

A. This requirement focuses on whether the injury was serious enough that medical treatment was actually provided or should have been provided. Cases should be recorded where medical treatment was *clearly* required, but for one reason or another, was not actually provided.

F-6. Q. When are bruises experienced by employees considered recordable?

A. When they are serious enough to involve 1 of the 4 criteria for recording injuries—medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.

F-7. Q. How are fractures classified? What about a hairline fracture that is given no treatment and does not interfere with the employee's work activities?

A. Injuries resulting in fractures should be recorded because they are not minor in nature and ordinarily require medical treatment or involve restriction of work or motion. This is in keeping with the mandate of the Occupational Safety and Health Act of 1970 to record all injuries that are not minor.

F-8. Q. Are injuries that result in chipped or broken teeth recordable?

A. These injuries would normally be recordable due to their relative severity and the fact that they ordinarily require medical treatment.

F-9. Q. What about situations where an employee damages a prosthetic device, such as an artificial arm or leg? Is this recordable?

A. Generally, situations such as this are recordable if they involve either some form of medical treatment or restriction of work or motion.

F-10. Q. If there is more than one followup visit to a doctor for minor cuts or burns, is such an injury recordable?

A. If the second visit is simply for observation or to change an adhesive or small bandage, the injury would not be recorded. It would be recorded, however, if any medical treatment was provided.

F-11. Q. What if an employee is injured and loses worktime in traveling to or from a doctor's office for a medical examination? Does this loss of worktime constitute restriction of work or motion, and make the case recordable for OSHA purposes?

A. Injuries should be evaluated on the extent of medical treatment required, not on the amount of time spent seeking treatment. If the examination revealed that no medical treatment was required, the case would not be recordable. Restriction of work or motion concerns the employee's ability to perform normal job duties; it does not include loss of worktime for travel to or from a doctor's office.

F-12. Q. If an employee has a minor scratch but the doctor gives him a tetanus shot anyway, does this constitute medical treatment and make it a recordable case?

A. Such tetanus shots should not be regarded as medical treatment. Consequently, the case would not be recordable unless other treatment was provided.

F-13. Q. Do rabies vaccinations constitute medical treatment?

A. Yes. Rabies vaccinations constitute medical treatment since they are considered absolutely necessary and involve a series of injections far more extensive than the concept of first aid contemplated in the act and defined in the regulations.

F-14. Q. Is treatment given by chiropractors considered medical treatment?

A. Yes. This is considered medical treatment since it involves considerably more extensive treatment than first aid as defined in Part 1904.12(e) of the regulations.

F-15. Q. Is it considered medical treatment when prescription medications are given solely as prevention measures for minor injuries or for patient comfort?

A. The use of prescription medications is considered medical treatment. This is because prescription medications are normally used in connection with the more serious injuries. The use of nonprescription medications for minor injuries or solely preventive purposes doe not constitute medical treatment.

There may be a few situations where this distinction may seem inappropriate. However, the generalization is necessary to provide reasonable guidance while keeping the recording criteria as simple as possible.

F-16. Q. What about prescription drugs provided to employees soley for psychological care? Should this be considered medical treatment?

A. If the prescription medications are being provided in connection with job-related stress, the medical treatment issue would be irrelevant since the stress case would be considered an occupational illness. All occupational illnesses are recordable.

F-17. Q. Suppose a nonprescription medication is dispensed to an employee with a minor injury, who then suffers an adverse reaction. Is this recordable? If so, is it an injury or an illness?

A. This case should be considered an injury since the case determination must relate back to the original event. This is because the affected employee would not have suffered the adverse reaction to the medication *but for* the occupational injury. Initially, the case was not recordable because the provision of a nonprescription medication does not constitute medical treatment. *THE CASE MAY NOW BE RECORDABLE.* To be recordable, the adverse reaction must have been serious enough to require additional medical treatment or involve loss of consciousness, restriction of work or motion, or transfer to another job.

G. Relationship of OSHA Recordkeeping Requirements to Those of State Workers' Compensation Systems

OSHA recordkeeping and reporting requirements differ from those established under various State workers' compensation laws. Differences exist in both the mechanics of the recordkeeping process and in the criteria used for evaluating the recordability of individual cases. Section 4(b)(4) of the act states:

Nothing in this Act shall be construed to supersede or in any manner affect any workmen's compensation law or to enlarge or diminish or affect in any other manner the common law or statutory rights, duties, or liabilities of employers and employees under any law with respect to injuries, diseases, or death of employees arising out of or in the course of employment.

Consequently, recordkeeping determinations under the OSH Act should not affect the employer obligations under State workers' compensation systems. Also, workers' compensation criteria should not be substituted for OSHA definitions in determining whether or not a case should be recorded under the OSHA system. Although the OSHA system is fundamentally different from various compensation systems, qualifying workers' compensation first report forms may be substituted for the OSHA No. 101, the Supplementary Record of Occupational Injuries and Illnesses. To qualify for this purpose, the workers' compensation form must contain all of the items on the OSHA No. 101 or be supplemented to do so. This is permitted to eliminate duplicate recording whenever possible. Chapter III, section C of this report provides a detailed discussion of the requirements for potential substitutes for the supplementary record.

It should be stressed that allowance of the substitution of forms is in no way indicative of any comparability in the recordkeeping criteria between the two systems. In instances where State workers' compensation forms are being used in lieu of the OSHA No. 101, employers must still adhere to the

differences in recordkeeping definitions. There may be instances where the employer will have to prepare a form for an OSHA recordable case even though the State workers' compensation law does not require that a report be prepared or vice versa.

G–1. Q. Does a workers' compensation insurance carrier have any responsibility or liability under the OSH Act other than to its own employees?

A. No. Aside from recordkeeping obligations pertaining to its own employees, a workers' compensation insurance carrier has no responsibility for the OSHA recordkeeping of its clients.

G–2. Q. Is there any connection between OSHA records and reports and the reporting requirements of State workers' compensation acts?

A. No. The only relationship between the systems pertains to the forms used. To eliminate duplicate recordkeeping, most State workers' compensation agencies have revised their first report forms to make them acceptable as substitutes for the OSHA No. 101, the Supplementary Record of Occupational Injuries and Illnesses. See chapter II, section C for a discussion of the requirements for the supplementary record.

G–3. Q. What entries, if any, need to be made on the OSHA records in instances of employer-employee disputes involving contested cases under State workers' compensation systems?

A. Workers' compensation determinations have no direct bearing on the recordability of cases under OSHA. Some cases are covered by workers' compensation but are not OSHA-recordable; others are recordable under OSHA but are not covered by workers' compensation.

For example, many cases that do not involve lost worktime may be OSHA-recordable, but may not be recordable under State workers' compensation systems. Each case should be evaluated and recorded solely on the basis of OSHA recordkeeping criteria.

G–4. Q. Should employers wait to record cases on the OSHA forms if the cases are being contested under workers' compensation?

A. No. Employers are required to record cases on the OSHA forms no later than 6 working days after receipt of information that a recordable injury or illness has occurred. If a case is recordable under the OSHA system, an entry must be made on the OSHA records without any regard to the status of the case under workers' compensation.

G–5. Q. Won't recording a case on the OSHA records bias the outcome of contested workers' compensation cases?

A. No. Because of the significant differences between the two systems, recording injuries and illnesses on the OSHA forms should have no effect on cases litigated under workers' compensation. Section 4(b)(4) of the OSH Act provides that the provisions of the act will not affect workers' compensation liability.

Chapter VI. Evaluating of the Extent of Recordable Cases

Once the employer decides that a recordable injury or illness has occurred, the case must be evlauated to determine its extent or outcome. Part 1904.12(c) of the regulations provides the three categories of recordable cases: Fatalities, lost workday cases, and cases without lost workdays. Every recordable case must be placed in only one of these categories.

A. Fatalities

The Occupational Safety and Health Act of 1970 and part 1904 of the regulations require the recording of all work-related fatalities. Part 1904.12(c)(1) states that recordable occupational injuries and illnesses include fatalities, regardless of the time between the injury and the death, or the length of the illness.

A–1. Q. An employee has an occupational illness which keeps him away from work for 6 months. At the end of that time, he dies as a result of the illness. How should the case be recorded on the log?

A. Any entries in the lost workday illness columns 9 through 12 of the log should be lined out, and the date of death should be entered in column 8.

Injury-related fatalities that were initially recorded as lost worktime should be treated in a similar manner. Entries in the lost workday injury columns 2 through 5 should be lined out, and the date of death entered in column 7.

A–2. Q. Must an employee's death occur in the work environment for the case to be recorded as a work-related fatality?

A. No. Cases are recordable as work-related fatalities when the death results from an *event or exposure* that occurs in the work environment. The employee need not actually die in the work environment.

A–3. Q. Do employers have any recording or reporting obligations for fatalities other than making the appropriate entries on the OSHA No. 200?

A. Yes. Part 1904.8 of the regulations requires that employers report within 48 hours the occurrence of job-related fatalities to their OSHA area office. This subject is discussed in chapter VII.

A–4. Q. What constitutes death for OSHA recordkeeping purposes? What if a person suffers "brain death," but is maintained on life support systems?

A. For OSHA recordkeeping purposes, death occurs when the injured or ill employee's condition is such that a death certificate is issuable by the State or territory which has jurisdiction. In some States, a death certificate would be issued for cases involving "brain death," in others it would not.

A–5. Q. What is the appropriate date of death to be entered in these cases?

A. The date entered in column 1 or column 8 of the log should be the date of death entered on the death certificate.

B. Lost workday cases

Parts 1904.12(c)(2) and 1904.12(f) of the regulations provided the definition of lost workday cases. These cases are generally the most serious nonfatal injuries and illnesses. They occur when the injured or ill employee experiences either days away from work, days of restricted work activity, or both. In these situations, the injured or ill employee is affected to such an extent that: (1) Days must be taken off from the job for medical treatment or recuperation; or (2) the employee is unable to perform his or her normal job duties over a normal work shift, even though the employee may be able to continue working.

Injuries and illnesses are not considered lost workday cases unless they affect the employee *beyond* the day of injury or onset of illness. When counting the number of days away from work or days of restricted work activity, do not include: (1) The initial day of injury or onset of illness, or (2) any days on which the employee would not have worked even though able to work.

1. *Lost workday cases involving days away from work* are cases resulting in days the employees would have worked but could not because of the job-related injury or illness. The focus of these cases is on the employee's inability, because of injury or illness, to be present in the work environment during his or her normal work shift.

2. *Lost workday cases involving days of restricted work activity* are those cases where, because of injury or illness, (1) the employee was assigned to another job on a temporary basis, or (2) the employee worked at a permanent job less than full time, (3) the employee worked at his or her permanently assigned job but could not perform all the duties normally connected with it.

Restricted work activity occurs when the employee, because of the job-related injury or illness, is physically or mentally unable to perform *all* or *any part* of his or her normal assignment during *all or any part* of the normal workday or shift. The emphasis is on the employee's *inability* to perform normal job duties over a normal work shift.

B–1. Q. An employee is injured at the beginning of the normal work shift and misses the remainder of the workday. Is this a lost workday case?

A. This would not constitute a lost workday case unless the employee was unable to perform his or her normal work duties on a subsequent workday or work shift. Injuries and illnesses are not considered lost workday cases unless they affect the employee *beyond* the day of injury or onset of illness.

B–2. Q. Suppose an employee is injured on Thursday and is unable to return to work until the following Wednesday. How would the lost workdays be counted?

A. The count of lost workdays should not include the day of injury or onset of illness, or any days on which the employee would not have worked even though able to work. Therefore, assuming the employee normally worked Monday through Friday, this case would involve 3 lost workdays. Thursday would not be counted since it was the day of injury. Saturday and Sunday would not be counted because the employee does not normally work on the weekend. Friday, Monday, and Tuesday *would* be counted because they are normally scheduled workdays.

B–3. Q. If normal work schedules encompass overtime (6 days), are the overtime days counted as lost workdays?

A. Yes. If the employee would have worked the overtime days had he or she not been injured, then the days should be counted.

B–4. Q. How does the employer count lost workdays for employees who are off the job due to a work stoppage or strike?

A. Lost workdays include only those days in which the injured or ill employee would have worked but could not. Thus, no lost workdays are counted if he or she would not have worked because of a work stoppage.

B–5. Q. How is a lost workday case that carries over into the next year recorded? For instance, how should a case be recorded where an employee is injured in December 1984 and is still out on January 31, 1985?

A. Two important points are involved: (1) One case should not appear in the records for 2 different years; and (2) it is important not to lose the count of the number of lost workdays, which is a measure of the severity of the case.

On the 1984 log, the employer should estimate the number of workdays the employee is expected to lose in 1985 and add them to the count of workdays lost in 1984. When the employee returns to work and is able to perform all the duties of his or regular job or the count of lost workdays is otherwise ended, the actual count of lost workdays (days away from work and any days of restricted activity) should be verified, and the entry on the 1984 log should be corrected as necessary.

B–6. Q. An employee is injured on Wednesday and, due to the injury, is unable to work on Thursday and Friday of that week. The plant is closed for the next 2 weeks and all employees are on vacation. The employee is still injured and would not have been able to work if the plant had been in operation. Should the paid vacation time be counted as lost workdays for this employee?

A. No. In this case, the lost workdays consist of the 2 days beyond the day of injury or onset of illness during which the employee would normally have worked but could not do so. The employee was not scheduled to work during the period that the plant closed down for vacation. Any workdays lost due to the injury after the 2-week vacation period ended should also be counted as lost workdays.

B–7. Q. An employee suffers a work-related injury which renders him temporarily unable to work. If the employee elects to reschedule his vacation for time off to recuperate, in lieu of using sick leave, should the days away from work still be counted as lost workday?

A. Yes. These days should be counted as lost workdays if the vacation was not scheduled prior to the injury. The substitution of vacation leave for sick leave does not alter the fact that the employee was unable to work as a result of the injury.

B–8. Q. When do lost workdays cease to accumulate for injured employees who have long-term medical restrictions (i.e., such as no lifting over 30 pounds) but have returned to work?

A. If such restrictions prevent them from performing any of their normally assigned duties, then each day that they cannot perform all of their regular duties should be counted as a day of restricted work activity. However, if long-term restrictions result in permanent assignments to modified jobs, the count of days of restricted work activity ceases once the transfer or modification is made permanent.

B–9. Q. Should occupational illnesses be recorded differently than injuries when they result in termination or permanent transfer?

A. Yes. If workdays were lost, the case would be recorded as a lost workday illness case and identified as a termination or permanent transfer by placing an asterisk next to the check in the appropriate illness column. If no workdays were lost, the illness would still be identifed with an asterisk and be recorded as an illness without lost workdays. Terminations and permanent transfers are identified only for occupational illnesses.

B–10. Q. How are lost workday cases affected by termination of employment?

A. Termination of employment may stop the count of lost workdays if unrelated to the employee's injury or illness. However, if a termination results from an employee's injury or illness, the case would come within the definition of a lost workday case. (Days away from work are those days the employee would have worked but could not because of the injury or illness. Days of restricted work activity occur when the injury or illness renders the employee unable to perform all or any part of his or her normal assignment during all or any part of the workday or shift.) If an employee's unjury or illness results in his being terminated, the case should be recorded as a lost workday case and an estimate should be made of the total number of workdays that would have been lost had the employee not been terminated. This is necessary to provide an accurate measure of the severity of the case.

B–11. Q. How are lost workdays counted in cases where the injured or ill employee retires before resuming all of his or her normal duties?

A. These cases should be treated in the same manner as other termination cases. If the retirement was unrelated to the injury or illness, the count of lost workdays would normally stop upon the employee's scheduled retirement. If the retirement was a result of the injury or illness, the case should be recorded as a lost workday case and an estimate should be made of the total number of days that would have been lost had the employee not retired. This is necessary to provide an accurate measure of the severity of the case.

B–12. Q. How are lost workdays counted for cases that end in total disability?

A. Practical considerations govern the count of lost workdays in total disability cases. Lost workdays should be counted for these cases until a final determination is made that the injured or ill employee is totally disabled.

B–13. Q. An employee experiences a bona fide lost-time injury on a construction job. Before the employee is able to return to work, the project is completed and the construction firm moves on to another job. How is this recorded on the OSHA No. 200?

A. The case is recorded and the count of lost workdays continues until the employee is able to resume his normal job duties. The firm's movement to another construction site does not affect the employer's obligation.

B–14. Q. How should a case be recorded when the injured employee does not report back to work even though the company doctor and/or his doctor has given him permission to do so?

A. The concept of lost worktime focuses on the employee's *ability* to perform all of his or her normal duties for all of the normal work shift. Therefore, employers need not record lost workdays when an injured employee is able to resume work, but simply refuses to do so.

B–15. Q. How are lost workdays recorded in situations where the injured employees do not return to work or contact their employer after the day of injury?

A. If the injury was work-related, then lost workdays should be estimated and counted.

B–16. Q. In some areas, State or local health laws require employees to take time off from work when injured or once they are exposed to toxic substances. When this occurs, should this be recorded as lost worktime for the purposes of OSHA recordkeeping?

A. Whether or not a case is recordable as involving days away from work or days of restricted work activity centers on the employee's *ability* to perform all of his or her normal job duties. In some of these situations, the employee's inability to work is a result of the injury or illness. These cases *should* be recorded as lost time cases either involving days away from work or days of restricted work activity. In others, the lost time may be due solely to adherence to State and local health codes. These cases would clearly *not be* recordable as involving lost worktime. Each of these cases should be evaluated separately on its own merits.

B–17. Q. Suppose that an employee experiences a minor injury—requiring first aid only—but the injury is such that the person cannot perform normal duties for 2 or 3 days. Is the case recordable? If so, how should the case be recorded?

A. Such a case would be recordable because it meets 1 of the 4 requirements for recording injuries: *Restriction of work or motion.* Once recorded, the case should be classified as a lost workday case involving days of restricted work activity.

B–18. Q. Should time away from the job for visits to a doctor on days following the day of injury be recorded as lost worktime involving restricted work activity?

A. Restricted work activity occurs when the employee, because of a job-related injury or illiness, is physically or mentally unable to perform *all or any part* of his or her normal assignment during *all or any part* of the normal workday or shift. Since the emphasis is on the employee's *ability* to perform, time off to obtain medical attention is not considered to be restricted work activity. If an employee is able to perform all normal work duties during all normal workdays or shifts following the day of injury or onset of illiness, then absence from work for visits to doctors' offices or clinics to receive medical attention should *not* be recorded as a lost workday case involving restricted work activity.

The following hypothetical situations illustrate restricted work activity concepts. Assume that all cases are work related.

1. On Monday, an employee severely cuts his hand while on the job. He receives medical treatment on the date of injury. Tuesday morning, the employee goes to a doctor's office, is examined, and is released to return to work. He arrives at work 3 hours after his normal starting time and is able to complete the remainder of his shift. This case would be recorded as a nonfatal case without lost workdays. It would *not* be recorded as a restricted work activity case, even though the employee missed a portion of his normal work shift on Tuesday, because the employee's *ability* to perform his normal work duties on Tuesday was not impaired.

2. Assume another injury occurs with exactly the same facts as stated in number 1, except that the injury is such that the employee cannot perform *all* of his normal job functions on Tuesday. This case *would* be recorded as a lost time case involving restricted work activity. The employee's *inability* to perform at work was the key factor, not the time spent at the doctor's office.

3. Another injury occurs in the plant on Monday, with an employee severely straining her wrist. She receives medical treatment on the date of injury. Despite the injury, the employee can perform all her normal work duties on Monday. The employee reports to work on Tuesday, performs all her duties until her wrist begins to ache, then reports to the doctor's office in the afternoon where she is examined and sent home. This case *would* be recorded as a lost workday case involving restricted work activity. The employee was able to perform all her duties, but was unable to complete a full workday due to the effect of the injury. Her inability to perform all her duties over the subsequent *normal work shift* constitutes restricted work activity.

4. An employee working in a remote location was involved in an accident and was sent by the employer to get medical attention. The doctor examined and treated the employee. The employee spent the entire day following the accident traveling to and from the doctor's office. At all times, the employee was able to perform all the duties of his job. This is *not* a lost workday case since the loss of worktime was a function of the location of the worksite, not of the injury.

5. Assume facts identical to those in number 2 where the employee was unable to perform all of his normal job duties. However, in this case the employer directed the employee to report to the plant clinic on the day following the injury. He did not record the case as a lost workday case because he had heard that "time away from work to receive medical attention does not have to be recorded as restricted work activity." This case *should* be recorded as a lost workday case involving restricted work activity. Although time spent receiving medical attention is not considered lost worktime, the determining factor is the employee's inability *to perform his normal duties.* Employers may not avoid recording restricted work activity cases by sending employees to a health unit or doctor's office. Again, the focus of the analysis should center on the effect of the injury or illness on the employee's *ability* to perform his *normal job duties* for a *full work shift.*

B–19. Q. Why must lost workdays be recorded for an injured worker on light duty, when the employer still gets a day's work from the employee?

A. The workdays that are counted are those on which the employee was unable to contribute a full day's work on all parts of his or her permanent job. The definition was chosen to be simple and uniform, and to preclude concealment of significant injuries or illnesses by temporary assignment to nonproductive jobs. To evaluate the seriousness of lost workdays, they are separated into two classes—days away from work and days of restricted work activity.

B–20. Q. How are partial lost workdays recorded?

A. Cases involving the loss of less than a full workday or shift (beyond the day of injury or onset of illness) should be recorded as lost workday cases involving restricted work activity. Restricted work activity cases occur when the employee, because of the impact of a job-related injury or illness, is physically or menatally unable to perform all or any part of his or her normal work assignment *during all or any or any part of the normal workday or shift.*

For OSHA recordkeeping purposes, each partial workday lost is counted as one full day of restricted work activity. Fractions are not used.

B–21. Q. Where are lost workdays recorded for employees who normally rotate among several different establishments? For example, if an employee is injured in establishment A and as a result cannot report to his next scheduled shift in establishment B, which establishment records the lost workdays?

A. All lost workdays resulting from the injury in establishment A should be entered on the log for establishment A since injuries, illnesses, and lost workdays must be reflected in the records of the establishment in which the exposure occurs.

C. Cases not involving lost workdays

These cases consist of the relatively less serious injuries and illnesses which satisfy the criteria for recordability listed in chapter V, but which do not result in death or require the affected employee to have days away from work or days of restricted work activity beyond the date of injury or onset of illness.

C–1. Q. If nonfatal cases without lost workdays are not considered to be serious injuries or illnesses, why record them at all?

A. Although generally not considered the most serious injuries and illnesses, recognition and elimination of these cases were considered important by Congress when it initially promulgated the Occupational Safety and Health Act of 1970. Identification of these frequently occurring cases still has important safety and health implications, and is often linked to the prevention of more serious injuries.

C–2. Q. Is it possible for an employee to experience restricted work activity and have the case recorded only as a nonfatal case without lost workdays?

A. Yes, if the restriction does not go beyond the day of injury or onset of illness.

Chapter VII. Employer Obligations for Reporting Occupational Injuries and Illnesses

This chapter focuses on the requirements of Section 8(c)(2) of the Occupational Safety and Health Act of 1970 and Title 29, Part 1904, of the *Code of Federal Regulations* for employers to make reports of occupational injuries and illnesses. It does not include the reporting requirements of other standards or regulations of the Occupational Safety and Health Administration (OSHA) or of any other State or Federal agency.

A. The Annual Survey of Occupational Injuries and Illnesses

Section 8(c)(2) of the act requires employers to make periodic reports of deaths, injuries, and illnesses which have been recorded on the OSHA injury and illness records. This periodic reporting is accomplished through the Annual Survey of Occupational Injuries and Illnesses of the Bureau of Labor Statistics.

The annual survey provides measures of the occurrence and the extent of recordable occupational injuries and illnesses. Injuries and illnesses are reported as either fatalities, lost workday cases, or nonfatal cases without lost workdays. The survey produces national occupational injury and illness estimates at the 4-digit Standard Industrial Classification (SIC) level in most manufacturing industries and at the 2-digit SIC level in most nonmanufacturing industries. Estimates are produced at the 3-digit level for some high-risk nonmanufacturing industries such as construction. Equivalent data are provided for most States.

The measures produced by the system include incidence rates and numbers of occupational injuries and illnesses. Incidence rates relate the numbers of injuries, illnesses, or lost workdays to a common base of exposure. They show the equivalent number of injuries and illnesses or lost workdays per 100 full-time workers. This common base enables accurate interindustry comparisons, trend analyses over time, and comparisons among firms regardless of size.

Employer reporting obligations for the annual survey are provided in Part 1904.21 of the regulations:

> Upon receipt of an Occupational Injuries and Illnesses Survey Form, the employer shall promptly complete the form in accordance with the instructions contained therein, and return it in accordance with the aforesaid instructions.

The survey is conducted on a sample basis, and firms required to submit reports of their injury and illness experience are contacted by BLS or a participating State agency. A firm not contacted by its State agency or BLS need not file a report of its injury and illness experience. Employers should note, however, that even if they are not selected to participate in the annual survey for a given year, they must still comply with the recordkeeping requirements listed in the preceding chapters of these guidelines as well as with the requirements for reporting fatalities and multiple hospitalization cases provided in the next section of this chapter.

Participants in the annual survey consist of two categories of employers: (1) Employers who maintain OSHA records on a regular basis; and (2) a small, rotating sample of employers who are regularly exempt from OSHA recordkeeping. The survey procedure is different for these two groups of employers.

1. *Participation of firms regularly maintaining* OSHA *records.* When employers regularly maintaining OSHA records are selected to participate in the Annual Survey of Occupational Injuries and Illnesses, they are mailed the survey questionnaire in February of the year following the reference calendar year of the survey. (A firm selected to participate in the 1984 Survey would be contacted in February of 1985.) The survey form, the Occupational Injuries and Illnesses Survey Questionnaire, OSHA No. 200–S, requests information about the establishment(s) included in the report and the injuries and illnesses experienced during the previous year. Information for the injury and illness portion of the report from usually can be copied directly from the totals on the log and summary, OSHA No. 200, which the employer should have completed and posted in the establishment by the time the questionnaire arrives. The survey form also requests summary information about the type of business activity and number of employees and hours worked at the reporting unit during the reference year.

2. *Participation of normally exempt small employers and employers in low-hazard industries.* A few regularly exempt employers (those with fewer than 11 employees in the previous calendar year and those in designated low-hazard industries) are also required to participate in the annual survey. Their participation is necessary for the production of injury and illness statistics that are comparable in coverage to the statistics published in years prior to the

exemptions. These employers are notified *prior* to the reference calendar year of the survey that they must maintain injury and illness records for the coming year. (A firm selected to participate in the 1984 Survey would be contacted in December 1983.) At the time of notification, they are supplied with the necessary forms and instructions. During the reference calendar year, prenotified employers make entries on the log, OHSA No. 200.

Participating, regularly exempt firms are not required to complete a Supplementary Record of Occupational Injuries and Illnesses, OHSA No. 101, for each log entry. Also, they are *not* required to post the summary of the OSHA No. 200 in February following the year for which they kept records.

A–1. Q. Why must the Department of Labor conduct a survey of occupational injuries and illnesses? Can't it utilize workers' compensation data or information already available from other sources?

A. National work injury and illness statistics cannot be produced from workers' compensation records because workers' compensation systems are not uniform among States and do not cover some OSHA recordable cases. Injury and illness statistics produced by the BLS annual survey are not obtainable from any other data source.

A–2. Q. After receiving the OSHA No. 200–S survey package, how long do employers have to complete and return the survey questionnaire?

A. Employers should complete and return the questionnaire within 3 weeks after they receive the survey package.

A–3. Q. Why does the Department of Labor request information concerning the number of employee hours worked?

A. Information on the number of hours worked is needed to produce injury and illness incidence rates which relate the data to a common base of exposure, and thus enable interindustry comparisons, trend analysis, or comparisons among firms regardless of size.

A–4. Q. If information on employee hours worked is not readily available from payroll or other time records, how can it be estimated?

A. The hours-worked figure should be obtained from payroll or other time records whenever possible, and should exclude paid nonworktime such as vacations, sick leave, holidays, etc. If hours worked are not maintained separately from hours paid, employers should record their best estimate of the hours actually worked. If actual hours worked are unobtainable for certain types of employees (such as those paid on commission, salary, by the mile, etc.), hours worked may be estimated on the basis of scheduled hours, or on the basis of the average hours normally worked.

A–5. Q. Should the figure for hours worked include hours for situations where the employee's activities are deemed work related, even though the employee is not engaged in a specific job task or is outside a normal 8 hour work shift? For example, should hours worked include time for employees using on-premises exercise facilities or on travel status?

A. The figure for hours worked should reflect the actual hours of work-related exposure for all employees. If injuries and illnesses experienced during a particular activity are recordable, then the employee's time spent in the activity should be included in the hours estimate. Work-related exposures include most of the employers' activities on the employees' premises as well as situations off premises where the employees are engaged in job tasks or are there as a condition of employment.

Time spent using on-premises exercise facilities would be included in hours worked, because this is considered a work-related activity for OSHA recordkeeping purposes. (See chapter V, section C for a discussion of work relationship.)

For employees in travel status, the figure for hours worked should include all the empoyees' work-related activities and such necessary travel functions as eating, sleeping, and traveling. The figure for hours worked should *not* include hours spent on extraneous activities unrelated to the normal scope of the trip and solely for the employee's own personal use or enjoyment. (See question C–19 of chapter V for activities covered in travel status.)

A–6. Q. For the purposes of the Annual Survey of Occupational Injuries and Illnesses, how do employers report cases that are not yet resolved by the end of the calendar year?

A. Employers should report these cases based on their best estimate of the final case determination. The injury and illness portion of the OSHA No. 200–S survey form is completed by merely copying information from the summary lines of the log and summary, OSHA No. 200. In summarizing the log and summary, employers will have already made interim determinations on unresolved cases. (A sample survey form is provided in appendix B.)

A–7. Q. Will the information for a particular company reported on the OSHA No. 200–S survey form remain confidential?

A. Yes. Information for individual establishments and reporting units is kept strictly confidential.

A–8. Q. Are the regularly exempt employers who participate in the annual survey required to maintain their OSHA injury and illness records for 5 years like the participating employers regularly maintaining OSHA records?

A. No. Regularly exempt employers are not subject to the maintenance or retention requirements of Part 1904 of the regulations. However, these employers should keep their OSHA records for 3 months after they have completed the OSHA 200–S survey questionnaire since they may be needed for survey verification purposes.

B. Reporting Fatalities and Multiple Hospitalizations

All employers are required to report accidents resulting in one or more fatalities or the hospitalization of five or more employees by Part 1904.8 of the record-keeping regulations:

> Within 48 hours after the occurrence of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, the employer of any employees so injured or killed shall report the accident either orally or in writing to the nearest office of the Area Director of the Occupational Safety and Health Administration, U.S. Department of Labor. The reporting may be by telephone or telegraph. The report shall relate the circumstances of the accident, the number of fatalities, and the extent of any injuries. The Area Director may require such additional reports in writing or otherwise as he deems necessary, concerning the accident.

Employers with questions on these reporting requirements should contact their nearest OSHA area office. Additional guidelines are available in the OSHA Field Operations Manual.

B–1. Q. Do all States have the same reporting requirements under Part 1904.8 of the regulations?

A. No. All States under Federal jurisdiction must comply with the requirements of Part 1904.8. However, States with approved State plans under Section 18(b) of the act may have more strigent reporting requirements. Employers in these States should contact their State agency for specific reporting requirements. Addresses and telephone numbers for States with approved plans are provided in appendix D of this report.

B–2. Q. Part 1904.8 of the regulations requires that a report be made of a fatality or a multiple hospitalization case. To whom is the report made?

A. The report is made to the nearest office of the Area Director of the Occupational Safety and Health Administration, U.S. Department of Labor, *unless* the State in which the accident occurred is administering an

approved State plan under Section 18(b) of the act. Those States designate a State agency to which the report must be made. (See appendix D for States with approved State Plans.)

B–3. Q. When are accidents reportable under Part 1904.8 of the regulation?

A. Part 1904.8 is quite specific: Immediate reports must be made of accidents which result in a fatality or the hospitalization of five or more employees.

B–4 Q. What information must be reported?

A. The report must contain three pieces of information: (1) Circumstances surrounding the accident, (2) number of fatalities, and (3) number of hospitalized injuries. If necessary, the OSHA Area Director may require additional information on the accident.

B–5 Q. What is the purpose of the special reporting requirements for fatalities and multiple hospitalization cases in Part 1904.8?

A. The 48-hour reporting requirement of Part 1904.8 provides OSHA with sufficient notice to conduct immediate investigations of the accident scene to determine the causes of cases resulting in death or multiple hospitalizations.

B–6 Q. How can fatalities resulting from heart attacks or similar causes be reported within 48 hours when in most cases the employer cannot determine in that period whether or not it is occupationally related?

A. Heart attacks will generally not be reported under Part 1904.8 since the application of this portion of the regulations is limited to "accidents." When in doubt of the occupational origin of a fatal accident, employers should report it. OSHA will not investigate if it is determined that the case was not occupational in origin.

B–7 Q. Must all fatalities be reported to OSHA in accordance with the requirements of Part 1904.8?

A. Yes. All work-related accidents which result in death or the hospitalization of 5 or more employees must be reported in conformance with the 48-hour reporting requirement of Part 1904.8. The 48-hour reporting requirement has been interpreted to mean that employers must make their report within 48 hours after the occurrence of the accident or fatality. After receiving information that a fatality or multiple hospitalization has occurred, OSHA will evaluate the case to determine whether or not an inspection is warranted.

Chapter VIII. Access to OSHA Records and Penalties for Failure To Comply With Recordkeeping Obligations

The preceding chapters describe the recordkeeping and reporting requirements of the Occupational Safety and Health Act of 1970 and 29 CFR Part 1904. This chapter covers subjects related to insuring the integrity of the OSH recordkeeping process—access to OSHA records and penalties for recordkeeping violations.

A. Access to OSHA Records

Availability of the OSHA records for viewing, inspection, and copying is the focus of Part 1904.7 of the regulations:

(a) Each employer shall provide, upon request, records, provided for in sections 1904.2, 1904.4, and 1904.5 for inspection and copying by any representative of the Secretary of Labor for the purpose of carrying out the provisions of the Act, and by representatives of the Secretary of Health, Education, and Welfare during any investigation under section 20(b) of the Act or by any representative of a State accorded jurisdiction for occupational safety and health inspections or for statistical compilation under sections 18 and 24 of the act.

(b) (1) The log and summary of all recordable occupational injuries and illnesses (OSHA No. 200) (the log) provided for in section 1904.2 shall, upon request, be made available by the employer to any employee, former employee, and to their representatives for examination and copying in a reasonable manner and at reasonable times. The employee, former employee, and their representatives shall have access to the log for any establishment in which the employee is or has been employed.

(2) Nothing in this section shall be deemed to preclude employees and employee representatives from collectively bargaining to obtain access to information relating to occupational injuries and illnesses in addition to the information made available under this section.

(3) Access to the log provided under this section shall pertain to all logs retained under the requirements of section 1904.6.

This part of the regulations concerns only access to OSHA injury and illness records. It provides that all OSHA records, which are being kept for the 5-year retention period, be available for inspection and copying by authorized Federal and State government officials. Employees, former employees, and their representatives are provided access to only the log and summary, OSHA No. 200.

Government officials with access to the OSHA record include: Representatives of the Department of Labor including OSHA safety and health compliance officers and BLS representatives; representatives of the Department of Health, and Human Services (formerly the Department of Health, Education and Welfare) while carrying out the Department's research responsibilities; and representatives of States accorded jurisdiction for inspections or statistical compilations. "Representatives" may include Department of Labor officials inspecting a workplace or gathering information, officials of the Department of Health and Human Services, or contractors working for the agencies mentioned above, depending on the provisions of the contract under which they work.

Employees access to the log is limited to the records of the establishment in which the employee currently works or formerly worked. All current logs and those being maintained for the 5-year retention period must be made available for inspection and copying by employees, former employees, and their representatives.

An employee representative can be a member of a union representing the employee, or any person designated by the employee or former employee.

Access to the log is to be provided to employees, former employees, and employee representatives in a reasonable manner and at a reasonable time. Redress for failure to comply with the access provisions of the regulations can be obtained through a complaint to OSHA.

A–1. Q. Which OSHA records are subject to the access provisions of Part 1904.7 of the regulations?

A. Government representatives have access to all the OSHA forms—the Log and Summary of Occupational Injuries and Illnesses, OSHA No. 200; and the Supplementary Record of Occupational Injuries and Illnesses, OSHA No. 101.

Employees, former employees, and their representatives have access to only the log, and summary, OSHA No. 200.

A–2. Q. What is meant by the term "access" in Part 1904.7?

A. "Access" is the examination and copying of the relevant OSHA records at reasonable times and in a reasonable manner.

A–3. Q. Can employees gain access to any injury and illness records other than those specifically designated in Part 1904.7?

A. Yes. Employees can gain access to medical records through OSHA's standard on Access to Employee Exposure and Medical Records. For information on these provisions, refer directly to the standard or contact an OSHA area office. Also, employees can gain access to other injury and illness information through collective bargaining or other agreements made with employers. However, Part 1904.7

provides for access to only those records that are specified.

A–4. Q. Do the access provisions of the regulations allow employees to see the entire log, or only that portion containing an entry that specifically relates to them?

A. Employees or their representatives have access to the entire log and summary.

B. Penalties for Failure To Comply With Recordkeeping Obligations

Part 1904.9 of the regulations prescribes penalties for the falsification of OSHA records or the failure to keep the OSHA records or make OSHA reports. Part 1904.9(b) incorporates, by reference, Sections 9, 10, and 17 of the OSH Act pertaining to the issuance of citations, the procedures for enforcement, and the assessment of penalties. In doing so, it subjects employers committing recordkeeping and reporting violations to the same sanctions as employers violating other OSHA requirements such as safety and health standards and regulations. Part 1904.9 concerning falsification or failure to keep records or reports states:

(a) Section 17(g) of the Act provides that "Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Act shall, upon conviction, be punished by a fine of not more than $10,000 or by imprisonment, for not more than 6 months or both."

(b) Failure to maintain records or file reports required by this part, or in the details required by forms and instructions issued under this part, may result in the issuance of citations and assessment of penalties as provided for in sections 9, 10, and 17 of the Act.

The OSHA records are an important source of information for all groups and individuals interested in promoting job safety and health. In addition, OSHA relies upon the information in these records to direct its resources to those industries and establishments where they are most needed. Consequently, the agency intends to vigorously pursue recordkeeping and rperoting violations to insure the continued integrity of the records and validity of the data produced.

B–1. Q. Does this mean that employers will be penalized under Part 1904.9(a) for every mistake they make in OSHA recordkeeping?

A. No. Part 1904.9(a) refers only to those who *knowingly* make false statements, representations, or certifications. However, employers notified of incorrect recordkeeping determinations by the Department of Labor representatives are also subject to these provisions.

B–2. Q. Can employers be penalized for failing to maintain OSHA records?

A. Yes. Part 1904.9(b) provides that the failure to maintain records as required by the regulations may result in the assessment of penalties as provided in Sections 9, 10, and 17 of the act.

B–3. Q. Are employers subject to any penalty for failing to respond to the BLS survey questionnaire on occupational injuries and illnesses, OSHA No. 200–S?

A. Yes. Part 1904.9(b) provides that failure to file reports may result in the penalties provided in Sections S9, 10, and 17 of the act.

Appendix A. Glossary of Terms

Annual summary.—Consists of a copy of the occupational injury and illness totals for the year from the OSHA No. 200, and the following information: The calendar year covered; company name; establishment address; certification signature, title, and date.

Annual survey.—Each year, BLS conducts an annual survey of occupational injuries and illnesses to produce national statistics. The OSHA injury and illness records maintained by employers in their establishments serve as the basis for this survey.

Bureau of Labor Statistics (BLS).—The Bureau of Labor Statistics is the agency responsible for administering and maintaining the OSHA recordkeeping system, and for collecting, compiling, and analyzing work injury and illness statistics.

Certification.—The person who supervises the preparation of the Log and Summary of Occupational Injuries and Illnesses, OSHA No. 200, certifies that it is true and complete by signing the last page of, or by appending a statement to that effect to, the annual summary.

Cooperative program.—A program jointly conducted by the States and the Federal Government to collect occupational injury and illness statistics.

Employee.—One who is employed in the business of his or her employer affecting commerce.

Employee representative.—Anyone designated by the employee for the purpose of gaining access to the employer's log of occupational injuries and illnesses.

Employer.—Any person engaged in a business affecting commerce who has employees; this does not include the United States Government or any State or political subdivision of a State.

Establishment.—A single physical location where business is conducted or where services or industrial operations are performed; the place where the employees report for work, operate from, or from which they are paid.

Federal Register.—The official source of information and public notification on OSHA's proposed rulemaking, standards, regulations, and other official matters, including amendments, corrections, insertions or deletions.

First aid.—Any *one-time* treatment and subsequent observation of *minor* scratches, cuts, burns, splinters, and so forth, which do not ordinarily require medical care. Such treatment and observation is considered first aid even though provided by a physician or registered professional personnel.

First report of injury.—A workers' compensation form which may qualify as a substitute for the supplementary record, OSHA No. 101.

Incidence rate.—The number of injuries, illnesses, or lost workdays related to a common exposure base of 100 full-time workers. The common exposure base enables one to make accurate interindustry comparisons, trend analysis over time, or comparisons among firms regardless of size. This rate is calculated as:

$$\frac{N}{EH} \times 200{,}000$$

where:

N = number of injuries and illnesses or lost workdays

EH = total hours worked by all employees during calendar year

200,000 = base for 100 full-time equivalent workers (working 40 hours per week, 50 weeks per year).

Low-hazard industries.—Selected industries in retail trade; finance, insurance, and real estate; and services which are regularly exempt from OSHA recordkeeping. To be included in this exemption, an industry must fall within and SIC not targeted for general schedule inspections and must have an average lost workday case injury rate for a designated 3-year measurement period at or below 75 percent of the private sector average rate.

Log and summary (OSHA No. 200).—The OSHA recordkeeping form used to list injuries and illnesses and to note the extent of each case.

Lost workday cases.—Cases which involve days away from work or days of restricted work activity, or both.

Lost workdays.—The number of workdays (consecutive or not), beyond the day of injury or onset of illness, the employee was away from work or limited to restricted work activity

because of an occupational injury or illness.

(1) *Lost workdays—away from work* The number of workdays (consecutive or not) on which the employee would have worked but could not because of occupational injury or illness.

(2) *Lost workdays—restricted work activity*

The number of workdays (consecutive or not) on which, because of injury or illness: (1) The employee was assigned to another job on a temporary basis; or (2) the employee worked at a permanent job less than full time; or (3) the employee worked at a permanently assigned job but could not perform all duties normally connected with it.

The number of days away from work or days of restricted work activity does not include the day of injury or onset of illness or any days on which the employee would not have worked even though able to work.

Medical treatment.—Includes Treatment of injuries administered by physicians, registered professional personnel, or lay persons. Medical treatment does not include first aid treatment (one-time treatment and subsequent observation of minor scratches, cuts, burns, splinters, and so forth, which do not ordinarily require medical care) even though provided by a physician or registered professional personnel.

Occupational illness.—Any abnormal condition or disorder, other than one resulting from an occupational injury, caused by exposure to environmental factors associated with employment. It includes acute and chronic illnesses or diseases which may be caused by inhalation, absorption, ingestion, or direct contact, and which can be included in the categories listed below. The following categories should be used by employers to classify recordable occupational illnesses on the log in the columns indicated:

Column 7a. Occupational skin diseases or disorders.
Examples: Contact dermatitis, eczema, or rash caused by primary irritants and sensitizers or poisonous plants; oil acne; chrome ulcers; chemical burns of inflammations; etc.

Column 7b. Dust disease of the lung (pneumoconioses).
Examples: Silicosis, asbestosis, coal worker's pneumoconiosis, byssinosis, and other peneumoconioses.

Column 7c. Respiratory conditions due to toxic agents.
Examples: Pneumonitis, pharyngitis, rhinitis or acute congestion due to chemicals, dusts, gases, or fumes; farmer's lung; etc.

Column 7d. Poisoning (systemic effects of toxic materials).
Examples: Poisoning by lead, mercury, cadmium, arsenic, or other metals; poisoning by carbon monoxide, hydrogen sulfide, or other gases; poisoning by benzol, carbon tetrachloride, or other organic solvents; poisoning by insecticide sprays such as parathion, lead arsenate; poisoning by other chemicals such as formaldehyde, plastics, and resins, etc.

Column 7e. Disorders due to physical agents (other than toxic materials).
Examples: Heatstroke, sunstroke, heat exhaustion, and other effects of environmental heat; freezing frostbite, and effects of exposure to low temperatures; caisson disease; effects of ionizing radiation (isotopes, X-rays, radium); effects of nonionizing radiation (welding flash, ultra-violet rays, microwaves, sunburn); etc.

Column 7f. Disorders associated with repeated trauma.
Examples: Noise-induced hearing loss; synovitis, tenosynovitis, and bursitis; Raynaud's phenomena; and other conditions due to repeated motion vibration, or pressure.

Column 7g. All other occupational illnesses.
Examples: Anthrax, brucellosis, infectious hepatitis, malignant and benign tumors, food poisoning, histoplasmosis, coccidiodomycosis, etc.

Occupational injury.—Any injury such as a cut, fracture, sprain, amputation, etc., which results from a work accident or from a single instantaneous exposure in the work environment.

Note.—Conditions resulting from bites, such as insect or snake bites, or from one-time exposure to chemicals are considered to be injuries.

Occupational injuries and illnesses; extent and outcome.—All occupational injuries or illnesses result in either:

(1) Fatalities, regardless of the time between the injury and death, or the length of illness; or

(2) Lost workday cases, other than fatalities, that result in lost workdays; or

(3) Nonfatal cases without lost workdays.

Occupational Safety and Health Administration (OSHA).—OSHA is the Federal agency within the Department of Labor responsible for developing, implementing, and enforcing safety and health standards and regulations. OSHA works with employers and employees to foster effective safety and health programs which reduce workplace hazards.

Premises.—Consist of the employer's total establishment; they include the primary work facility and other areas in the employer's domain such as company storage facilities, cafeterias, restrooms, and restricted company parking lots.

Posting.—The annual summary of occupational injuries and illnesses must be posted at each establishment by February 1 and remain in place until March 1 to provide employees with the record of their establishment's injury and illness experience for the previous calendar year.

Recordable cases.—All work-related deaths, and illnesses, and those work-related injuries which result in: loss of consciousness, restriction of work or motion, transfer to another job, or medical treatment beyond first aid.

Recordkeeping system.—Refers to the nationwide system for recording and reporting occupational injuries and illnesses mandated by the Occupational Safety and Health Act of 1970 and implemented by Title 29, Code of Federal Regulations, Part 1904. This system is the only source of reliable national statistics on job-related injuries and illnesses occurring in the private sector.

Regularly exempt employers.—Employers regularly exempt from OSHA recordkeeping include: (a) All employers with no more than 10 full- or part-time employees at any one time in the previous calendar year; and (b) all employers in retail trade; finance, insurance, and real estate; and services industries—i.e., SIC's 52–89 (except building materials and garden supplies, SIC 52; general merchandise and food stores, SIC's 53 and 54; hotels and other lodging places, SIC 70; repair services, SIC's 75 and 76; amusement and recreation services, SIC 79; and health services, SIC 80).

Report form.—Refers to survey form OSHA No. 200–S which is completed and returned by the surveyed reporting unit.

Restriction of work or motion.—Occurs when the employee, because of the result of a job-related injury or illness, is physically or mentally unable to perform *all* or *any part* of his or her normal assignment during *all* or *any part* of the workday or shift.

Small employers.—Employers with no more than 10 employees among all the establishments of their firm at any one time during the previous calendar year.

Standard Industrial Classification (SIC).—A classification system developed by the Office of Management and Budget, Executive Office of the

President, for use in the classification of establishments by type of activity in which engaged. Each establishment is assigned an industry code for its major activity which is determined by the product or services rendered. Establishments may be classified in 2-, 3-, or 4-digit industries according to the degree of information available.

State (when mentioned alone).—Refers to a State of the United States, the District of Columbia, and U.S. territories and jurisdictions.

State agency.—State agency administering the OSHA recordkeeping and reporting system. Many States cooperate directly with BLS in administering the OSHA recordkeeping and reporting programs. Some States have their own safety and health laws which may impose different or additional obligations.

Supplementary Record (OSHA No. 101).—The form (or equivalent) on which additional information is recorded for each injury and illness entered on the log.

Title 29 of the Code of Federal Regulations. Part 1900–1999.—The parts of the *Code of Federal Regulations* which contain OSHA regulations.

Volunteers.—Workers who are not considered to be employees under the act when they serve of their own free will without compensation.

Workers' compensation systems.—State systems that provide medical benefits and/or indemnity compensation to victims of work-related injuries and illnesses.

Work environment.—Consists of the employer's premises and other locations where employees are engaged in work-related activities or are present as a condition of their employment. The work environment includes not only physical locations, but also the equipment or materials used by the employee during the course of his or her work.

Appendix B. OSHA Recordkeeping Forms

1. The Log and Summary of Occupational Injuries and Illnesses, OSHA No. 200.

2. The Supplementary Record of Occupational Injuries and Illnesses, OSHA No. 101.

3. The Annual Occupational Injuries and Illnesses Survey Covering Calendar Year 1983, OSHA No. 200–S.

BILLING CODE 4510-24-M

Bureau of Labor Statistics
Log and Summary of Occupational Injuries and Illnesses

U.S. Department of Labor

For Calendar Year 19____ Page ____ of ____

Form Approved O.M.B. No. 1220-0029

NOTE: This form is required by Public Law 91-596 and must be kept in the establishment for 5 years. Failure to maintain and post can result in the issuance of citations and assessment of penalties. (See posting requirements on the other side of form.)

RECORDABLE CASES: You are required to record information about every occupational death, every nonfatal occupational illness, and those nonfatal occupational injuries which involve one or more of the following: loss of consciousness, restriction of work or motion, transfer to another job, or medical treatment (other than first aid). (See definitions on the other side of form.)

Company Name

Establishment Name

Establishment Address

Case or File Number	Date of Injury or Onset of Illness	Employee's Name	Occupation	Department	Description of Injury or Illness	Extent of and Outcome of INJURY: Fatalities	Nonfatal Injuries: Injuries With Lost Workdays: Enter a CHECK if injury involves days away from work, or days of restricted work activity, or both	Enter number of DAYS away from work	Enter number of DAYS of restricted work activity	Injuries Without Lost Workdays: Enter a CHECK if no entry was made in columns 1 or 2 but the injury is recordable as defined above	Type of Illness: CHECK Only One Column for Each Illness (See other side of form for terminations or permanent transfers.)	Fatalities	Nonfatal Illnesses: Illnesses With Lost Workdays: Enter a CHECK if illness involves days away from work, or days of restricted work activity, or both	Enter a CHECK if illness involves days away from work	Enter number of DAYS away from work	Enter number of DAYS of restricted work activity	Illnesses Without Lost Workdays: Enter a CHECK if no entry was made in columns 8 or 9
Enter a nonduplicating number which will facilitate comparisons with supplementary records.	Enter Mo./Day.	Enter first name or initial, middle initial, last name.	Enter regular job title, not activity employee was performing when injured or at onset of illness. In the absence of a formal title, enter a brief description of the employee's duties.	Enter department in which the employee is regularly employed or a description of normal workplace to which employee is assigned even though temporarily working in another department at the time of injury or illness.	Enter a brief description of the injury or illness and indicate the part or parts of body affected. Typical entries for this column might be: Amputation of 1st joint right forefinger; Strain of lower back; Contact dermatitis on both hands; Electrocution—body.	Enter DATE of death. Mo./Day/Yr.	Enter a CHECK if injury involves days away from work, or days of restricted work activity, or both.	Enter a CHECK if injury involves days away from work.	Enter number of DAYS away from work.	Enter number of DAYS of restricted work activity.	Enter a CHECK if no entry was made in columns 1 or 2 but the injury is recordable as defined above.	Occupational skin diseases or disorders; Dust diseases of the lungs; Respiratory conditions due to toxic agents; Poisoning (systemic effects of toxic materials); Disorders due to physical agents; Disorders associated with repeated trauma; All other occupational illnesses.	Enter DATE of death. Mo./Day/Yr.	Enter a CHECK if illness involves days away from work, or days of restricted work activity, or both.	Enter a CHECK if illness involves days away from work.	Enter number of DAYS away from work.	Enter number of DAYS of restricted work activity.	Enter a CHECK if no entry was made in columns 8 or 9.
(A)	(B)	(C)	(D)	(E)	(F)	(1)	(2)	(3)	(4)	(5)	(6)	(7a) (7b) (7c) (7d) (7e) (7f) (7g)	(8)	(9)	(10)	(11)	(12)
					PREVIOUS PAGE TOTALS →												
					TOTALS (Carry totals to other side of form.) →													

INJURIES

OSHA No. 200

Certification of Annual Summary Totals By _____ Title _____ Date _____

FOLD

OSHA No. 200

POST ONLY THIS PORTION OF THE LAST PAGE NO LATER THAN FEBRUARY 1

I. Log and Summary of Occupational Injuries and Illnesses

Each employer who is subject to the recordkeeping requirements of the Occupational Safety and Health Act of 1970 must maintain for each establishment a log of all recordable occupational injuries and illnesses. This form (OSHA No. 200) may be used for that purpose. A substitute for the OSHA No. 200 is acceptable if it is as detailed, easily readable, and understandable as the OSHA No. 200.

Enter each recordable case on the log within six (6) workdays after learning of its occurrence. Although other records must be maintained at the establishment (or which they refer), it is possible to prepare and maintain the log at another location, using data processing equipment if desired. If the log is prepared elsewhere, a copy updated to within 45 calendar days must be present at all times in the establishment.

Logs must be maintained and retained for five (5) years following the end of the calendar year to which they relate. Logs must be available (normally at the establishment) for inspection and copying by representatives of the Department of Labor, or the Department of Health and Human Services, or States accepted jurisdiction under the Act. Access to the log is also provided to employees, former employees and their representatives.

II. Changes in Extent of or Outcome of Injury or Illness

If, during the 5-year period the log must be retained, there is a change in an extent and outcome of an injury or illness which affects entries in columns 1, 2, 6, 8, 9, or 10, the first entry should be lined out and a new entry made. For example, if an injured employee at first required only medical treatment but later lost work days away from work, the check in column 6 should be lined out, and checks entered in columns 2 and 3 and the number of lost workdays entered in column 4.

In another example, if an employee with an occupational illness lost work days, returned to work, and then died of the illness, any entries in columns 9 through 12 should be lined out and the date of death entered in column 8.

The entire entry for an injury or illness should be lined out if later found to be nonrecordable. For example, an injury which at later determined not to be work related, or which was mistakenly thought to involve medical treatment but later was determined to have involved only first aid.

III. Posting Requirements

A copy of the totals and information following the last line of the last page for the year must be posted at each establishment in the place or places where notices to employees are customarily posted. This copy must be posted no later than **February 1 and must remain in place until March 1.**

Even though there were no injuries or illnesses during the year, zeros must be entered on the totals line, and the form posted.

The person responsible for the **annual summary totals** shall certify that the totals are true and complete by signing at the bottom of the form.

IV Instructions for Completing Log and Summary of Occupational Injuries and Illnesses

Column A. – CASE OR FILE NUMBER. Self-explanatory.

Column B – DATE OF INJURY OR ONSET OF ILLNESS.
For occupational injuries, enter the date of the work accident which resulted in injury. For occupational illnesses, enter the date of initial diagnosis of illness, or, if absence from work occurred before diagnosis, enter the first day of the absence attributable to the illness which was later diagnosed or recognized.

Columns C through F – Self-explanatory.

Columns 1 and 8 – INJURY OR ILLNESS-RELATED DEATHS. Self-explanatory.

Columns 2 and 9 – INJURIES OR ILLNESSES WITH LOST WORKDAYS. Self-explanatory.

Any injury which involves days away from work, or days of restricted work activity, or both must be recorded since it always involves one or more of the criteria for recordability.

Columns 3 and 10 – INJURIES OR ILLNESSES INVOLVING DAYS AWAY FROM WORK. Self-explanatory.

Columns 4 and 11 – LOST WORKDAYS—DAYS AWAY FROM WORK.
Enter the number of workdays (consecutive or not) on which the employee would have worked but could not because of occupational injury or illness. The number of lost workdays should not include the day of injury or onset of illness or any days on which the employee would not have worked even though able to work.
NOTE: For employees not having a regularly scheduled shift, such as certain truck drivers, construction workers, farm labor, casual labor, part-time employees, etc., it may be necessary to estimate the number of lost workdays. Examples of lost workdays shall be based on such work history of the employee AND days worked by employees, not ill or injured, working in the department and/or occupation of the ill or injured employee.

Columns 5 and 12 – LOST WORKDAYS—DAYS OF RESTRICTED WORK ACTIVITY.
Enter the number of workdays (consecutive or not) on which because of injury or illness:
(1) the employee was assigned to another job on a temporary basis, or
(2) the employee worked at a permanent job less than full time, or
(3) the employee worked at a permanently assigned job but could not perform all duties normally connected with it.

The number of lost workdays should not include the day of injury or onset of illness or any days on which the employee would not have worked even though able to work.

Columns 6 and 13 – INJURIES OR ILLNESSES WITHOUT LOST WORKDAYS. Self-explanatory.

Columns 7a through 7g – TYPE OF ILLNESS.
Enter a check in only one column for each illness.

TERMINATION OR PERMANENT TRANSFER.—Place an asterisk to the right of the entry in columns 7a through 7g (type of illness) which represented a termination of employment or permanent transfer.

V. Totals

Add number of entries in columns 1 and 8.
Add number of checks in columns 2, 3, 6, 7, 9, 10, and 13.
Add number of days in columns 4, 5, 11, and 12.
Yearly totals for each column (1-13) are required for posting. Running or page totals may be generated at the discretion of the employer.

If an employer's log of workdays is continuing at the time the totals are summarized, estimate the number of future workdays the employee will lose and add that estimate to the workdays already lost and include the figure in the annual totals. No further entries are to be made with respect to such cases on the next year's log.

VI. Definitions

OCCUPATIONAL INJURY is any injury such as a cut, fracture, sprain, amputation, etc., which results from a work accident or from an exposure involving a single incident in the work environment.
NOTE: Conditions resulting from animal bites, such as insect or snake bites or from one-time exposure to chemicals are considered to be injuries.

OCCUPATIONAL ILLNESS of an employee is any abnormal condition or disorder, other than one resulting from an occupational injury, caused by exposure to environmental factors associated with employment. It includes acute and chronic illnesses or diseases which may be caused by inhalation, absorption, ingestion, or direct contact.

The following listing gives the categories of occupational illnesses and disorders that will be utilized for the purpose of classifying recordable illnesses. For purposes of information, examples of each category are given. These are typical examples, however, and are not to be considered the complete listing of the types of illnesses and disorders that are to be counted under each category.

7a. Occupational Skin Diseases or Disorders
Examples: Contact dermatitis, eczema, or rash caused by primary irritants and sensitizers or dermatitis due to poisons, oils, solvents or chemical burns or inflammations, etc.

7b. Dust Diseases of the Lungs (Pneumoconioses)
Examples: Silicosis, asbestosis and other asbestos-related diseases; coal worker's pneumoconiosis; byssinosis; siderosis; and other pneumoconioses.

7c. Respiratory Conditions Due to Toxic Agents
Examples: Pneumonitis, pharyngitis, rhinitis or acute congestion due to chemicals, dusts, gases, or fumes; farmer's lung, etc.

7d. Poisoning (Systemic Effect of Toxic Materials)
Examples: Poisoning by lead, mercury, cadmium, arsenic, or other metals; poisoning by carbon monoxide, hydrogen sulfide, or other gases; poisoning by benzol, carbon tetrachloride, or other organic solvents; poisoning by insecticide sprays such as parathion, lead arsenate; poisoning by other chemicals such as formaldehyde, plastics, and resins, etc.

7e. Disorders Due to Physical Agents (Other than Toxic Materials)
Examples: Heatstroke, sunstroke, heat exhaustion, and other effects of environmental heat; freezing, frostbite, and effects of exposure to low temperatures; caisson disease; effects of ionizing radiation (isotopes, X-rays, radium); effects of nonionizing radiation (welding flash, ultraviolet rays, microwaves, sunburn), etc.

7f. Disorders Associated With Repeated Trauma
Examples: Noise-induced hearing loss; synovitis, tenosynovitis, and bursitis; Raynaud's phenomena; and other conditions due to repeated motion, vibration, or pressure.

7g. All Other Occupational Illnesses.
Examples: Anthrax, brucellosis, infectious hepatitis, mumps; and benign tumors, food poisoning, histoplasmosis, coccidioidomycosis, etc.

MEDICAL TREATMENT includes treatment (other than first aid) administered by a physician or by registered professional personnel under the standing orders of a physician. Medical treatment does NOT include first aid treatment (one-time treatment and subsequent observation of minor scratches, cuts, burns, splinters, and so forth, which do not ordinarily require medical care) even though provided by a physician or registered professional personnel.

ESTABLISHMENT: A single physical location where business is conducted or where services or industrial operations are performed (for example: a factory, mill, store, hotel, restaurant, movie theater, farm, ranch, bank, sales office, warehouse, or central administrative office). Where distinctly separate activities are performed at a single physical location, such as construction activities operated from the same physical location as a lumber yard, each activity shall be treated as a separate establishment.

For firms engaged in activities which may be physically dispersed, such as agriculture, construction, transportation, communications, and electric, gas, and sanitary services, records may be maintained at a place to which employees report each day.

Records for personnel who do not primarily report or work at a single establishment, such as traveling salesmen, technicians, engineers, etc., shall be maintained at the location from which they are paid or the base from which personnel operate to carry out their activities.

WORK ENVIRONMENT is composed of the physical location, equipment, materials processed or used, and the kinds of tasks one performs in the course of an employee's work, whether on or off the employer's premises.

Bureau of Labor Statistics
Supplementary Record of
Occupational Injuries and Illnesses

U.S. Department of Labor

This form is required by Public Law 91-596 and must be kept in the establishment for 5 years. Failure to maintain can result in the issuance of citations and assessment of penalties.

Case or File No.

Form Approved
O.M.B. No. 1220-0029

Employer

1. Name

2. Mail address (No. and street, city or town, State, and zip code)

3. Location, if different from mail address

Injured or Ill Employee

4. Name (First, middle, and last)

Social Security No.

5. Home address (No. and street, city or town, State, and zip code)

6. Age

7. Sex (Check one) Male ☐ Female ☐

8. Occupation (Enter regular job title, not the specific activity he was performing at time of injury.)

9. Department (Enter name of department or division in which the injured person is regularly employed, even though he may have been temporarily working in another department at the time of injury.)

The Accident or Exposure to Occupational Illness

If accident or exposure occurred on employer's premises, give address of plant or establishment in which it occurred. Do not indicate department or division within the plant or establishment. If accident occurred outside employer's premises at an identifiable address, give that address. If it occurred on a public highway or at any other place which cannot be identified by number and street, please provide place references locating the place of injury as accurately as possible.

10. Place of accident or exposure (No. and street, city or town, State, and zip code)

11. Was place of accident or exposure on employer's premises? Yes ☐ No ☐

12. What was the employee doing when injured? (Be specific. If he was using tools or equipment or handling material, name them and tell what he was doing with them.)

13. How did the accident occur? (Describe fully the events which resulted in the injury or occupational illness. Tell what happened and how it happened. Name any objects or substances involved and tell how they were involved. Give full details on all factors which led or contributed to the accident. Use separate sheet for additional space.)

Occupational Injury or Occupational Illness

14. Describe the injury or illness in detail and indicate the part of body affected. (E.g., amputation of right index finger at second joint; fracture of ribs; lead poisoning; dermatitis of left hand; etc.)

15. Name the object or substance which directly injured the employee. (For example, the machine or thing he struck against or which struck him; the vapor or poison he inhaled or swallowed; the chemical or radiation which irritated his skin; or in cases of strains, hernia, etc., the thing he was lifting, pulling, etc.)

16. Date of injury or onset of illness

17. Did employee die? (Check one) Yes ☐ No ☐

Other

18. Name and address of physician

19. If hospitalized, name and address of hospital

Date of report | Prepared by | Official position

OSHA No. 101 (Feb. 1981)

SUPPLEMENTARY RECORD OF OCCUPATIONAL INJURIES AND ILLNESSES

To supplement the Log and Summary of Occupational Injuries and Illnesses (OSHA No. 200), each establishment must maintain a record of each recordable occupational injury or illness. Worker's compensation, insurance, or other reports are acceptable as records if they contain all facts listed below or are supplemented to do so. If no suitable report is made for other purposes, this form (OSHA No. 101) may be used or the necessary facts can be listed on a separate plain sheet of paper. These records must also be available in the establishment without delay and at reasonable times for examination by representatives of the Department of Labor and the Department of Health and Human Services, and States accorded jurisdiction under the Act. The records must be maintained for a period of not less than five years following the end of the calendar year to which they relate.

Such records must contain at least the following facts:

1) *About the employer*—name, mail address, and location if different from mail address.

2) *About the injured or ill employee*—name, social security number, home address, age, sex, occupation, and department.

3) *About the accident or exposure to occupational illness*—place of accident or exposure, whether it was on employer's premises, what the employee was doing when injured, and how the accident occurred.

4) *About the occupational injury or illness*—description of the injury or illness, including part of body affected, name of the object or substance which directly injured the employee, and date of injury or diagnosis of illness.

5) *Other*—name and address of physician; if hospitalized, name and address of hospital; date of report; and name and position of person preparing the report.

SEE *DEFINITIONS* ON THE BACK OF OSHA FORM 200.

• U.S. GOVERNMENT PRINTING OFFICE: 1982 — 380-271/3303

1983 OSHA No. 200-S

Annual Occupational Injuries and Illnesses Survey Covering Calendar Year 1983

U.S. Department of Labor
Bureau of Labor Statistics for the Occupational Safety and Health Administration

The information collected on this form will be used for statistical purposes only by the BLS, OSHA, and the cooperating State Agencies.

THIS REPORT IS MANDATORY UNDER PUBLIC LAW 91 596. FAILURE TO REPORT CAN RESULT IN THE ISSUANCE OF CITATIONS AND ASSESSMENT OF PENALTIES.

O.M.B. No. 1220-0045
Approval Exp. 12/31/84

St. Sch. No. Ck. Suf.

SIC

EDIT

Complete this report whether or not there were recordable occupational injuries or illnesses.

PLEASE READ THE ENCLOSED INSTRUCTIONS

Complete and return ONLY THIS FORM within 3 weeks

I. ANNUAL AVERAGE EMPLOYMENT IN 1983

Enter the average number of employees who worked during calendar year 1983 in the establishment(s) covered by this report. Include all classes of employees: full-time, part-time, seasonal, temporary, etc. See the instructions for an example of an annual average employment calculation. *(Round to the nearest whole number.)*

II. TOTAL HOURS WORKED IN 1983

Enter the total number of hours actually worked during 1983 by **all** employees covered by this report. DO NOT include any non-work time even though paid such as vacations, sick leave, etc. If employees worked low hours in 1983 due to lay offs, strikes, fires, etc., explain under Comments (section VII). *(Round to the nearest whole number)*

III. NATURE OF BUSINESS IN 1983

A. Check the box which best describes the general type of activity performed by the establishment(s) included in this report.

- ☐ Agriculture
- ☐ Forestry
- ☐ Fishing
- ☐ Mining
- ☐ Construction
- ☐ Manufacturing
- ☐ Transportation
- ☐ Communication
- ☐ Public Utilities
- ☐ Wholesale Trade
- ☐ Retail Trade
- ☐ Finance
- ☐ Insurance
- ☐ Real Estate
- ☐ Services
- ☐ Public Administration

B. Enter in order of importance the principal products, lines of trade, services or other activities. For each entry also include the approximate percent of total 1983 annual value of production, sales or receipts.

_____ %

_____ %

_____ %

C. If this report includes any establishment(s) which perform services for other units of your company, indicate the primary type of service or support provided. *(Check as many as apply.)*

1 ☐ Central administration
2 ☐ Research, development and testing
3 ☐ Storage (warehouse)
4 ☐ Other (specify)

IV. MONTH OF OSHA INSPECTION

If the establishment(s) covered by this report had either a Federal or State OSHA compliance inspection during calendar year 1983, please enter the name of the month in which the *first* inspection occurred.

_____

(Leave this box blank.)

V. RECORDABLE INJURIES AND ILLNESSES

Did the establishment(s) have any recordable injuries or illnesses during calendar year 1983?

1 ☐ No (Please complete section VII)

2 ☐ Yes (Please complete sections VI and VII)

SEE REVERSE

REPORT LOCATION AND IDENTIFICATION

Complete this report for the establishment(s) covered by the description below

Please indicate any address changes below.

RETURN REPORT TO:

For Information Call:

OSHA No. 200-S (Rev. April 1983)

VI. OCCUPATIONAL INJURY AND ILLNESS SUMMARY (Covering Calendar Year 1983)

- ***Complete this section by copying totals from the annual summary of your 1983 OSHA No. 200.***
- Remember to reverse the carbon insert before completing this side
- Leave section VI blank if there were no OSHA recordable injuries or illnesses during 1983
- *Note: First aid even when administered by a doctor or nurse is not recordable.*
- Please check your figures to be certain that the sum of entries in columns (7a) + (7b) + (7c) + (7d) + (7e) + (7f) + (7g) = the sum of entries in columns (8) + (9) + (13).
- If you listed fatalities in columns (1) and/or (8), please give a brief description of the object or event which caused each fatality in the "Comments" section.

OCCUPATIONAL INJURY CASES

INJURY RELATED FATALITIES** (DEATHS)	INJURIES WITH LOST WORKDAYS				INJURIES WITHOUT LOST WORKDAYS*
	Injury cases with days away from work and/or restricted workdays	Injury cases with days away from work	Total days away from work	Total days of restricted activity	
Number of DEATHS in col. 1 of the log (OSHA No. 200)	Number of CHECKS in col. 2 of the log (OSHA No. 200)	Number of CHECKS in col. 3 of the log (OSHA No. 200)	Sum of the DAYS in col. 4 of the log (OSHA No. 200)	Sum of the DAYS in col. 5 of the log (OSHA No. 200)	Number of CHECKS in col. 6 of the log (OSHA No. 200)
(1)	(2)	(3)	(4)	(5)	(6)
DEATHS					

OCCUPATIONAL ILLNESS CASES

TYPE OF ILLNESS

Enter the number of checks from the appropriate columns of the log (OSHA No. 200).

Occupational skin diseases or disorders	Dust diseases of the lungs	Respiratory conditions due to toxic agents	Poisoning (systemic effects of toxic materials)	Disorders due to physical agents	Disorders associated with repeated trauma	All other occupational illnesses
(7)						
(a)	(b)	(c)	(d)	(e)	(f)	(g)

ILLNESS RELATED FATALITIES** (DEATHS)	ILLNESSES WITH LOST WORKDAYS				ILLNESSES WITHOUT LOST WORKDAYS*
	Illness cases with days away from work and/or restricted workdays	Illness cases with days away from work	Total days away from work	Total days of restricted activity	
Number of DEATHS in col. 8 of the log (OSHA No. 200)	Number of CHECKS in col. 9 of the log (OSHA No. 200)	Number of CHECKS in col. 10 of the log (OSHA No. 200)	Sum of the DAYS in col. 11 of the log (OSHA No. 200)	Sum of the DAYS in col. 12 of the log (OSHA No. 200)	Number of CHECKS in col. 13 of the log (OSHA No. 200)
(8)	(9)	(10)	(11)	(12)	(13)
DEATHS					

* WITHOUT LOST WORKDAYS- CASES (WITH NO DAYS LOST) RESULTING IN EITHER DIAGNOSIS OF OCCUPATIONAL ILLNESS, LOSS OF CONSCIOUSNESS, RESTRICTION OF WORK OR MOTION, TRANSFER TO ANOTHER JOB, OR MEDICAL TREATMENT BEYOND FIRST AID.

VII. REPORT PREPARED BY (Please type or print)

NAME _____

TITLE _____

SIGNATURE _____

AREA CODE _____ PHONE _____

DATE _____

**IF YOU LISTED FATALITIES IN COLUMNS (1) AND/OR (8) PLEASE GIVE A BRIEF DESCRIPTION OF THE OBJECT OR EVENT WHICH CAUSED EACH FATALITY IN THE "COMMENTS" SECTION BELOW.

COMMENTS _____

SURVEY REPORTING REGULATIONS

Title 29, Part 1904.20-22 of the Code of Federal Regulations requires that each employer shall return the completed survey form, OSHA No. 200-S, within 3 weeks of receipt in accordance with the instructions shown below.

INSTRUCTIONS FOR COMPLETING THE OSHA NO. 200-S FORM 1983 OCCUPATIONAL INJURIES AND ILLNESSES SURVEY (Covering Calendar Year 1983)

Change of Ownership—When there has been a change of ownership during the report period, only the records of the current owner are to be entered in the report. Explain fully under **Comments** (Section VII), and include the date of the ownership change and the time period this report covers.

Partial-Year Reporting—For any establishment(s) which was not in existence for the entire report year, the report should cover the portion of the period during which the establishment(s) was in existence. Explain fully under Comments (Section VII), including the time period this report covers.

ESTABLISHMENTS INCLUDED IN THE REPORT

This report should include only those establishments located in, or identified by, the Report Location and Identification designation which appears next to your mailing address. This designation may be a geographical area, usually a county or city, or it could be a brief description of your operation within a geographical area. If you have any questions concerning the coverage of this report, please contact the agency identified on the OSHA No. 200-S report form.

DEFINITION OF ESTABLISHMENT

An **ESTABLISHMENT** is defined as a single physical location where business is conducted or where services or industrial operations are performed. (For example: a factory, mill, store, hotel, restaurant, movie theatre, farm, ranch, bank, sales office, warehouse, or central administrative office.)

For firms engaged in activities such as construction, transportation, communication, or electric, gas and sanitary services, which may be physically dispersed, reports should cover the place to which employees normally report each day.

Reports for personnel who do not primarily report or work at a single establishment, such as traveling salespersons, technicians, engineers, etc., should cover the location from which they are paid or the base from which personnel operate to carry out their activities.

SECTION I. ANNUAL AVERAGE EMPLOYMENT IN 1983

Enter in Section I the **average** (not the total) number of full and part time employees who worked during calendar year 1983 in the establishment(s) included in this report. If more than one establishment is included in this report, add together the annual average employment for each establishment and enter the sum. Include all classes of employees—seasonal, temporary, administrative, supervisory, clerical, professional, technical, sales, delivery, installation, construction and service personnel, as well as operators and related workers.

Annual Average employment should be computed by summing the employment from all pay periods during 1983 and then dividing that sum by the total number of such pay periods throughout the entire year, including periods with no employment. For example, if you had the following monthly employment—Jan. 10, Feb. 10, Mar. 10, Apr. 5, May 5, June 5, July 5, Aug. 0, Sept. 0, Oct. 0, Nov. 5, Dec. 5—you would sum the number of employees for each monthly pay period (in this case, 60) and then divide that total by 12 (the number of pay periods during the year) to derive an annual average employment of 5.

SECTION II. TOTAL HOURS WORKED IN 1983

Enter in Section II the **total** number of hours actually **worked** by all classes of employees during **1983.** Be sure to include **ONLY** time on duty. **DO NOT include any non-work time** even though paid, such as vacations, sick leave, holidays, etc. The hours worked figure should be obtained from payroll or other time records wherever possible. If **hours worked** are not maintained separately from **hours paid**, please enter your best estimate. If actual hours worked are not available for employees paid on commission, salary, by the mile, etc., hours worked may be estimated on the basis of scheduled hours or 8 hours per workday.

For example, if a group of 10 salaried employees worked an average of 8 hours per day, 5 days a week, for 50 weeks of the report period, the total hours worked for this group would be 10 × 8 × 5 × 50 = 20,000 hours for the report period.

SECTION III. NATURE OF BUSINESS IN 1983

In order to verify the nature of business code, we must have information about the specific economic activity carried on by the establishment(s) included in your report during calendar year 1983.

Complete Parts A, B and C as indicated in Section III on the OSHA No. 200-S form. Complete Part **C only** if supporting services are provided to other establishments of **your** company. Leave Part C blank if a) supporting services are not the primary function of any establishment(s) included in this report or b) supporting services are provided but only on a **contract or fee basis** for the general public or for other business firms. **(Instructions continued on page 2.)**

NOTE: If more than one establishment is included, information in Section III should reflect the combined activities of all such establishments. One code will be assigned which best indicates the nature of business of the group of establishments as a whole.

SECTION IV. MONTH OF OSHA INSPECTION

Enter the name of the first month in 1983 during which your establishment(s) had an OSHA compliance inspection. Include inspections under the Federal or State equivalents of the Occupational Safety and Health Act by Federal or State inspectors and other inspections which may result in penalties for violations of safety and health standards. Do not include inspections limited to elevators, boilers, fire safety or those which are consultative in nature.

SECTION V. RECORDABLE INJURIES OR ILLNESSES

Check the appropriate box. If you checked "Yes," complete Sections VI and VII on the back of the form. If you checked "No," complete only Section VII.

SECTION VI. OCCUPATIONAL INJURY AND ILLNESS SUMMARY

This section can be completed easily by copying the totals from the annual summary of your **1983** OSHA No. 200 form (Log and Summary of Occupational Injuries and Illnesses). Please note that if this report covers **more** than one establishment, the final totals on the "Log" for each must be added and the sums entered in Section VI.

Leave Section VI **blank** if the employees covered in this report experienced no recordable injuries or illnesses during 1983.

If there were recordable injuries or illnesses during the year, please review your OSHA No. 200 form for each establishment to be included in this report to make sure that all entries are correct and complete before completing Section VI. Each recordable case should be included on the "Log" in only **one** of the six main categories of injuries or illnesses:

1. INJURY—related deaths (Log column 1)
2. INJURIES with days away from work and/or restricted days (Log column 2)
3. INJURIES without lost workdays (Log column 6)
4. ILLNESS—related deaths (Log column 8)
5. ILLNESSES with days away from work and/or restricted days (Log column 9)
6. ILLNESSES without lost workdays (Log column 13)

[redacted]

Also review each case to ensure that the appropriate entries have been made for the other columns if applicable. For example, if the case is an injury with Lost Workdays, be sure that the check for an injury involving **days away from work** (Log column 3) is entered if necessary. Also verify that the correct number of days away from work (Log column 4) and/or days of restricted work activity (Log column 5) are recorded. A similar review should be made for a case which is an illness with Lost Workdays (including Log columns 10, 11 and 12). Please remember that if your employees' loss of workdays is still continuing at the time the annual summary for the year is completed, you should estimate the number of future workdays they will lose and add this estimate to the actual workdays already lost. Each partial day away from work, other than the day of the occurrence of the injury or onset of illness, should be entered as one full restricted workday.

Also, for each case which is an illness, make sure that the appropriate column indicating Type of Illness (Log columns 7a-7g) is checked.

After completing your review of the individual case entries on the "Log," please make sure that the "Totals" line has been completed by summarizing Columns 1 through 13 according to the instructions on the back of the "Log" form. Then, copy these "Totals" onto Section VI of the OSHA No. 200-S form. If you entered fatalities in columns (1) and/or (8), please include in the "Comments" section a brief description of the object or event which caused each fatality.

FIRST AID

Finally, please remember that all injuries which, in your judgement, required **only First Aid Treatment**, even when administered by a doctor or nurse, should not be included in this report. First Aid Treatment is defined as one-time treatment and subsequent observation of minor scratches, cuts, burns, splinters, etc., which do not ordinarily require medical care.

SECTION VII. COMMENTS AND IDENTIFICATION

Please complete all parts including your area code and telephone number. Then return the OSHA No. 200-S form in the pre-addressed envelope. **KEEP** your file copy.

Dear Employer:

The Occupational Safety and Health Act of 1970 requires the Secretary of Labor to collect, compile, and analyze statistics on occupational injuries and illnesses. This is accomplished through a joint Federal/State survey program with States that have received Federal grants for collecting and compiling statistics. Establishments are selected for this survey on a sample basis with varying probabilities depending upon size. Certain establishments may be included in each year's sample because of their importance to the statistics for their industry.

You have been selected to participate in the nationwide Occupational Injuries and Illnesses Survey for 1983. Under the Occupational Safety and Health Act, your report is mandatory.

The following items are enclosed for your use: (1) Instructions for completing the form; (2) The OSHA No. 200-S form and a copy for your files; and (3) An addressed return envelope. Please complete the OSHA No. 200-S form and return it within three weeks in the envelope provided.

If you have any questions about this survey, contact the survey collection agency indicated on the OSHA No. 200-S form.

Thank you for your cooperation with this important survey.

Sincerely,

THORNE G. AUCHTER
Assistant Secretary for
Occupational Safety and Health

BILLING CODE 4510-24-C

Appendix C.—Selected Illnesses Which May Result From Exposure in the Work Environment

The following table is included *for information purposes only, to assist* employers in recognizing certain occupational illnesses and diseases. It does not include every condition, illness, or disease that may result from an exposure in the work environment.

The table is based upon a Sentinel Health Event List (Occupational) (SHEO), initially prepared by the National Institute for Occupational Safety and Health (NIOSH), which encompassed 50 disease conditions linked to the workplace. A Sentinal Health Event is defined by NIOSH as a disease, disability, or untimely death which is occupationally related and whose occurrence may: 1) provide the impetus for epidemiologic or industrial hygiene studies; or 2) serve as a warning signal that materials substitution, engineering control, personal protection, or medical care may be required. The list included only those conditions for which NIOSH found "objective documentation of an associated agent, industry, and occupation. . . . in the scientific literature." NIOSH has indicated that the list will be expanded in the future.

The following table lists illness conditions, the industry and/or occupation where each condition is likely to occur, symptoms associated with each condition, the agent likely to cause the condition, and the appropriate illness column to be checked on the log, OSHA No. 200.

Recording illnesses has historically been a problem for employers, especially chronic or long term latent illnesses. This table is furnished to assist employers in making accurate illness determinations. *The table should not be interpreted to mean that a specific condition can only be contracted in the industries or occupations listed. It also does not mean that every condition listed is recordable if experienced by employees in these industries and/or occupations.* For the case to be OSHA recordable, employers must still establish that the condition is a result of an exposure in *their* work environment. For guidelines for determining work relationship, see Chapter V, Section C.

Condition	Industry and/or occupation	Symptoms	Agent	Log column
Pulmonary tuberculosis	Physicians, medical personnel, medical laboratory workers.	Tuberculous lesion; chest pain; coughing; bloody and pus-like sputum; hectic fever; weight loss; or night sweats.	Mycobacterium tuberculosis	7c
Silico-tuberculosis	Quarrymen, sandblasters, silica, processors, mining, metal foundries, ceramic industry.	Decrease in maximum breathing capacity; massive fibrosis; pronounced, energetic or labored respiration with low oxygen content in arteries producing bluish skin and mucous membrane discolorations; bloodstained sputum; attacks of bronchopneumonia; malaise; disturbed sleep; anorexia; chest pains; or hoarseness.	S:02, Mycobacterium tuberculosis	7b
Plague	Shepherds, farmers, ranchers, hunters, field geologists, medical laboratory workers.	Acutely inflamed and painful lymph nodes; pulmonary lesions; cough; chills; 103°–106 °F temperature; rapid and thready pulse, hypertension; restlessness; delirium; confusion; incoordination; headache; vomiting; or diarrhea.	Yersinia pestis via bite of infected flea, wild rodents, or inhalation.	7g
Tularemia	Hunters, fur handlers, sheep industry workers, cooks, veterinarians, ranchers, veterinary pathologists, forestry workers, farmers, butchers, laboratory workers.	Ulcer at bite site followed by inflammation of regional lymph nodes; a nonspecific rash; headache; muscle pains; chills; nausea; vomiting and rapid rise in temperature to 103°–104 °F with severe prostration; extreme weakness; and drenching sweats—all symptomatic of a typhoid-like state; bacteremia; and atypical pneumonia.	Francisella tularensis via bite of flies, fleas, ticks, and lice or handling infected animals.	7g
Anthrax (diagnosis often hinges upon determination of occupation).	Shepherds, farmers, butchers, handlers of imported hides or fibers, veterinarians, veterinary pathologists, weavers.	*Cutaneous Form:* Red-brown papule skin eruption which enlarges with red patches of variable size and shape; pus-like pimples; and hardening of tissue. Progressive ulceration follows with blood and pus bursting from the pimples and dead tissue forming. Local lymph node enlargement is accompanied by general feeling of illness; muscle pain; headache; fever; nausea; and vomiting. *Pulmonary Form:* Symptoms are insidious, suggesting an influenza-like illness. Increased fever is followed in 1–3 days by severe respiratory distress with bluish-purplish discoloration of mucous membranes and skin; shock; and coma.	Bacillus anthracis	7g
Brucellosis	Farmers, shepherds, veterinarians, laboratory workers, slaughterhouse workers.	Remittant undulatory evening fever for 1–5 weeks; headaches and back-of-neckaches; morning sweats with lowered fever; weakness and aching without localizing findings. Is repetitive with remissions over months or years. Cervical pain; constipation; occasional diarrhea; anorexia; weight loss; irritability; insomnia; mental depression; emotional instability. Enlarged spleen and lymph nodes may occur.	Brucella abortus, suis	7g
Tetanus	Farmers, ranchers	Lockjaw; spasms, primarily of masseter and neck muscles and secondarily of the back muscles; stiffness of the jaw; restlessness; irritability; constipation; stiff neck; difficulty in swallowing; stiff arms or legs; headache; fever; sore throat; chilliness; painful convulsions.	Clostridium tetani	7g
Rubella	Medical personnel, intensive care personnel.	Pale pink rash or measles-like eruptions following slight fever and inflammation of mucous membranes of head, nose, throat; sore throat; pains in limbs; cough; intense intolerance of light.	Rubella virus	7g
Hepatitis A (infectious)	Day care center staff, orphanage staff, mental retardation institution staff, medical personnel.	Anorexia; fever; liver enlargement and tenderness; generalized debilitation; drowsiness; nausea; headache; occasionally jaundice.	Hepatitis A virus	7g
Hepatitis B (serum)	Nurses and aides, anesthesiologists, orphanage and mental institution staff, medical laboratory personnel, general dentists, oral surgeons, physicians.	Flu-like feeling; weakness; drowsiness; anorexia; nausea; abdominal discomfort; fever; headache; definite jaundice.	Hepatitis B virus	7g
Non-A, non-B hepatitis (toxic)	As above for hepatitis A & B	Nausea; vomiting; jaundice; stupor; coma; toxic effects on kidney, brain, or bone marrow may be more conspicuous.	Unknown; suspected drugs and chemicals include: carbon tetrachloride, insecticides, industrial solvents, and various metallic compounds (arsenic, gold, mercury iron).	7g

Condition	Industry and/or occupation	Symptoms	Agent	Log column
Rabies	Veterinarians, animal and game wardens, lab researchers, farmers, ranchers, trappers, cave explorers, delivery personnel.	Malaise or general feeling of illness or discomfort; depression of spirits; swelling of lymphatics around wound; choking; spasmodic catching of breath, succeeded by increasing spasms, especially of the muscles of respiration and swallowing, which are increased by attempts to drink water or even by sight of water. Also, fever, headache, mental derangement, nausea; vomiting; profuse secretion of a sticky saliva; and albumin in the urine. Usually fatal within 2-5 days.	Rabies virus	7g
Ornithosis	Psittacine bird (parrot and parakeet) breeders, pet shop staff, poultry producers, veterinarians, zoo employees, taxidermists, laboratory and hospital personnel.	Chills; headache; dry cough; feverish with slow pulse; lethargy; insomnia; abnormal fear of light; sore throat; nausea; vomiting; diarrhea; protein in urine; anorexia; abnormal white blood cell count; enlarged but non-tender liver; and commonly, inflammation of lungs. Severe cases include muscle pain with stiffness and spasms; delirium and stupor.	Chlamydia psittaci	7g
Hemangiosar-coma of the liver	Vinyl chloride polymerization industry, vintners (winemaker).	A malignant tumor composed of cancerous thin and flat scale-like cells forming vessel-like spaces in some instances.	Vinyl Chloride Monomer; arsenical pesticides.	7g
Malignant neoplasm of nasal cavities.	Woodworkers, cabinet and furniture makers, boot and shoe industry, radium chemists and processors, dial painters, chromium producers, processors, users, nickel-smelting and refining.	Malignant tumor; headache; pain; paralysis of the lateral rectus muscle of the eye.	Hardwood dusts; unknown; radium; chromates; nickel.	7g
Malignant neoplasm of larynx	Asbestos industries and utilizers.	Hoarseness; acute laryngitis, polyp of a vocal cord; dropped voice pitch which becomes monotone; voicelessness; difficult or labored breathing.	Asbestos	7g
Malignant neoplasm of trachea, bronchus, and lung.	Asbestos industry and utilizers, topside coke oven workers, uranium fluorspar miners, chromium producers and processors, users, nickel smelters, processors, users, smelters, mustard gas formulators, ion exchange resin makers, chemists.	Chronic cough; localized wheeze; collapsed portion of lung with shrinkage of chest wall and diminution of chest movement and breath sounds; scanty and mucoid sputum unless an infection away from bronchial obstruction occurs; occasional spitting of blood or bloody sputum; severe, constant, nonpleuritic, unilateral pain; sometimes a remote metastasis, especially in the brain, occurs; advanced state-weight loss, anorexia, weakness, hoarseness, bone pain.	Asbestos; coke oven emissions; radon daughters; chromates; nickel; arsenic mustard gas; bis(chloromethlyl) ether chloromethyl methyl ether.	7g
Mesothelioma (MN of peritoneum) (MN of pleura).	Asbestos industries and utilizers.	Primary tumor composed of cells similar to those forming lining of the peritoneum, pericardium, or pleura.	Asbestos	7g
Malignant neoplasm of bone	Dail painters, radium chemists, and processors.	Fracture may be first clue to bone cyst, pain swelling.	Radium	7g
Malignant neoplasm of scrotum	Automatic lathe operators, metalworkers; coke oven workers; petroleum refiners, tar distillers, chimney sweeps.	Scrotal mass progressively increasing in size; sometimes associated with pain; minor trauma; hemorrhaging may produce extreme local pain and tenderness.	Mineral/Cutting Oils; soots and tars, tar distillates.	7g
Malignant neoplasm of bladder	Rubber and dye workers.	Discharge of blood or pus-filled urine; pain or burning while urinating; colicky pain accompanying obstruction; frequent urination.	Benzidine, alpha and beta naphthylamine, auramine, magenta, aminobiphenyl, 4-Nitrophenyl.	7g
Malignant neoplasm of kidney, other, and unspecified urinary organs.	Coke oven workers.	Pain; malignant mass or tumor of the connective tissues, muscles, urogenital system, vascular system, and epithelial lining of the coelom; discharge of bloody urine; fever; anorexia; nausea; vomiting; hypertension.	Coke oven emissions	7g
Lymphoid leukemia, acute	Rubber industry, radiologists.	Abrupt onset of fever with secondary infection of mouth, throat, or lungs; joint pains; thrombocytopenia (decrease in absolute number of platelets below normal) may cause minute rounded spots of hemorrhage on skin, mucous membrane, or organ, and discoloration of skin due to blood vessel rupture, plus bleeding from mouth, nose, kidneys, and bowel. Moderate enlargement of liver, spleen, and lymph nodes and progressive weakness and pallor.	Unknow; ionizing radiation	7g
Myeloid leukemia, acute	Occupations with exposure to benzene; radiologists.	Fatigue; weakness; anorexia; weight loss; moderately enlarged spleen causing epigastric stress or a heavy feeling; sternal tenderness reflects hypercelluarity of the marrow; minor lymph node enlargement; thrombocytopenia (decrease in absolute number of blood platelets below normal) followed by hemostasis (arrest of a flow of blood or hemorrhage).	Benzene; inoizing radiation	7g
Erythroleukemia	Occupations with exposure to benzene.	Rare form of leukemia in which multiple hemorrhages, especially from the base of the tongue and gums occur; plus an uninterrupted fall of both the white and red blood cell count of the blood; fever; aplastic anemia.	Benzene	7g
Hemolytic Anemia, nonautoimmune.	Whitewashing and leather industry; electrolytic processes, arsenical ore smelting; plastics industry; dye, celluloid, resin industry.	Weakness; vertigo; headache; tinnitus; spots before the eyes; easy fatigability; drowsiness; irritability; euphoria; psychotic behavior; occasionally amenorrhea (absence of menstruation); loss of libido; or low-grade fever; gastrointestinal complaints and congestive heart failure. Characterized by jaundice; enlargement of the spleen; and evidence of accelerated blood destruction. Hemolytic crises are accompanied by malaise, chills, and fever; aching in the extremities, back, and abdomen; and the presence of hemoglobin and methoglobin in the urine which is diminished in the amount excreted over 24 hrs. if the blood destruction is intravacular. In chronic hemolytic anemia, liver enlargement and pigment gallstones as well as chronic leg ulcers are often seen.	Copper sulfate; arsine; trimellitic anhydride; Naphthalene.	7d
Aplastic anemia	Explosives manufacturer, occupations with exposure to benzene, radiologists, radium chemists and dial painters.	Usually insidious, but can be explosive in development. Waxy pallor of skin and mucous membranes. Chronic cases show brown skin pigmentation. If decrease in absolute number of platelets is below normal (thrombocytopenia), blood may rupture into mucous membrances and skin. Hemorrhages into ocular fundi are frequent. Severe sore throat associated with sharp reduction in number of granulocytes (agranulocitic angina) may occur. Spleen enlargement is absent.	TNT; Benzene; ionizing radation	7d 7e

Condition	Industry and/or occupation	Symptoms	Agent	Log column
Agranulocytosis or neutropenia	Occupations with exposure to benzene, explosives and pesticide industries, pesticides, pigments, pharmaceuticals.	Acute disease characterized by marked leukopenia and neutropenia (below normal number of leukocytes and neutrophils per unit volume of peripheral blood) and with ulcerative lesions of the throat and other mucous membranes, of the gastrointestinal tract and of the skin. Two or three days of fatigue or overpowering weakness is followed by general ill feeling, chills, high fever, rapid weak pulse, sore throat, difficulty in swallowing, ulcers of the oral mucosa, and ulcerations of the pharyngeal and buccal mucosae. Prostration is extreme. Regional lymph disease but no enlargement of nodes, liver, or spleen. Fatal.	Benzene; phosphorus; inorganic arsenic.	7a
Methemoglobinemia (attacks usually develop some hours after employee has left plant and rarely during work.).	Explosives and dye industries.	The oxidized form of hemoglobin, in which the iron atom is trivalent, and which is not able to combine reversibly with oxygen. Formation of large amounts of methemoglobin prevents the normal function of hemoglobin, that of transporting oxygen in the body thus causing asphyxia of the tissues. When large amounts are present, the blood becomes chocolate-brown in color. The skin takes on a bluish-gray color varying in intensity from lilac to a deep leaden hue, and quite different from the bluish-purple color of cyanosis due to a lack of oxygen. This distinctive tint is most noticeable on the cheeks, ears, tip of the nose, and fingernails. Sensation of weakness in the knees and a staggering gait follow. If destruction of the red blood cells is severe, anemia occurs and there may also be injuries to the kidney and liver. Jaundice and enlargement of the spleen may occur.	Aromatic amino and nitro compounds (aniline, TNT, nitroglycerin).	7a
Toxic encephalitis (noninfectious).	Battery, smelter, and foundry workers, electrolytic chlorine production, battery makers, fungicide formulators.	Rapid onset of fever; depression; loss of consciousness or coma; seizures; meningeal symptoms and signs may be accompanied by cerebral disorder, including alterations of consciousness, personality change, convulsions, tremor, muscle weakness of one side of the body (hemiparesis), and cranial nerve abnormalities, progressing within a few days to coma and death.	Lead; inorganic and organic mercury.	7d
Parkinson's Disease (secondary).	Manganese processing, battery makers, welders, internal combustion engine industries.	Listlessness and sleepiness by day but insomnia by night; muscular pains, including cramps in the calves; unsteady gait; weakness and stiffness of the limbs; involuntary movements of the arms, legs, trunk, jaw, and head which may be severe enough to shake the bed; occasionally uncontrollable laughter or crying; impulsive acts such as running, dancing, singing, and uncontrolled talking; or forced movements such as falling without being able to catch oneself. Also, absentmindedness; mental confusion; hallucinations; and attacks of aggressiveness; irritability and euphoria; handwriting is tremulous, letters and words cramped, and micrographia is common; speech disturbances include run-on words and sentences, monotone voice, loss of speech (aphonia); impaired swallowing; maskilke face; excessive salivation and sweating.	Manganese; carbon monoxide.	7g
Cerebellar ataxia	Chemical industry using toluene, electrolytic chlorine production, battery makers, fungicide formulators.	Unsteadiness in walking; arm tremors; pyramidal tract involvement or posterior column disorder may be present; the motor neurons or peripheral nerves may be affected; sometimes optic atrophy, retinitis pigmentosa, paralysis of the eye muscles (ophthalmoplegia), nerve deafness, or mental deterioration. Skeletal changes (scoliosis or spinal curvature and pedal or foot abnormalities) are common.	Toluene; organic mercury.	7g
Inflammatory and toxic neuropathy.	Pesticides, pigments, pharmaceuticals, furniture refinishers, degreasing operations, plastic-coated-fabric workers, explosives industry, rayon manufacturing, plastics, hydraulics, coke industries, battery, smelter, and foundary workers, dentists, chloralkali workers, chloralkali plants, fungicide makers, battery makers, plastics industry, paper manufacturing.	Numbness, tingling, and burning of feet and hands, followed by muscular weakness. There may also be a decrease in touch, pain, and temperature sensation in the feet and hands, and tendon reflexes may be diminished or absent.	Arsenic and arsenic compounds; hexane; methyl N-butyl ketone; TNT; CS2; tri-o-cresyl phosphates; inorganic lead; inorganic mercury; organic mercury; acrylamide.	7g
Cataract	Microwave and radar technicians; explosives industries; radiologists; blacksmiths, glass blowers, bakers; moth repellant formulators, fumigators; explosives, dyes, herbicide and pesticide industries.	Progressive, painless loss of vision unless the cataract swells and produces secondary glaucoma. Well-advanced cataracts appear as gray opacities in the lens. Small ones stand out as dark defects in the red reflex.	Microwaves; Ionizing radiation; Infrared radiation; Napthalene, Dinitrophenol, dinitro-o-cre sol	7e 7e 7e 7g 7g
Noise effects on inner ear	Any industry and/or occupation involving exposure to excessive noise.	Tinnitus—hissing, ringing, buzzing, humming, thumping, whistling, or roaring in the ear—may be constant or intermittent and often accompanied by hearing loss. Clicking; cracking; or ticking sounds or abnormal or pathological sounds, originating within the patient's body (by a muscle contraction, etc.) in region of the ear and audible to others as well as to the patient.	Excessive noise	7f
Raynaud's phenomenon (secondary).	Lumberjacks, chain sawyers, grinders, chippers, vinyl chloride polymerization industry.	Intermittent pallor and sometimes bluish-purplish discoloration (cyanosis) of the skin precipitated by exposure to cold, without clinical evidence of blockage of the large peripheral vessels and with nutritional lesions (if present at all, limited to the skin). Blanching and numbing when exposed to chilling weather or emotional upsets with probable loss of muscular control and reduction of sensitivity to heat, cold, and pain are main symptoms. Cyanosis and pain are rare. Gangrene and serious complications are very rare if, indeed, they occur at all.	Whole body or segmental vibration; vinyl chloride monomer.	7f
Extrinsic allergic alveolitis	Farmer's lung, baggassosis, bird fancier's lung, suberosis, malt worker's lung, mushroom worker's lung, maple bark disease, cheese washer's lung, coffee worker's lung, fish-meal worker's lung, furrier's lung, sequoiosis, wood worker's lung, miller's lung.	Difficult or labored breathing (dyspnea); fever; and oxygen deficiency (hypoxia) during acute phase lasting several weeks. Cough with scanty, black, stringy, occasionally bloody sputum; bluish-purple discoloration of mucous membranes (cyanosis); patchy infiltrates in the lung can also occur.	Various agents (usually a fungus or mold and dusty substances).	7g

Condition	Industry and/or occupation	Symptoms	Agent	Log column
Extrinsic asthma or allergic asthma.	Jewelry, alloy and catalyst makers, polyurethane, adhesive, paint workers, alloy, catalyst, refinery workers, solderers, plastic, dye, insecticide makers, foam workers, latex makers, biologists, printing industry, nickel plasters, bakers, plastics industry, woodworkers, furniture makers, detergent formulators.	Sudden onset after exposure to an allegen. Sense of tightness in the chest due to spasmodic contraction of the bronchi; difficult or labored breathing (dyspnea); wheezing. Symptoms may subside in one hour or less, continue for several hours, or persist as status asthmaticus for many days. End of attack is marked by pronounced coughing with expectoration of thick, tenacious sputum, immediately followed by a sensation of relief and "clearing" of the air passages. Physical signs consist of prolongation of expiration and the presence of sonorous and sibilant rales throughout the chest; normal but labored respiration; markedly distended chest; bluish-purplish discoloration of skin and mucous membrances (cyanosis). Between attacks breathing may be quiet, but forced expiration will produce sonorous or sibilant rales. Frequency and severity of attacks may be greatly influenced by secondary factors (e.g., changes in temperature and humidity); by exposure to noxious fumes; by fatigue; by endocrine changes (puberty, menstruation, pregnancy, menopause); by emotional stress. Since these secondary factors may perpetuate attacks, attention should be directed to their control.	Platinum; isocyanates; chromium and cobalt; aluminum soldering flux; phthalic anhydride; formaldehyde; gum arabic; NiSO4; flour; trimellitic anhydride; red cedar and other wood dusts; bacillus-derived Exoenzymes.	7e
Coalworkers pneumoconiosis	Coal miners	Black spit increasing in quantity as diseases advances; jet-black nodules and cavities of the lung; chest becomes barrel-shaped and there may be clubbing of the fingers; right heart failure or silico-tuberculosis may supervene to cause death; disease is visualized by X-ray as fine, discrete pinhead mottling or nodulation or dense conglomerate shadows resembling angel's wings, eventually large fibrotic masses develop and difficult or labored breathing with cough may ensue.	Coal dust	7b
Asbestosis	Asbestos industries and utilizers	Progressive difficult or labored breathing (dyspnea), non-productive cough (little or no sputum), unless pulmonary TB is present yielding bloodstained sputum; slight pain between shoulders, under shoulder blades, or sternum; visualized by X-ray as fine pulmonary fibrosis enmeshed with asbestos bodies giving a ground glass appearance; increased susceptibility to lung cancer; pleural plaques and calcifications are often present in the fibrous tissues and emphysema is extensive, but localized to lower and apical parts of the lungs.	Asbestos	7b
Silicosis	Quarrymen, sandblasters, silica processors, mining, metal and ceramic industries.	Discrete nodulation in the absence of emphysema is usually asymptomatic. It is the massive conglomerate fibrosis resulting from the coalescence of nodules that yields symptoms: difficult or labored breathing (dyspnea) which is progressively deeper and faster; dry cough; malaise; disturbed sleep; anorexia; chest pains; hoarseness; bluish discoloration of skin and mucous membranes (cyanosis); and bloodstained sputum with bronchopneumonia and subsequent bronchiectasis developing. TB often develops. Fever is rare. Physical signs (and loud pulmonic valve component of S2 hear sound, decreased chest expansion and excursion of diaphragm, breath sounds) are few or absent. Right heart failure or pus-producing bronchopneumonia will result in death.	Silica	7b
Talcosis	Talc processors	Difficult or labored breathing (dyspnea), X-ray yields nodular shadows distributed over both lungs; nodules show whorling different from silicosis and contain fiber-like structures arranged singly and in clumps.	Talc	7b
Chronic beryllium disease of the lung.	Beryllium alloy workers, ceramic and cathode ray tube makers, nuclear reactor workers (onset may be 5 years after exposure).	Morbid condition of the lungs, more rarely of the skin (conjunctivitis and dermatitis), subcutaneous tissue, lymph nodes liver, and other structures, characterized by formation of granulomas (tumors). Chronic granulomatous pneumoconiosis with thickening of alveolar walls. An acute transient inflammation of respiratory tract (nasal passages and pharynx) yielding nosebleeds, bronchitis or pneumonitis. Symptoms of respiratory insufficiency with diffusion difficulty (weakness, anorexia, weight loss, malaise, dyspnea or difficult or labored breathing, hyperpnea or deeper and faster breathing, cyanosis or bluish discoloration of skin or mucous membranes, and cough) are most prominent and out of proportion to physical or X-ray signs. Resembles miliary TB or pulmonary sarcoidosis.	Beryllium	7b
Byssinosis (develops over 10-year period working with raw or waste cotton.)	Cotton industry workers	Periodic bronchoconstriction or Monday morning fever with wheezing and difficult or labored breathing upon return to work after 2-day absence. Later develops into severe airway obstruction and impaired elastic recoil due to chronic bronchitis, and emphysema. Patient has overdistended lungs but no characteristic X-ray pattern or recognizable lung fibrosis or infiltration are seen. Diagnosis is established by measuring the patient's ventilatory capacity before he starts work on Monday and again no more than 1 hour after his work shift.	Cotton, flax, hemp, cotton-synthetic dusts.	7b
Acute, bronchitis, pneumonitis, and pulmonary edema due to fumes and vapors.	Refrigeration, fertilizer, oil refining industries, alkali and bleach industries, silo fillers, arc welders, nitric acid industry, paper and refrigeration industry, oil refining, cadmium smelters, processors, plastics industry.	Acute inflammation of the tracheo bronchial tree. Symptoms are those of acute URI: Inflammation of the mucous membranes of the nose, usually marked by sneezing, nasal airway congestion, and discharge of watery mucous (coryza); malaise; chilliness; slight fever; back and muscle pain; sore throat. Dry nonproductive cough signals bronchitis, later yielding a glutinous and mucous with pus-filled sputum. Fever to 101 or 102 F occurs for 3-5 days. Persistent occasional sibilant or crackling pulmonary sounds may suggest complications. Pulmonary edema: asthmatic wheezing; difficultry breathing except in upright position (orthopnea); pallor; sweating, bluish discoloration of skin and mucous membranes (cyanosis); frothy or pinkish sputum.	Ammonia; chlorine; nitrogen oxides; sulfur dioxides; cadmium; trimellitic anhydride.	7c

Condition	Industry and/or occupation	Symptoms	Agent	Log column
Toxic hepatitis	Solvent utilizers, dry cleaners, plastics industry, explosives and dye industries, fire and waterproofing additive formulators, plastics formulators, fumigators, gasoline, fire extinguisher formulators, disinfectant, fumigant, synthetic resin formulators.	Nausea; vomiting; jaundice; stupor; and coma may follow exposure. Toxic effects on kidney, brain, or bone marrow may be more conspicuous than the hepatic involvement.	Carbon tet- rachloride, chloroform, tetrachloroethane, trichloroethylene; phosphorus TNT; chloronaphthalenes; methylene-dianiline; ethylene dibromide, cresol.	7d
Acute or chronic renal failure	Battery makers, plumbers, solderers, electrolytic processes, arsenical ore smelting, battery makers, jewelers, dentists, fluorocarbon formulators, fire extinguisher makers, antifreeze manufacture.	Failure to void; lumbar pain and tenderness; and analysis of urinary volume and the character of the urinary sediment is extremely valuable in differential diagnosis of acute renal failure. In *obstruction*, urinary sediment is scanty, with only occasional red and white blood cells or hyaline and granuline casts. Proteinuria is minimal or absent. In *prerenal failure*, occasional hyatine and granular casts are found and proteinuria is minimal. Urinary sp. gr. is usually >1.020 and urinary sodium concentration <15 m Eq/L. In *acute tubular necrosis* numerous renal epithelial cells, cell casts, and coarsely granular casts are present. Hb and RBC casts are seen occasionally. Proteinuria is minimal or moderate. Urinary sp. gr. is usually <1.018 and sodium concentration >20 m Eq/L. In *acute glomerulonephritis and collagen diseases*, hematuria and RBC casts are characteristic and protein excretion is usually moderate or heavy.	Inorganic lead, arsine, inorganic, mercury; carbon tetrachloride; ethylene glycol.	7d
Infertility, male	Formulators, DBCP producers, formulators, and applicators.	Physical examination and semen analysis are necessary to diagnosis and should include work history.	Kepone; dibromochloropropane	7d
Contact and allergic dermatitis	Leather tanning, poultry dressing plants, fish packing, adhesives and sealants industry, boat building and repair.	Transient redness to severe swelling and blister (bulla) formation; itching and vesiculation are practically always present. Vesicles and bullas rupture, ooze, and crust; followed by scaling and some temporary thickening of skin. Secondary infection, excoriation (skin abrasions), and reaction to treatment may complicate and induce a chronic eczematous dermatitis.	Irritants (e.g. cutting oils, solvents, phenol acids, alkalis, detergents); allergens (e.g., nickel, chromates, formaldehyde, dyes, rubber products).	7a

Rutstein DD, Mullan RJ, Frazier TM, Halperin, WE, Melius JM, Sestito JP. Sentinel health events (occupational): a basis for physician recognition and public health surveillance. Amer J. Public Health 1983; 73(9):1054-1062.

Appendix D. Participating State Agencies

Agencies preceded by an asterisk (*) are those in which, as of January 1, 1978, a State safety and health plan under section 18(b) of the act was in operation. This agency may be contacted directly for specific information regarding regulations in the State.

Alabama Department of Labor, 600 Administrative Building, Montgomery, Alabama 36130, Phone: 205-261-3460

*Alaska Department of Labor, Research and Analysis Section, Post Office Box 1149, Juneau, Alaska 99802, Phone: 907-465-4520

Territory of American Samoa, Department of Manpower Resources, Government of American Samoa, Pago Pago, American Samoa 96799, Phone: 633-5849

*Industrial Commission of Arizona, Division of Administration/Research and Statistics Section, 1601 W. Jefferson St., Post Office Box 19070, Phoenix, Arizona 85005, Phone: 602-255-3739

Arkansas Department of Labor, OSH Statistics, Room 502, 1022 High St., Little Rock, Arkansas 72202, Phone: 501-371-2770

*California Department of Industrial Relations, Labor Statistics and Research, Post Office Box 603, San Francisco, California 94901, Phone: 415-557-1466

*Colorado Department of Labor and Employment, Division of Labor, 1313 Sherman St., Room 323, Denver, Colorado 80203, Phone: 303-866-3748

*Connecticut Department of Labor, 200 Folly Brook Boulevard, Wethersfield, Connecticut 06109, Phone: 203-566-4380

Delaware Department of Labor, Division of Industrial Affairs, 820 N. French Street, 6th Floor, Wilmington, Delaware 19801, Phone: 302-571-2888

Florida Department of Labor and Employment Security, Division of Workers' Compensation, 2551 Executive Center Circle West, Tallahassee, Florida 32301-5014, Phone: 904-488-3044

Guam Department of Labor, Bureau of Labor Statistics, Post Office Box 23548, Guam Main Facility, Agana, Guam 96921, Phone: 477:9241

*State of Hawaii, Department of Labor and Industrial Relations, Research and Statistics Office, Post Office Box 3680, Honolulu, Hawaii 96811, Phone: 808-548-7638

*Indiana Division of Labor, Department of Statistics, State Office Building—Room 1013, 100 N. Senate Avenue, Indianapolis, Indiana 46204, Phone: 317-232-2665

*Iowa Bureau of Labor, 307 East 7th Street, Des Moines, Iowa 50319, Phone: 515-281-5151

Kansas Department of Health and Environment, Division of Policy and Planning, Occupational Safety and Health, Topeka, Kansas 66620, Phone: 913-862-9360 Ext. 280

*Kentucky Labor Cabinet, Occupational Safety and Health Program, U.S. 127 South Building, Frankfort, Kentucky 40601, Phone: 502-564-3100

Louisiana Department of Labor, Office of Employment Security—OSH, 1001 North 23rd and Fuqua, Baton Rouge, Louisiana 70804, Phone: 504-342-3126

Maine Department of Labor, Bureau of Labor Standards, Division of Research and Statistics, State Office Building, Augusta, Maine 04330, Phone: 207-289-3331

*Maryland Department of Licensing and Regulation, Division of Labor and Industry, 501 St. Paul Pl., Baltimore, Maryland 21202, Phone: 301-659-4202

Massachusetts Department of Labor and Industries, Division of Industrial Safety, 100 Cambridge Street, Boston, Massachusetts 02202, Phone: 617-727-3593

*Michigan Department of Labor, 7150 Harris Drive, Secondary Complex, Post Office Box 30015, Lansing, Michigan 48909, Phone: 517-322-1848

*Minnesota Department of Labor and Industry IMSD, 444 Lafayette Road, 5th Floor, Saint Paul, Minnesota 55101, Phone: 612-296-4893

Mississippi State Department of Health, Division of Public Health Statistics, Post Office Box 1700, Jackson, Mississippi 39205, Phone: 601-354-7233

Missouri Department of Labor and Industrial Relations, Division of Workers' Compensation, Post Office Box 58, Jefferson City, Missouri 65102, Phone: 314-751-4231

Montana Department of Labor and Industry, Workers' Compensation Division, 5 South Last Chance Gulch,

Helena, Montana 59601, Phone: 406–444–6515

Nebraska Workers' Compensation Court, State Capitol, 12th Floor, Lincoln, Nebraska 68509–4967, Phone: 402–471–3547

*Nevada Department of Industrial Relations, Division of Occupational Safety and Health, 1370 South Curry St., Carson City, Nevada 89710, Phone: 702–885–5240

New Jersey Department of Labor and Industry, Division of Planning and Research, C N 056, Trenton, New Jersey 08625, Phone: 609–292–3997

*New Mexico Health and Environment Department, Environmental Improvement Division, Occupational Health and Safety, Post Office Box 968—Crown Building, Sante Fe, New Mexico 87504–0968, Phone: 505–827–5271 Ext. 230

New York Department of Labor, Division of Research and Statistics, 2 World Trade Center, New York, New York 10047, Phone: 212–488–4661

*North Carolina Department of Labor, Division of Statistics, 4 West Edenton Street, Raleigh, North Carolina 27601, Phone: 919–733–4940

Ohio Department of Industrial Relations, OSHA Survey Office, Post Office Box 12355, Columbus, Ohio 43212, Phone: 614–466–7520

Oklahoma Department of Labor, Supplemental Data Division, 118 State Capitol Building, Oklahoma City, Oklahoma 73105, Phone: 405–521–2461

*Oregon Workers' Compensation Department, Research and Statistical Section, Labor and Industries Building, Salem, Oregon 97310, Phone: 503–378–8254

Pennsylvania Department of Labor and Industry, Office of Employment Security, 7th and Forster Sts., Labor and Industry Building, Harrisburg, Pennsylvania 17121, Phone: 717–787–1918

*Puerto Rico Department of Labor and Human Resources, Bureau of Labor Statistics, 505 Munoz Rivera Avenue, San Juan, Puerto Rico 00918, Phone: 809–754–5339

Rhode Island Department of Labor, Division of Workers' Compensation, 220 Elmwood Avenue, Providence, Rhode Island 02907, Phone: 401–277–2731

*South Carolina Department of Labor, Division of Technical Support, Post Office Box 11329, Columbia, South Carolina 29211, Phone: 803–758–8507

*Tennessee Department of Labor, Research and Statistics, 501 Union Building, 2nd Floor, Nashville, Tennessee 37219, Phone: 615–741–1748

Texas Department of Health, Division of Occupational Safety, 1100 West 49th Street, Austin, Texas 78756, Phone: 512–458–7287

*Utah Industrial Commission, OSH Statistical Section, 160 East 300 South, Salt Lake City, Utah 84110–5800, Phone: 801–530–6827

*Vermont Department of Labor and Industry, State Office Building, Montpelier, Vermont 05602, Phone: 802–828–2765

*Virgin Islands Department of Labor, Post Office Box 818, St. Thomas, Virgin Islands 00801, Phone: 809–776–3700

*Virginia Department of Labor and Industry, Research and Statistics, 205 North 4th Street, Post Office Box 12064, Richmond, Virginia 23241, Phone: 804–786–2384

*State of Washington, Department of Labor and Industries, Division of Industrial Safety and Health, Post Office Box 2589, Olympia, Washington 98504, Phone: 206–753–4013

West Virginia Department of Labor, Division of Labor Statistics, Room B437, Building Six, Capitol Complex, 1900 Washington Street East, Charleston, West Virginia 25305, Phone: 304–348–7890

Wisconsin Department of Industry, Labor, and Human Relations, Workers' Compensation Division/Research Section, 201 E. Washington Avenue, Post Office Box 7901, Madison, Wisconsin 53707, Phone: 608–266–7850

*Wyoming Department of Labor and Statistics, Herschler Building, Cheyenne, Wyoming 82002, Phone: 307–777–6370

Appendix E. United States Department of Labor, Occupational Safety and Health Administration—Regional Offices

The list below gives addresses and telephone numbers for OSHA Regional Offices. Complete information on field locations may be obtained from any OSHA Regional Office.

Region I: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont
1 Dock Square Building, 4th Floor, 16–18 North Street, Boston, Massachusetts 02109, Phone: 617–223–6710

Region II: New Jersey, New York, Puerto Rico, Virgin Islands
1515 Broadway, Room 3445, New York, New York 10036, Phone: 212–944–3432

Region III: Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia
Gateway Building, Suite 2100, 3535 Market Street, Philadelphia, Pennsylvania 19104, Phone: 215–596–1201

Region IV: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee
1375 Peachtree Street, N.E., Suite 587, Atlanta, Georgia 30367, Phone: 404–881–3573

Region V: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin
230 South Dearborn Street, Room 3244, Chicago, Illinois 60604, Phone: 312–353–2220

Region VI: Arkansas, Louisiana, New Mexico, Oklahoma, Texas
555 Griffin Square Building, Room 602, Dallas, Texas 75202, Phone: 214–767–4731

Region VII: Iowa, Kansas, Missouri, Nebraska
911 Walnut Street, Room 406, Kansas City, Missouri 64106, Phone: 816–374–5861

Region VIII: Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming
Federal Building, Room 1554, 1961 Stout Street, Denver, Colorado 80294, Phone: 303–837–3061

Region IX: Arizona, California, Hawaii, Nevada, American Samoa, Guam, Trust Territory of the Pacific Islands
450 Golden Gate Avenue, Box 36017, San Francisco, California 94102, Phone: 415–556–7260

Region X: Alaska, Idaho, Oregon, Washington
Federal Office Building, Room 6003, 909 First Avenue, Seattle, Washington 98174, Phone: 206–442–5930

Recordkeeping Summary

Basic recordkeeping concepts and guidelines are included with instructions on the back of form OSHA No. 200. The following summarizes the major recordkeeping concepts and provides additional information to aid in keeping records accurately.

General Concepts of Recordability

1. An injury or illness is considered work related if it results from an event of exposure in the work environment. The work environment is primarily composed of: (1) The employer's premises, and (2) other locations where employees are engaged in work-related activities or are present as a condition of their employment. *When an employee is off the employer's premises, work relationship must be established; when on the premises, this relationship is presumed.* The employer's premises encompass the total establishment. This includes not only the primary facility, but also such areas as company storage facilities and company parking lots. In addition to physical locations, equipment or materials used in the

course of an employee's work are also considered part of the employee's work environment.

2. All work-related fatalities are recordable.

3. All recognized or diagnosed work-related illnesses are recordable.

4. All work-related injuries requiring medical treatment or involving loss of consciousness, restriction or work or motion, or transfer to another job are recordable.

Analysis of Injuries

Recordable and nonrecordable injuries. Each case is distinguished by the treatment provided; i.e., if the injury was such that *medical treatment* was provided or should have been provided, it is recordable; if only first aid was required, it not recordable. *However, medical treatment is only one of several criteria for determining recordability.* Regardless of treatment, if the injury involved loss of consciousness, restriction of work or motion, transfer to another job, or termination of employment, the injury is recordable. (See chart 1 on p. 28.)

Medical treatment. The following procedures are generally considered medical treatment. Injuries for which this type of treatment was provided or should have been provided are almost always recordable if the injury is work related.

—Treatment of infection.
—Application of antiseptics during SECOND OR SUBSEQUENT VISITS to medical personnel.
—Treatment of second or third degree burn(s).
—Application of butterfly adhesive dressing(s).
—Application of sutures (stitches).
—Removal of foreign bodies embedded in eye.
—Removal of foreign bodies from wound; if procedure is complicated because of depth of embedment, size, or location.
—Use of prescription medications.
—Use of hot or cold soaking therapy during SECOND OR SUBSEQUENT VISIT to medical personnel.
—Application of hot or cold compress(es) during SECOND OR SUBSEQUENT VISIT to medical personnel.
—Cutting away dead skin (surgical debridement).
—Application of HEAT THERAPY during second or subsequent visit to medical personnel.
—Use of WHIRLPOOL BATH THERAPY during second or subsequent visit to medical personnel.
—Positive x-ray diagnosis.
—Admission TO HOSPITAL FOR OBSERVATION or equivalent medical facility for treatment or prolonged observation.

First aid treatment. The following procedures are generally considered first aid treatment (e.g., one-time treatment and subsequent observation of minor injuries) and need not be recorded if the work-related injury does not involve loss of consciousness, restriction of work or motion or transfer to another job.

—Application of antiseptics during FIRST VISIT to medical personnel.
—Treatment of FIRST DEGREE burn(s).
—Application of bandage(s) during any visit to medical personnel.
—Use of elastic bandage(s) during first visit to medical personnel.
—Removal of foreign bodies not embedded in eye if only irrigation is required.

Removal of foreign bodies from wound if procedure is UNCOMPLICATED, and is, for example, by tweezers or other simple technique.

—Use of nonprescription medications.
—Soaking therapy on initial visit to medical personnel or removal of bandages by soaking.
—Application of hot or cold compress(es) during FIRST VISIT to medical personnel.
—Application of ointments to abrasions to prevent drying or cracking.
—Application of HEAT THERAPY during first visit to medical personnel.
—Use of WHIRLPOOL BATH THERAPY during first visit to medical personnel.
—Negative X-ray diagnosis.
—Brief observation of injury during visit to medical personnel.

The following procedure, by itself, is not considered medical treatment:

—Administration of tetanus shot(s) or booster(s). However, employers should note that these shots are often given in conjunction with the more serious injuries. Consequently, injuries requiring tetanus shots may be recordable for other reasons.

Reminder: Work-related injuries requiring only first aid treatment and that do not involve any of the conditions in item 4 above, are not recordable.

The following is a list of subjects that will constitute the index when this document is published in final form. The list has been included to allow for comment on the substantive issues listed. Page numbers have not been included because this version has been formatted for inclusion in the **Federal Register**. However, page numbers will appear in the final version of this document.

ORDER FORM

Address Label,

Type/Print

Name/Firm _____
Street Address _____
City, State, Zip Code _____

	Quantity
Recordkeeping pamphlet—Recordkeeping Requirements Under the Occupational Safety and Health Act of 1970..	_____
OSHA No. 200 Forms.....	_____
OSHA No. 101 Forms.....	_____
Recordkeeping Guidelines for Occupational Injuries and Illnesses	_____
Recordkeeping Guidelines for Occupational Injuries and Illnesses: Ready Reference.....	_____

Please complete this form and mail it to the appropriate BLS regional office listed on the back cover of this report.

United States Department of Labor Bureau of Labor Statistics—Regional Offices

Region I—Boston, John F. Kennedy Federal Building, Boston, Massachusetts 02203, Phone: (617) 223-4533
Connecticut
Maine
Massachusetts
New Hampshire
Rhode Island
Vermont

Region II—New York, Suite 3400, 1515 Broadway, New York, New York 10036, Phone: (212) 944–3121
New Jersey
New York
Puerto Rico
Virgin Islands
Region III—Philadelphia, 3535 Market Street, Post Office Box 13309, Philadelphia, Pennsylvania 19101, Phone: (215) 596–1162
Delaware
District of Columbia
Maryland
Pennsylvania
Virginia
West Virginia
Region IV—Atlanta, 7371 Peachtree Street, N.E., Suite 540, Atlanta, Georgia 30367, Phone: (404) 881–3660
Alabama
Florida
Georgia
Kentucky
Mississippi
North Carolina
South Carolina
Tennessee
Region V—Chicago, 9th Floor, Federal Office Building, 230 South Dearborn Street, Chicago, Illinois 60604, Phone: (312) 353–6911
Illinois
Indiana
Michigan
Minnesota
Ohio
Wisconsin
Region VI—Dallas, 2nd Floor, 555 Griffin Square Building, Dallas, Texas 75202, Phone: (214) 767–6856
Arkansas
Louisiana
New Mexico
Oklahoma
Texas
Regions VII and VIII—Kansas City, 911 Walnut Street, Kansas City, Missouri 64106, Phone: (816) 374–2481
Colorado
Iowa
Kansas
Missouri
Montana
Nebraska
North Dakota
South Dakota
Utah
Wyoming
Regions IX and X—San Francisco, 450 Golden Gate Avenue, Box 36017, San Francisco, California 94102, Phone: (415) 556–8980
Alaska
American Samoa
Arizona
California
Guam
Hawaii
Idaho
Nevada
Oregon
Washington

FR Doc. 85–16664 Filed 7–16–85; 8:45 am]
BILLING CODE 4510–24–M

Federal Register

Wednesday
July 17, 1985

Part IV

Environmental Protection Agency

40 CFR Part 761

Polychlorinated Biphenyls in Electrical Transformers; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 761

[OPTS 62035D; TSH FRL 2835-6]

Polychlorinated Biphenyls in Electrical Transformers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule amends portions of an existing EPA rule concerning the use of polychlorinated biphenyls (PCBs) by placing additional restrictions and conditions on the use of PCB Transformers (Electrical transformers containing 500 parts per million or greater PCBs). This rule: (1) Prohibits the use of higher secondary voltage (480 volts and above) network PCB Transformers in or near commercial buildings after October 1, 1990, (2) requires, by October 1, 1990, the installation of enhanced electrical protection on lower secondary voltage network PCB Transformers and higher secondary voltage radial PCB Transformers in use in or near commercial buildings, (3) prohibits further installation of PCB Transformers in or near commercial buildings after October 1, 1985, (4) requires the registration, by December 1, 1985, of all PCB Transformers with fire response personnel and building owners, (5) requires the marking, by December 1, 1985, of the exterior of all PCB Transformer locations, and (6) requires the removal, by December 1, 1985, of stored combustibles located near PCB Transformers.

EPA is also requiring that owners of PCB Transformers involved in fire-related incidents immediately notify the National Response Center, and, take measures as soon as practically and safely possible to contain any potential releases of PCBs or incomplete combustion products to water.

DATES: In accordance with 40 CFR 23.5 (50 FR 7271), this rule shall be promulgated for purposes of judicial review at 1 p.m. Eastern Daylight Time on July 24, 1985. These amendments shall be effective on August 16, 1985.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460. Toll free: (800-424-9065). In Washington, D.C.: (554-1404). Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: OMB Control Number: 2070-0073.

I. Background

Section 6(e) of the Toxic Substances Control Act (TSCA) generally prohibits the use of PCBs after January 1, 1978. The statute does, however, set forth two exceptions under which EPA may, by rule, allow a particular use of PCBs to continue. Under section 6(e)(2) of TSCA, EPA may allow PCBs to be used in a "totally enclosed manner." A "totally enclosed manner" is defined by TSCA to be "any manner which will ensure that any exposure of human beings or the environment to a polychlorinated biphenyl will be insignificant, as determined by the Administrator by rule." TSCA also allows EPA to authorize the use of PCBs in a manner other than a totally enclosed manner if the Agency finds that the use "will not present an unreasonable risk of injury to health or the environment."

EPA promulgated a rule, which was published in the **Federal Register** of May 31, 1979 (44 FR 31514), to implement section 6(e) (2) and (3) of TSCA. This rule is listed in the Code of Federal Regulations under 40 CFR Part 761. The rule, among other provisions, designated all intact, nonleaking capacitors, electromagnets, and transformers, other than railroad transformers, as "totally enclosed," thus permitting their use without specific authorizations or conditions. The Environmental Defense Fund (EDF) petitioned the U.S. Court of Appeals for the District of Columbia Circuit to review a number of provisions of the rule, including the portion of the rule that designated all intact and nonleaking capacitors, electromagnets, and transformers as "totally enclosed" (*Environmental Defense Fund, Inc.* v. *Environmental Protection Agency*, 636 F.2d 1267).

On October 30, 1980, the court, among other things, decided that there was insufficient evidence in the record to support the Agency's classification of transformers, capacitors, and electromagnets as totally enclosed. The court invalidated this portion of the rule, as well as other provisions, and remanded the rule to EPA for further action.

As a consequence of the October 1980 decision, EPA undertook a number of rulemaking actions. The rule relevant to the subject of today's final rule was published in the **Federal Register** of August 25, 1982 (47 FR 37342) (hereafter, PCB Electrical Use Rule). This rule amended the May 1979 rule by authorizing the continued use of PCB Transformers (electrical transformers containing greater than 500 ppm PCBs) in facilities involved in handling of food or feed items until October 1, 1985, and by authorizing the use of all other categories of non-railroad electrical transformers containing or contaminated with PCBs for the remainder of their useful lives. In its August 1982 decision, EPA made a determination that authorizing the use of these tranformers for the remainder of their useful lives did not present an unreasonable risk to public health or the environment for the following reasons:

1. EPA determined that if it did not authorize the use of PCBs in transformers, the costs to the public and United States industry would be billions of dollars, primarily as a result of the disruption of electrical service. EPA determined that the resulting reduction in risk would not outweigh these substantial costs.

2. EPA determined that the inspection and maintenance programs required under the rule reasonably reduced the exposure risks associated with the use of PCBs in PCB Transformers, and the servicing conditions prevented further PCB contamination of transformers.

3. EPA determined that releases of PCBs to the environment and exposure to humans and biological organisms from mineral oil transformers are minimal. EPA estimated that these transformers contain less than 0.15 percent of all the PCBs used in tranformers and release less than one half of a percent of these PCBs on annual basis.

4. EPA determined that the costs associated with other risk reduction measures such as accelerated phase-out, reducing the PCB concentration in the dielectric fluid, or providing containment for tranformers were not reasonable when compared to the potential reduction in release of PCBs achieved.

In evaluating the risks posed by the continued use of electrical transformers containing PCBs for the August 1982 PCB Electrical Use Rule, EPA considered exposures resulting from leaks and spills of PCB-containing dielectric fluid as constituting the principal route of release of PCBs to the environment from this equipment.

However, EPA has learned that fires involving transformers also can be responsible for the release of PCBs, and, that PCBs released from transformers in fire situations can be volatilized and converted into materials which are orders of magnitude more toxic than PCBs. For example, on February 5, 1981, in the Binghamton State Office Building in Binghamtom, New York, a PCB

Transformer was involved in a fire in the basement of the building. PCBs and oxidation products were distributed throughout the 18-story office building via two vertical ventilation shafts that ran the length of the building and opened into the transformer vault in the basement. Monitoring, completed after the fire, indicated that PCBs, polychlorinated dibenzofurans (PCDFs) (including the toxic congener 2,3,7,8-tetrachlorodibenzofuran (2,3,7,8-TCDF)), and polychlorinated dibenzodioxins (PCDDs) (including the toxic congener 2,3,7,8,-tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD)) were distributed throughout the interior of the building. From laboratory studies, it appears that PCDFs are formed from both the oxidation of PCBs and the oxidation of chlorinated benzenes in combustion situations. PCDDs, however, appear to be formed only from the oxidation of chlorinated benzenes. (Tri- and Tetra-chlorinated benzenes often make up 30–35 percent of PCB askarel dielectic fluid, and can be present at low levels as contaminants in other fluids.)

At the time of promulgation of the August 25, 1982 PCB Electical Use Rule, EPA believed that PCB Transformer fires were very rare, isolated events. Thus, although EPA made determinations that the use of electrical transformers containing PCBs did not pose unreasonable risks to public health or the environment, EPA did not directly consider the public health and environmental risks posed by fire-related events. EPA also did not evaluate the cost of implementing risk reduction measures to mitigate the risks posed by fires involving this equipment or factor into its economic assessment certain now-identified costs associated with the continued use of these transformers, principally, the very high costs of cleanup following more serious incidents. These costs reduce the benefits associated with the continued use of these transformers.

After the promulgation of the PCB Electrical Use Rule, additional information came to EPA's attention that indicated that PCB Transformer fires may occur more frequently than previously expected, and that transformer fire-related hazards are not restricted solely to transformers located inside buildings. On May 15, 1983, in the One Market Plaza complex in San Francisco, California, a PCB Transformer was involved in a smoky transformer vault fire. Monitoring completed after the fire indicated the presence of PCBs, PCDFs, and PCDDs, in soot from this fire. Although the vault housing the transformer was located exterior to the building itself (in a sidewalk vault), unsealed conduits from the vault to the basement and outside air intake vents drew contaminated smoke into the building.

The San Francisco incident, and four more recent incidents, in the First National Bank Building in Chicago, Illinois, in September 1983; in Tulsa, Oklahoma, in December 1983 and May 1984; and in Miami, Florida, in May 1984, have prompted EPA to reassess its earlier position on the expected frequency of fire-related incidents involving transformers that contain PCBs.

EPA issued an Advance Notice of Proposed Rulemaking (ANPR), which was published in the **Federal Register** of March 23, 1984 (49 FR 11070), to solicit additional information on the risks posed by fires involving transformers containing PCBs, their frequency of occurrence, the costs of cleanup following these incidents, and the effectiveness and costs associated with regulatory control measures. At that time, EPA indicated that it would use the new information to reconsider the use authorization issued in the August 1982 PCB Electrical Use Rule for the continued use of most electrical transformers containing PCBs.

In the ANPR, EPA solicited comments on a wide range of potential regulatory control measures, including the phaseout of PCB Transformers, increased electrical protection, fire and smoke control technologies, and fire hazard inspection programs. EPA also solicited comments on the relative risks posed by PCB Transformer fires in commercial buildings such as office buildings, versus the risks posed by fires in industrial facilities and outdoor electrical substations. EPA suggested in the ANPR that the risks posed by PCB Transformer fires in commercial buildings may be greater than those posed by transformer fires in industrial facilities and outdoor electrical substations.

EPA received over 50 comments on the ANPR during the public comment period, which closed on May 22, 1984. EPA received information from a number of different sources, including the insurance industry, fire departments, building owners, industrial transformer users, and utilities. (The comments on the ANPR are summarized in: "PCB Transformer Fires: Comments on the Advance Notice of Proposed Rulemaking" (September 1984).) Several comments were received following the close of the comment period, and EPA reserved these comments for consideration following the issuance of the Proposed Rules.

After considering the comments received in response to the ANPR, and after completing further analyses of available data, EPA issued a Proposed Rule, which was published in the **Federal Register** of October 11, 1984 (49 FR 39966), to address the risks posed by fires involving transformers that contain PCBs. The Proposed Rule presented EPA's determination that additional regulatory control measures were warranted on the use of PCB Transformers. At the same time, EPA reaffirmed its August 1982 determination that the indefinite use of PCB-Contaminated transformers does not present unreasonable risks to public health or the environment. EPA's determinations were based on analyses of the risks posed by fires involving electrical transformers containing PCBs, the benefits of PCBs and the availability of substitutes, and the costs and benefits of control measures designed to mitigate or eliminate the fire-associated risks posed by the equipment.

EPA received over 130 comments on the Proposed Rule during the public comment period, which closed on February 11, 1985. On January 14, 15, and 16, 1985, EPA held a public hearing in Washington, D.C., where 15 parties provided testimony on various provisions of the Proposed Rule.

EPA has considered all the comments received in response to the Proposed Rule (as well as the comments received after the close of the ANPR comment period), and has modified the rule where appropriate. Further, EPA has prepared a support document for this rulemaking which addresses all substantive comments on the Proposed Rule and includes EPA's responses to comments which did not result in the actual modification of the rule. This document, entitled: "Response to Comments on the PCB Transformer Fires Proposed Rule (July 1985)," is available by contacting the Toxic Substances Control Act Assistancce Office (see **FOR FURTHER INFORMATION CONTACT**).

II. Summary of the Final Rule

Under section 6(e)(2)(B) of TSCA, EPA can authorize a use of PCBs provided that the use "will not present an unreasonable risk of injury to health or the environment." EPA's August 1982 decision to allow the continued use of electrical transformers containing PCBs was based on the reported low frequency of leaks and spills of PCBs from this equipment compared to the high costs associated with replacing this equipment with substitute transformers

or requiring secondary containment to limit the spread of spilled materials.

EPA subsequently undertook an evaluation of the fire-related risks posed by the continued use of PCB Transformers, and the costs and benefits of measures designed to reduce those risks. On October 11, 1984, EPA issued a Proposed Rule which contained EPA's determination that PCB Transformer fires (fires involving transformers containing greater than 500 ppm PCBs), particularly fires which occur in or near buildings, do present risks to human health and the environment. EPA reached this determination after considering the extreme toxicity of materials which can be formed and released during fires involving this equipment, as well as the potential for human and environmental exposures to these compounds from a single incident, and the expected frequency of incidents over the remaining useful life of this equipment.

EPA further determined that the continued use of PCB Transformers without additional restrictions does present an unreasonable risk of injury to health and the environment. EPA reached this determination after considering the risks posed, the costs of cleanup following these incidents, the availability of adequate substitute materials, and the costs and benefits associated with risk reduction measures. EPA did, therefore, propose additional regulatory controls on the use of this equipment.

EPA proposed to require: (1) The immediate registration of all PCB Transformers with appropriate fire department jurisdictions, and the immediate registration with building owners of all PCB Transformers located in or near buildings, (2) the immediate marking of the exterior of the vault door, machinery room door, means of egress, or grate(s) accessing a PCB Transformers with PCB identification labels, (3) the immediate removal of stored combustibles from PCB Transformers locations, (4) the installation, by July 1, 1988, of additional electrical protective devices on PCB Transformers in or near buildings in high secondary voltage systems (480/277 volt systems), and (5) the isolation, by July 1, 1988, of all PCB Transformers in or near buildings from building ventilation systems, building ductwork, and openings in construction to reduce the widespread contamination of structures and the environment by smoke and soot in the event of a PCB Transformer fire. In addition, to facilitate monitoring compliance with the isolation requirements, EPA proposed that PCB Transformer owners maintain records of their efforts in isolating transformers through the completion of PCB Smoke Spread Reduction Plans (PCB–SSRPs).

Finally, in the event of a PCB Transformer fire, EPA proposed to require PCB Transformer owners to take immediate measures to contain potential water discharges, and to report all PCB Transformer fire-related incidents to the National Response Center (NRC) prior to the initiation of cleanup efforts.

This final rule modifies and clarifies some of the requirements presented in the Proposed Rule as a result of information and comments provided to the Agency during public comment periods and at the public hearing. In developing the Proposed Rule, EPA evaluated the risks posed by PCB Transformer fires in or near buildings by using an office building setting to evaluate generically the nature of an potential for human and environmental exposures to PCBs and incomplete combustion products. EPA determined that additional control measures, principally the isolation of PCB Transformers from building ventilation equipment and ductwork, were necessary to reduce the risks posed by the continued use of this equipment.

During the public comment period for the Proposed Rule, EPA received extensive comments in three specific areas, and has modified the final rule accordingly. First, many comments received in response to the Proposed Rule suggested that EPA consider evaluating separately the fire-related risks posed by the continued use of PCB Transformers in industrial locations versus the fire-related risks posed by the use of PCB Transformers in or near buildings such as office buildings, stores, hospitals and schools (hereafter, all non-industrial, non-substation buildings will be referred to as "commercial buildings"). This final rule adopts this suggestion and addresses the use of PCB Transformers in or near industrial buildings separately from the use of PCB Transformers in or near commercial buildings.

Second, many comments on the Proposed Rule discussed the probability of PCB Transformer failures and fires, and suggested that certain types of PCB Transformer installations, network installations with higher secondary voltages (secondary voltages of 480 volts and above, including 480/277 volt secondaries), may be particularly likely to be involved in fire-related incidents. These comments suggest that if EPA were to pursue additional restrictions on the use of PCB Transformers, these installations should be the subject of more stringent control measures. In response to these comments, this final rule considers factors such as the relative probabilities of failures and fires in different types of PCB Transformer installations and places more stringent controls on those transformers which EPA believes pose higher risks of failures and fires.

Finally, in response to comments on the Proposed Rule, in this final rule, EPA has increased its emphasis of the prevention of PCB Transformer fires through increased electrical protection, and decreased its emphasis on the use of isolation measures to minimize the spread of already formed and/or released contaminants.

This final rule prohibits:

1. The continued use of higher secondary voltage network PCB Transformers (network PCB Transformers with secondary voltages at or above 480 volts, including 480/277 volt systems) in or near commercial buildings beyond October 1, 1990.

2. The further installation of PCB Transformers (which have been placed into storage for reuse) in or near commercial buildings.

This final rule also requires:

1. The installation, by October 1, 1990, of enhanced electrical protection on lower secondary voltage network PCB Transformers and on higher secondary voltage radial PCB Transformers (radial PCB Transformers with secondary voltages at or above 480 volts, including 480/277 volt systems) used in or near commercial buildings.

2. The registration, by December 1, 1985 of all PCB Transformers with fire departments or fire brigades with primary response function, and the registration, by December 1, 1985, of all PCB Transformers located in or near buildings with building owners.

3. The marking, by December 1, 1985, of the exterior of all PCB Transformer locations (excluding grates and manhole covers).

4. The removal, by December 1, 1985, of combustible materials stored within a PCB Transformer enclosure, within 5 meters of a PCB Transformer enclosure, or within 5 meters of an unenclosed PCB Transformer.

This rule also requires the immediate notification of the National Response Center in the event of a PCB Transformer fire-related incident; and, that PCB Transformer owners take measures as soon as practically and safely possible to contain any potential water releases associated with a PCB Transformer fire-related incident. These measures include, but are not limited to,

the blocking of floor drains, the containment of water runoff, and the control and treatment of cleanup water prior to discharge.

Fire events involving the rupture of PCB Transformers can lead to contamination of sewers, sewage treatment systems, sewage sludges and bodies of water. Liquid PCBs and incomplete combustion products such as dioxins or furans may be conveyed through drains into storm or sanitary sewer systems. This process is facilitated when water is used in firefighting operations or is present as a result of the rupture of water pipes. Disruption of sewage treatment processes can also be caused, and eventually contaminants may be discharged into receiving waters poorly treated or not treated at all.

Contamination of receiving waters presents a risk of long lasting adverse effects on aquatic life and bottom sediment, as well as threats to public health through contamination of drinking water supplies and direct public contact with contaminated water.

The cost of cleaning up contaminated sewer systems and associated treatment facilities may be very high. Sludge contaminated with PCBs, dioxins and furans may be required to be handled and disposed of as hazardous waste under the resource Conservation and Recovery Act (RCRA) and pursuant to the PCB regulations under the Toxic Substances Control Act (TSCA). Clean up of water bodies and bottom sediments, if possible, would also be very expensive. Data indicating water and sewer treatment system contamination following the Binghamton fire confirm that water treatment facility sludge can become contaminated with PCBs as a result of releases during PCB Transformer fires.

For these reasons, it is important that sewer systems and treatment plant operators have as much notice as possible of a PCB Transformer fire event. The sooner this information is available, the sooner action can be taken to isolate or contain contaminants (if possible), to limit their spread and to assure proper handling.

Fire departments are required to be notified pursuant to § 761.30(a)(1)(vi) of this regulations as to the location of PCB Transformers. Fire departments generally maintain good information for response to emergencies and have plans and a coordinating capacity for dealing with fires involving hazardous materials. EPA therefore strongly urges fire departments, on a voluntary basis, to contact storm and sanitary sewer system and treatment plant operators in the areas served by the fire department, once the information required to be submitted to the fire departments under § 761.30(a)(1)(vi) is available. EPA also urges the fire department to work wih sewer system and treatment plant operators to develop contingency plans for handling contamination entering the sewers as a result of PCB Transformer fire events.

EPA also urges owners of PCB Transformers and owners of buildings in which those transformers are located to plan ahead for a fire event. Building owners, working with other parties, should plan their best course of action to prevent or limit release of PCBs and other contaminants in the event of a fire. These plans should give special consideration to the location of individual PCB Transformers, the location of drains near these transformers, and methods for closing the drains in the event of a PCB Transformer fire.

To support this voluntary cooperative effort, EPA will develop guidance for use by owners and operators of sanitary sewer systems and treatment facilities, pointing out the availability at local fire departments of information on the location of transformers and the potential impact of the release of PCBs and other contaminants into the sewer system in the event of a fire. EPA will also evaluate the possible roles of organizations such as the Water Pollution Control Federation, the Association of State and Interstate Water Pollution Control Authorities, the American Public Works Association, and the National Fire Protection Association in distributing information, and may request their cooperation in this effort.

For purposes of this rule, commercial building is defined as a non-industrial (non-substation) building which is typically accessible to both members of the general public and employees. Commercial buildings include: (1) Public assembly properties, (2) educational properties, (3) institutional properties, (4) residential properties, (5) stores, (6) office buildings, and (7) transportation centers (i.e., airport terminal buildings, subway stations, bus stations, and train stations). For purposes of this rule, "in or near" a commercial building is defined as: (1) Within the interior of a commercial building, (2) on the roof of a commercial building or attached to the exterior wall of a commercial building, (3) in the parking area of a commercial building, or (4) located within 30 meters of a commercial building.

An industrial building is defined as a building directly used in manufacturing or technically productive enterprises. Industrial buildings are not generally or typically accessible to other than workers. Industrial buildings include buildings used directly in the production of power, the manufacture of products, the mining of raw materials, and the storage of textiles, petroleum products, wood and paper products, chemicals or plastics, and metals.

EPA has determined that requiring the removal of particularly high risk PCB Transformers from use and adding conditions and restrictions on the use of the remaining PCB Transformers (including enhanced electrical protection, registration, and labeling) will significantly reduce the fire-related risks posed by the use of PCB Transformers. EPA has determined that the continued use of PCBs in PCB Transformers which comply with the conditions and requirements described above do not present unreasonable risks to public health or the environment. Further, after considering the risks posed by fires involving transformers containing less than 500 ppm PCBs, and the costs of regulatory control measures, EPA is reaffirming its August 1982 determination that the continued use of PCB-Contaminated transformers and non-PCB transformers (transformers containing 50–500 ppm PCBs, and less than 50 ppm PCBs respectively) do not present unreasonable risks to public health and the environment.

The enhanced electrical protection requirements for higher secondary voltage radial PCB Transformers consist of the installation of protection against transformer failures from sustained low current faults. EPA has determined that the enhanced protection of these PCB Transformers is necessary to reduce the fire-related risks posed by the continued use of these transformers in commercial locations. This protection will reduce the frequency of PCB Transformer fires in these types of transformers by allowing for rapid deenergization in the event of a sustained low current fault.

While EPA is aware of at least five basic types of radial installations (simple radial systems, expanded radial systems, primary selective systems, primary loop systems, and secondary selective systems), existing data do not indicate that the probability of low current fault-related failures would be significantly different among these five types of radial installations. Thus, EPA has required enhanced electrical protection on all commercial higher secondary voltage radial PCB Transformers.

EPA recognizes, however, that additional experience and further research into the causes of PCB Transformer failures and fires may

result in the development of data by industry which would indicate that there are significant differences in the probabilities of fault-related failures among the different types of radial systems. If these data are developed, they should be submitted to EPA for consideration. Based on the timely submission of new information, that is, within 2 years of the date of promulgation of this final rule, EPA may choose to revisit this particular requirement.

The remainder of this preamble describes the basis for the determinations reached in this final rule.

III. Use Authorizations Under Section 6(e)

In order to authorize a use of PCBs under section 6(e)(2)(B) of TSCA, EPA must find that such use "will not present an unreasonable risk of injury to health or the environment." To determine whether a risk is unreasonable, EPA must balance the probability that harm will occur from the use against the benefits to society of allowing the continued use. In completing this assessment for the use of PCB containing electrical transformers, EPA has considered the following factors for each of four categories of electrical transformers containing PCBs (PCB Transformers located in or near commercial buildings, PCB Transformers located in or near industrial facilities, PCB Transformers located outdoors (away from commercial buildings), and PCB Contaminated transformers):

1. The effects of PCBs and their incomplete combustion products on human health and the environment.

2. The magnitude of human and environmental exposure to PCBs and their incomplete combustion products.

3. The benefits of using PCBs and the availability of substitutes.

4. The economic impact resulting from the rule upon the national economy, small business, technological innovation, the environment, and public health.

These are the same types of considerations listed in section 6(c) of TSCA, which describes factors EPA must consider in deciding whether a chemical presents an unreasonable risk under section 6(a) of TSCA.

The remaining units of this preamble will discuss these key factors in the unreasonable risk determinations made in this rule, and the basis for EPA's determination to allow the continued use of PCB-containing transformers with certain additional conditions and restrictions.

IV. Transformer Fire-Related Risks

A. Toxicity of PCBs and Incomplete Combustion Products

In earlier rulemakings, EPA has already concluded that, based upon available information persons exposed to PCBs can develop chloracne; and, that based on animal data, there is a potential for reproductive effects and developmental toxicity as well as oncogenicity in humans exposed to PCBs. While fires involving PCB-containing transformers have resulted in the release of large quantities of PCBs, these incidents have also resulted in the formation of toxic products of incomplete combustion.

Many other compounds of potential toxicological significance, including PCDFs, PCDDs, and polychlorinated biphenylenes, were measured in soot samples following fires involving PCB Transformers. However, the bulk of toxicity testing of PCDF and PCDD congeners has been completed on what are anticipated to be the most toxic species, the 2,3,7,8 substituted PCDFs and PCDDs. EPA has evaluated the risks posed by PCB Transformer fires through an evaluation of: (1) The toxicities of PCBs, 2,3,7,8-TCDF, and 2,3,7,8-TCDD; (2) the toxicities and potential toxicities of other PCDF and PCDD congeners; and (3) the potential for exposure to these materials as a result of a fire.

While the majority of toxicological testing has been completed on PCBs, 2,3,7,8-TCDF and 2,3,7,8-TCDD, this does not mean that human and environmental exposures to other congeners of PCDFs and PCDDs as well as polychlorinated biphenylenes pose little risk of toxic effects. For example, limited testing of 1,2,3,7,8-pentachlorodibenzo-p-dioxin (1,2,3,7,8-PeCDD), 1,2,3,6,7,8-hexachlorodibenzo-p-dioxin (1,2,3,6,7,8-HxCDD), and 1,2,3,7,8,9-hexachlorodibenzo-p-dioxin (1,2,3,7,8,9-HxCDD) suggest that these congeners are qualitatively similar in their toxic action to 2,3,7,8-TCDD for observed effects. However, they are less toxic for the observed effects than the 2,3,7,8-TCDD congener. EPA expects that similar structure-activity relationships would exist between 2,3,7,8-TCDF and 1,2,3,7,8-PeCDF, 1,2,3,7,8,9-HxCDF, and 1,2,3,6,7,8-HxCDF. However, EPA also believes that reducing exposures to the extremely toxic congeners, 2,3,7,8-TCDD and 2,3,7,8-TCDF, will also reduce exposures to these other compounds of potential toxicological significance.

According to EPA's February 1984 Ambient Water Quality Criteria (AWQC) for 2,3,7,8-tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD), 2,3,7,8-TCDD is one of the most toxic substances known to man. It exhibits delayed biological response in many species and is highly lethal, at low doses, to aquatic organisms, birds, and mammals. It has been shown to be acnegenic, fetotoxic, teratogenic, mutagenic (limited evidence), carcinogenic, and adversely affects the immune response in mammals.

The AWQC lists the acute LD50 for 2,3,7,8-TCDD for several species. The oral LD50 values ranges from 0.6 microgram per kilogram (kg) body weight (bw) for guinea pigs to 5,051 micrograms per kilogram body weight for hamsters. The AWQC presents the acceptable daily intake (ADI) value for a 70 kg man as 2.2×10^{-7} micromoles 2,3,7,8-TCDD per day. This ADI is based on the lowest-observed-adverse-effect levels (LOAEL) in rats, and has been calculated in accordance with the National Academy of Science's guidelines for calculating an ADI based on a LOAEL.

Although the ADI value presented above is very low, it still may not be sufficiently protective of human health. This ADI level does not take into account the demonstrated carcinogenic effects of 2,3,7,8-TCDD in laboratory animals. The AWQC concludes that 2,3,7,8-TCDD is an animal carcinogen and that the epidemiological findings are consistent with the conclusions drawn from animal studies that 2,3,7,8-TCDD is a probable human carcinogen.

The carcinogenic potency of 2,3,7,8-TCDD using the linearized multistage model has been estimated relative to 53 other chemicals which EPA's Cancer Assessment Group (CAG) has evaluated as suspect carcinogens. This relative potency index is 5×10^{7} per millimole (mmol) per kg per day (137 per ug per kg per day), making 2,3,7,8-TCDD the most potent carcinogen that the CAG has evaluated. CAG ranks 2,3,7,8-TCDD as a 2–A carcinogen, which means that there are sufficient laboratory animal data indicating its carcinogenicity as well as suggestive human evidence.

The limited data on other PCDD congeners indicate that they are qualitatively similar in their toxic action to 2,3,7,8-TCDD when comparisons are made in a single species. This is illustrated in mice, where 2,3,7,8-TCDD has an LD50 value of 0.88 micromoles (umol) per kg and 1,2,3,7,8-peCDD; 1,2,3,6,7,8-HxCDD and 1,2,3,7,8,9-HxCDD have LD50 values of 0.94, 3.19, and 3.67 umol/kg, respectively.

Toxicological testing of PCDFs, specifically, 2,3,7,8-TCDF, has been more limited than testing of 2,3,7,8-TCDD. The acute oral LD50 in the guinea pig is reported to be 5

micrograms per kg bw (as compared with the acute oral LD50 for 2,3,7,8-TCDD in this species which is reported to be 0.6 microgram per kg bw). Subchronic testing of 2,3,7,8-TCDF in rhesus macaques indicated that this compound is extraordinarily toxic. Based upon EPA's review of this study, the No Observed Effect Level (NOEL) for 2,3,7,8-TCDF is expected to be below 5.0 parts per billion (ppb). The author of this study concluded that continued daily oral intake of small amounts of 2,3,7,8-TCDF gave monkeys a disease which is clinically and morphologically similar to acute or chronic ingestion of 2,3,7,8-TCDD. The clinical course is marked chiefly by weight loss, swelling of the eyelids, dryness and granularity of the skin, hair loss and reduced physical activity. For most of the observed biological effects, the potency of the two compounds are within an order of magnitude of each other, with 2,3,7,8-TCDF being somewhat less toxic than 2,3,7,8-TCDD. Some scientists have estimated that in laboratory animals, 2,3,7,8-TCDF is 2 to 33 percent less toxic than 2,3,7,8-TCDD, depending upon the particular endpoint in question. Further, the toxicity of 2,3,7,8-TCDF in rhesus macaques has been estimated to be about 20 times that of 3,4,4',5'-tetrachlorobiphenyl and 1,000 times more toxic than PCB Aroclor 1248.

Based on its assessment of available literature on the toxicity of 2,3,7,8-TCDF and the structural similarity of 2,3,7,8-TCDF to 2,3,7,8-TCDD, EPA has concluded that it is prudent to assume that exposures to 2,3,7,8-TCDF would pose risks of similar toxic effects as exposures to 2,3,7,8-TCDD. Further, based on structure-activity relationships and limited in-vitro studies, EPA assumes that other PCDF congeners, particularly 1,2,3,7,8-PeCDF, 2,3,4,7,8-PeCDF, 1,2,3,4,7,8-HxCDF, 1,2,3,6,7,8-HxCDF, and 1,2,3,7,8,9-HxCDF may also pose risks of similar toxic effects as exposures to 2,3,7,8-TCDF (and 2,3,7,8-TCDD).

Following the Binghamton fire, several researchers completed toxicological testing of soot samples in guinea pigs. Based on these studies, using Binghamton State Office Building (BSOB) soot, EPA has concluded that exposures to soot from PCB Transformer fires have the potential to produce toxicity in the thymus, the hematopoietic system, the salivary gland duct epithelium and, possibly, the liver.

It is worth noting that thymic atrophy, bone marrow depletion, and diminished body weight gain, all effects of the subchronic administration of the BSOB soot, have been routinely demonstrated in acute studies in guinea pigs using PCDFs and PCDDs. In addition, the group of guinea pigs dosed with 231.1 ppm BSOB soot (in feed) in the subchronic study exhibited symptoms characteristic of acute exposure to 2,3,7,8-TCDD and 2,3,7,8-TCDF, which include skeletal muscle degeneration, fatty changes in hepatocytes, and degeneration of gastrointestinal tract epithelium.

One paper stated that the oral LD50 of the BSOB soot in guinea pigs is 410 milligrams per kilogram body weight, which would classify this material as very toxic.

For more in-depth analyses of the toxicities of PCBs, PCDFs, and PCDDs see documents 2, 3, 4, 5, 6, 8, and 13 in Unit X.B.

B. The Formation of Oxidation Products From PCBs

There is direct evidence of the formation of PCDFs and PCDDs from heating and burning commercial mixtures of PCBs and diluents from: (1) Chemical analyses of materials at the sites where fires were known to involve transformers that contained PCBs and chlorinated benzenes, and (2) laboratory experiments published in chemical and other literature. PCBs, PCDFs, and PCDDs were found in some soot specimens from both the Binghamton and San Francisco fires. Data submitted to EPA following the issuance of the Proposed Rule indicate that PCDFs and PCDDs were also measured in samples taken following the Miami and Chicago fires.

Laboratory studies provide the best available information on the conversion of pure PCBs to PCDFs. In these studies, a number of different PCB congeners and mixtures of congeners have been heated and the resulting materials analyzed for PCDFs and PCDDs. A specific PCB compound reacts to form a limited number of PCDFs. The formation of PCDFs involves intramolecular elimination of three kinds of diatomic molecules, with or without some rearrangement of chlorine atoms on the phenyl rings in the product dibenzofuran. From the products obtained in the PCB reactions, the diatomic molecules, hydrogen, hydrogen chloride, and chlorine, are formed from hydrogen and chlorine atoms in ortho positions on each of the two phenyl rings in the original polychlorinated biphenyl molecule. The optimum temperature range for the published laboratory experiments was 600 °C. Yields of PCDFs have been reported in the literature to be as high as 10 percent (calculated on the amount of PCB decomposed) for reaction temperatures from 550 °C to 600 °C, but drop off to tenths of a percent at temperatures below 500 °C and above 650 °C.

EPA-sponsored studies of the formation of PCDFs and PCDDs indicate that the optimum conditions for the formation of PCDFs from (neat) PCBs are 675 °C for 0.8 second or longer, with 8 percent excess oxygen. Under these conditions, a 3 percent conversion efficiency (PCBs to PCDFs) was observed for askarel fluid. Under the same conditions, PCDFs were also formed from PCBs present at concentrations of 5, 50, and 500 ppm in mineral oil and silicone oil. The EPA study of the formation of PCDFs PCDDs from PCB-containing mineral oil and silicone oil indicates a 4 percent conversion efficiency of PCBs to PCDFs when PCBs are present in these materials at concentrations of 5, 50, and 500 ppm. Statistical analysis showed a linear relationship between the amount of PCB present and the amount of PCDFs formed.

PCB dielectric fluid may also contain chlorinated benzenes as diluents or contaminants, as a result of past servicing activities. Laboratory experiments in the published literature have shown the formation of PCDDs in addition to PCDFs from the pyrolysis of mixtures of chlorobenzenes. Amounts of PCDFs ranged as high as several tenths of a percent for mixtures of trichlorobenzenes. Tetrachlorobenzene and pentachlorobenzene mixtures formed amounts of PCDFs and PCDDs which were two orders of magnitude smaller than the amounts of these compounds formed by trichlorobenzene. These reactions are bimolecular and the experimental concentrations of chlorobenzenes were high.

EPA-sponsored studies of the incomplete combustion of chlorinated benezenes indicate that PCDFs, and to a lesser extent PCDDs, are formed from the incomplete combustion of trichlorobenzene dielectric fluid containing no detectable PCBs. EPA also studied the incomplete combustion of tetrachloroethylene (perchloroethylene) and high temperature hydrocarbons (both of which are potential PCB substitutes) to determine whether PCDFs and PCDDS would be formed from these materials in fire situations. EPA's preliminary study indicates that PCDFs and PCDDs are formed from the incomplete combustion of tetrachloroethylene fluid. The two high temperature hydrocarbon fluids did not produce PCDFs or PCDDs under the experimental conditions.

The presence of low concentrations of chlorobenzenes as contaminants in

dielectric fluids that also contain PCBs are not expected to lead to substantial increases in the amounts of PCDFs formed from burning or heating the PCBs, but, may result in the formation of some PCDDs. EPA believes that the PCDD levels found in the Binghamton soot samples resulted from the pyrolysis or incomplete combustion of chlorobenzenes. The low level PCDDs found following the San Francisco fire could have been associated with the presence of chlorobenzenes in that fluid as well.

For further discussions of the formation of incomplete combustion products from PCBs and other potential substitute fluids, see the EPA-sponsored studies completed by the Midwest Research Institute, documents 10 and 11 in Unit X.R.

The description and characterization of the chemical reactions occurring in a fire in which aroclors (or any other commercial mixtures of many PCB compounds) are burned are far more complex than the laboratory experiments. However, EPA believes that reactions observed in the laboratory should also occur in fire situations where the reactants and reactions conditions are similar to laboratory reaction conditions. Data from actual PCB Transformer fires confirm the relatively high rates of conversion of PCBs to PCDFs in actual PCB Transformer fires.

PCDFs and PCDDs have also been detected following high temperature incineration. High temperatures incineration is required by EPA regulations to dispose of PCBs in oil. However, the levels of PCDFs and PCDDs measured following high temperature incineration have been substantially less than those measured following the above described laboratory experiments. This is because of high temperature incineration requires a 1200 °C temperature, a 2-second residence time, and sufficient oxygen to sustain complete combustion. As explained above, laboratory experiments indicate that the reaction temperature for the formation of PCDFs is optimized at around 600 °C. It is probable that yields of PCDFs from PCBs are reduced at higher temperatures because of increased destruction efficiency and ease of combustion.

C. Causes of PCB Transformer Fire-Related Failures

PCB Transformer fire-related incidents can occur from many causes, including overloading, overheating, electrical faults (overcurrent conditions or low current faults either in the transformer itself or external to the transformer in associated electrical equipment), and fires near transformers, involving building components or stored materials. PCB Transformer fires can also occur as a result of mechanical failures which can lead to electrical faults, and then, to fires. Of the well-documented PCB Transformer fires, many have reportedly occurred as a result of electrical faults, which led to transformer failures and fires. Electrical faults are of two basic categories: faults characterized by high current or excessive current flow (high current faults), and faults characterized by low current flow (low current faults).

Electrical faults can occur in transformers themselves or in associated electrical equipment. Faults in associated electrical equipment are of equal concern to faults inside transformers, first, because these faults can ultimately cause transformer failure, and second, because most faults occur external to the transformers themselves, in associated electrical equipment. Thus, as a general rule, the more associated electrical equipment present, the higher the probability of a fault occurring. Further, electrical faults are more likely to be self-sustained rather than self-extinguishing when voltages are higher.

1. *Mechanisms of failure*—a. *Excessive current flow.* The first failure mechanism is excessive current flow of the transformer. This is termed an overcurrent condition or simply, "overcurrent". Prolonged overcurrent conditions can lead to fires inside a transformer. If the overcurrent condition is due to a fault in the transformer itself, then there is a high energy arc in the transformer's insulating fluid. Failure to extinguish quickly high current arcs in a transformer will result in rapid transformer failure, involving the rupture of the transformer casing and loss of dielectric fluid. If the overcurrent condition is due to a fault in the associated electrical equipment, then there is high energy fault in the associated electrical equipment. Faults are more likely to occur externally, in associated electrical equipment, than in the transformer itself. However a high current fault in associated electrical equipment can draw excessive current from the transformer, heat the solid insulation, increase the discharge activity in the transformer and cause transformer failure (rupture and release of dielectric fluid).

According to comments on the Proposed Rule, electrical faults which occur on the load side or secondary side of a transformer (in the low voltage winding, low voltage leads, or in other associated switchgear and equipment) are more likely to be self-sustaining rather than self-extinguishing when the secondary or load side voltage is higher. That is, self-sustained high current faults in the secondary (the low voltage side) are more likely in higher voltage secondaries (i.e., 480 volt secondaries) than in lower voltage secondaries (i.e., 208 volt secondaries).

Current-limiting fuses or energy-limiting devices and overcurrent protective relays are the types of electrical protective devices which can be used to quickly extinguish high current arcs inside the transformer casing, as well as high current faults which occur external to the transformer in associated electrical equipment. PCB Transformer fires which occur as a result of overcurrent conditions occur when overcurrent electrical protective devices (fuses and/or circuit breakers) are not present; when overcurrent protection is not set sensitive enough to deenergize the transformer before high temperatures or pressures are reached; and when overcurrent protection simply fails to operate when called upon.

b. *Low current faults.* The second failure mechanism is the widely recognized (in written comments on the Proposed Rule and in testimony at the public hearing) possibility that low current faults may occur in a transformer itself, or external to a transformer, in its associated electrical equipment, and not activate conventional overcurrent protective devices (the fuses and circuit breakers discussed earlier). For a low current fault in a transformer to release sufficient energy to lead to tank rupture, the fault must first produce a pressure rise in the transformer tank. In contrast to the short time involved from the occurrence of a sustained high energy (high current) arc to the reputure of a transformer, low current faults may take some time to release sufficient energy to cause tank rupture.

Low current faults can also occur external to a transformer, in associated electrical equipment such as network protectors (circuit breakers which are typically installed on the secondary side of network transformers) and network collector buswork. Sustained or prolonged low current faults external to a transformer can ultimately involve the transformer itself, causing rupture and release of PCBs.

As was the case for high current faults, comments on the Proposed Rule indicate that when the secondary voltage of a transformer is higher, low current faults which occur in the secondary (in the low voltage winding, low voltage leads, or associated equipment) have a greater likelihood of

being self-sustained rather than self-extinguishing. That is, low current faults in 480 volt secondaries have a greater likelihood of being sustained than low current faults in 208 volt secondaries.

Protecting against sustained low current arcing faults in a transformer involves the use of appropriate sensors and disconnect equipment. The sensors are designed to detect a pressure rise in the transformer tank and/or a temperature rise in the lower voltage transformer winding. Protection against sustained low current arching faults in external associated electrical equipment (which can ultimately involve the transformer) involves placing heat or ultraviolet sensors in this equipment. When the sensors detect an abnormal condition, (i.e., a rise in pressure or temperature) the transformer is rapidly deenergized, either automatically or manually (following the receipt of an audio or visual signal at a control center).

2. *Protection currently provided against common mechanisms of fault-related failures.* Comments submitted in response to the Proposed Rule and testimony supplied at the public hearing indicate that PCB Transformers are currently equipped with electrical protection to reduce the frequency of transformer failure; but, that the level and type of electrical protection provided varies depending upon the nature of the transformer installation. Certain transformers and installations are better protected against fault-related failures than other types of transformers and installations. For purposes of this section, it is sufficient to divide the applications into two types.

The first application includes all arrangements in which the PCB Transformer can be energized only from the primary winding. These transformers are termed radial PCB Transformers. (There are, however, five basic types of radial installations, simple radial systems, expanded radial systems, primary selective systems, primary loop systems, and secondary selective systems.)

The second application includes those arrangements in which the PCB Transformer can be energized from either the primary winding or the secondary winding. The secondary winding is the winding from which energy flows during normal operation. In these systems, the primary winding can be energized from the secondary winding under abnormal conditions. These transformers are termed network PCB Transformers. There are two basic types of network installations, grid networks and spot networks.

Functionally, there are two types of electrical protection devices. One type interrupts the flow of current by vaporizing a segment of the conductor if the current exceeds a predetermined level. Fuses and distribution cutouts operate in this manner. The second type of electrical protection device operates by opening a switch. A circuit breaker opens a switch in response to a temperature rise in the device due to the current flowing in the circuit. A ground fault interrupter opens switch contacts in response to an unbalanced current flow. A network protector opens switch contacts in response to a reversal of the current flow.

"Non electrical" protection devices are also available. Devices such as pressure sensors open (or close) relay contacts to switches when the pressure (or rate of rise of pressure) exceeds a predetermined level. Temperature sensors and fluid level sensors operate in a similar manner.

a. *Radial PCB Transformers.* According to comments submitted in response to the Proposed Rule, radial PCB Transformers are typically equipped with overcurrent protection (on the high voltage side) in the form of either a current-limiting fuse or circuit breaker, and, often, with fuses and/or circuit breakers on the low voltage side or the load side. The overcurrent protection on the primary is set at a predetermined level to clear high current faults on the primary and is typically set sensitive enough to clear downstream high current faults in the secondary as well. These fuses/circuit breakers are set to operate quickly enough to avoid transformer failure in the event of high current faults in the primary or secondary.

Radial transformers are not, however, typically protected against low current arcing faults; these faults do not activate conventional overcurrent protective devices. Low current arcing faults can occur in areas such as the secondary winding and low voltage leads of radial transformers and can progress unseen by existing overcurrent protection, leading to transformer failure. Radial transformers with higher secondary voltages are more likely to experience a low current arcing fault on the secondary which is self-sustained than radial transformers with lower secondary voltages.

According to comments on the Proposed Rule, many radial PCB Transformers used in industrial applications are equipped with temperature and pressure relays and circuit breakers on-site which can be manually operated to actuate transformer deenergization in the event of a sustained fault. However, if on-site control of a radial transformer is not possible (through the use of a manually operable circuit breaker), which is more likely the case in commercial installations, deenergization would involve contacting the utility substation to deenergize the substation primary feeder. Comments on the Proposed Rule indicate that this is a difficult thing for a utility to do, because deenergizing the primary feeder results in the deenergization of all transformers served from that primary feeder. This results in the loss of electric power to many buildings served by this same primary feeder.

b. *Network PCB Transformers.* According to comments on the Proposed Rule, network transformers are typically equipped with the least sensitive overcurrent protection of all utility distribution transformers. While radial transformers are typically equipped with overcurrent protection on the primary (which is set sensitive enough to clear high current faults on the primary as well as downstream high current faults in the secondary), network transformers are not typically equipped with current-limiting or energy-limiting devices on the primary circuit. Electrical protection for high current faults on the primary (in the primary feeder, the high voltage leads, and switchgear) is typically provided by relays to a primary feeder circuit breaker at the utility substation. The relays to the primary feeder breaker cannot detect downstream sustained high current faults in the secondary.

Further, while the relays to the substation primary feeder breaker on network transformers will operate for sustained high current faults in the primary (allowing for deenergization), deenergization may not occur quickly enough to avoid switchgear and/or transformer rupture. Thus, switchgear rupture and transformer failure can occur in network transformers from high current faults on the primary.

Unlike radial transformers, network transformers are equipped with network protectors, which are circuit breakers located on the secondary side of network transformers. The network protector is set to operate when it senses a reverse power flow. Thus, it operates to prevent power being fed back into the transformer in the event that the primary feeder breaker has been activated. The network protector operates in a coordinated fashion with the substation breaker relays to isolate a faulted network transformer. By isolating the faulted network transformer, service continues to be

supplied to the load by other transformers in the network.

According to comments on the Proposed Rule, current-limiting fuses are used in the secondary of higher secondary voltage network transformers (in the services and in the network protector). These fuses operate when high current faults occur downstream from these areas. However, the presence of these fuses does not mean that the entire secondary is protected against high current faults. There is a zone in the secondary in network transformers which is currently "unprotected," where high current faults can occur and not be seen by the relays to the primary feeder breaker or by these fuses in the services and the network protector. High current faults in this area can result in transformer failures and fires. Network transformers with higher secondary voltages are more likely to experience high current faults in the secondary which are self-sustaining, than network transformers with lower secondary voltages.

Like radial transformers, network transformers are not typically protected against low current arcing faults. Further, in network transformers, there is typically more associated electrical equipment where these faults can occur. Low current arcing faults in network transformers can occur in the network protector and (for spot network transformers) in the network collector bus as well as in the secondary winding and low voltage leads. Again, these faults are more likely to be self-sustaining rather than self-clearing when the secondary voltage is higher.

Unlike industrial transformers, commercial transformers, particularly network transformers are not typically equipped with primary circuit breakers on site. The deenergization of a commercial network transformer after failure from a sustained (undetected) low current or high current fault would typically require the manual opening of the utility substation primary feeder breaker, after the utility has been contacted about a malfunction in the equipment. As indicated earlier, utilities are generally hesitant to open primary feeder breakers because of their desire for continuity of service to their customers.

3. *Conclusions.* Comments on the Proposed Rule suggest that there are ways in which both radial and network PCB Transformer installations could be better protected to minimize the likelihood of fault-related failures and fires. Several comments on the Proposed Rule discussed the role of high current faults in PCB Transformer failures and fires, the level of protection currently provided against these faults in different types of transformer installations, and ways in which PCB Transformers could be better protected to minimize the chance of failure from these types of faults. Network PCB Transformers are currently the least well-protected against high current faults of all distribution class PCB Transformers in use. According to comments submitted in response to the Proposed Rule, the Tulsa PCB Transformer fire was associated with this type of fault in the high voltage switchgear of a 208/120 volt network PCB Transformer.

Many comments on the Proposed Rule, however, focused on sustained low current arcing faults in PCB Transformers as the culprit in the number of documented PCB Transformer fires. These comments discussed the level of protection currently provided against these faults in PCB Transformer installations and ways in which PCB Transformers could be better protected to avoid low current fault-associated failures and fires. The San Francisco fire, the Chicago fire, and the Miami fire have been associated with these types of faults in 480/277 volt network PCB Transformers.

Simply stated, sustained low current arcing faults can occur in PCB Transformers and associated electrical equipment, and with existing levels of conventional protection, progress undetected and unseen, resulting in transformer failure and fire. According to comments submitted in response to the Proposed Rule, low current arcing faults can occur in the secondaries of all types of transformer installations, radial transformers, lower secondary voltage network transformers, and higher secondary voltage network transformers. They are, however, more likely to occur in installations with more, as opposed to less, associated electrical equipment and are more likely to be sustained in transformer secondaries when the secondary voltage is higher. This is because faults are more likely to "restrike" or be sustained at higher voltages than be self-extinguishing or self-clearing.

All types of PCB Transformers typically lack the sensors (pressure and/or temperature sensors) necessary for the early detection of low current arcing faults. Further, many commercial PCB Transformers are typically unequipped with on-site primary circuit breakers to actuate transformer deenergization. This means that low current arcing faults can progress unseen in these transformers, and that these transformers cannot be easily deenergized, even after transformer rupture has occurred.

Deenergization of commercial PCB Transformers (when disconnect equipment is not present on site) typically requires the opening of the primary feeder breaker at the electric utility substation, which is often miles away from a transformer installation. According to testimony at the public hearing, the opening of a primary feeder breaker at an electrical substation is a very difficult thing for a utility to do, because opening the primary feeder breaker for a malfunction in a single PCB Transformer will also result in other (well-functioning) transformers in the distribution system being deenergized.

D. Potential for Exposure

Toxicity and exposure are the two basic components of risk. In Unit IV.A, EPA addressed the toxicity of PCBs, PCDFs, and PCDDs. The following summarizes EPA's evaluation of the potential for human and environmental exposures to PCBs, PCDFs, and PCDDs from transformer fires.

As discussed in Unit IV.C, high current faults and low current faults in electrical transformers and/or associated equipment, as well as the ignition of combustible or flammable materials in a transformer location, can all lead to the rupturing of a transformer, the volatilization of PCBs, and the formation of incomplete combustion products. Sustained high temperatures in the area of a ruptured transformer increase the potential for the formation of toxic products of incomplete combustion, including PCDFs, 2,3,7,8-TCDF, PCDDs, and 2,3,7,8-TCDD. These high temperatures can either occur as a result of the initial malfunction or as a result of prolonged arcing associated with an inability to deenergize the transformer completely. Smoke and soot from a high temperature fire involving a PCB Transformer can contain high concentrations of volatilized PCBs and oxidation products.

The most extensive monitoring data on PCB, 2,3,7,8-TCDF and 2,3,7,8-TCDD levels in buildings following PCB-Transformer fires were obtained from the Binghamton State Office Building site. A composite soot sample from this fire indicated the presence of 7,200 ppm PCBs, 231 ppm 2,3,7,8-TCDF, and 2.9 ppm 2,3,7,8-TCDD. For a full description of PCB, PCDF, and PCDD levels measured following transformer fires, see the quantitative exposure assessment completed for this final rule, support document 1 in Unit X.B.

EPA believes that the levels of PCBs and oxidation products measured in soot samples following the Binghamton

fire are values which are representative of situations in which combustion conditions are conducive to the formation and/or release of PCBs and oxidation products. Therefore, in this rule, EPA has used these values to estimate human and environmental exposures to PCBs, PCDFs, and PCDDs from PCB Transformer fires and fires involving PCB Contaminated transformers.

In the Proposed Rule, EPA evaluated the likelihood and nature of human and environmental exposures from transformer fires in or near buildings by analyzing likely exposures from a PCB Transformer fire in or near an office building. A number of comments received in response to the Proposed Rule suggested that EPA evaluate separately the expected exposures from transformer fires in or near industrial facilities and the costs of control measures for these transformers. Comments suggested that the use of PCB Transformers in industrial facilities pose lower fire-related risks than the use of PCB Transformers in commercial buildings and that the costs of the proposed transformer isolation requirement would be substantially greater for industrial facilities than for commercial buildings.

EPA agrees that industrial facilities should be evaluated separately from commercial buildings. Accordingly, EPA has evaluated the potential for human and environmental exposures for the following categories of PCB Transformer fires: (1) A PCB Transformer fire in or near a commercial building (both before the implementation of risk reduction measures and after the implementation of risk reduction measures); (2) a PCB Transformer fire in an industrial facility; (3) a PCB Transformer fire in an outdoor electrical substation; and (4) a PCB Contaminated transformer fire in or near a commercial building.

The first step in evaluating the potential for human exposures to PCBs and oxidation products is to determine the populations that are likely to experience these exposures. EPA has identified six populations that may be at risk of exposure to PCBs and oxidation products in the event of a fire involving a transformer containing PCBs. These are: (1) Persons present in a building or possibly in an adjacent building at the time of a fire in or near a building; (2) firemen and other emergency response personnel responding to a fire; (3) onlookers present during the extinguishing of a fire and members of the general public in the vicinity of the fire; (4) persons involved in sampling and cleanup operations following the fire; (5) persons returning to the building following cleanup; and, (6) persons exposed to equipment, automobiles, etc. that may have been contaminated during or after the fire. Human exposures to PCBs and oxidation products from transformer fires would be expected to occur principally through the inhalation and dermal routes.

1. *PCB Transformer fires in or near commercial buildings*—a. *Nature of installations and operation.* PCB Transformers serving commercial buildings are typically located in basements, in machinery rooms on the first few floors of buildings, or in sidewalk or underground vaults adjacent to buildings. Commercial PCB Transformers may also be located on roof-tops or near buildings in outside locations such as parking areas or loading docks. Electrical transformers used in or near commercial buildings are most typically located in areas which are not easily accessible or visible to building occupants. Based on the results of the Equitable Life Assurance survey of commercial transformer locations, EPA estimates that 69 percent of commercial transformers located on lower floors of buildings are vaulted, and that transformers located on interior upper floors are generally located in separate mechanical rooms. The majority of transformers located exterior to commercial buildings are also vaulted. According to utility representatives, in many cases, more than one PCB Transformer is located in a vault. Typically, two to four PCB Transformers are located within a single vault.

While commercial buildings may have janitorial crews on duty for building maintenance, electrical equipment operations are not typically closely supervised or monitored by trained electrical engineers or technicians. Maintenance and testing of these transformers would, in general, be expected to be less than that provided for utility substation equipment or industrial transformers. Further, disconnect equipment (i.e., circuit breakers) is generally not present in commercial installations, and there is typically no one present on site who is trained in disconnecting the equipment, even if such equipment were provided.

Comments on the Proposed Rule and EPA's analysis of available information indicates that there are approximately 77,568 PCB Transformers used in or near commercial buildings. Of these 77,568 PCB Transformers, EPA estimates that approximately 29 percent are network PCB Transformers and 71 percent are radial PCB Transformers. Further, of the estimated 7,600 480 volt network PCB Transformers in use (those transformers with a particularly high probability of fault-failure), EPA believes that over 97 percent of these transformers are used in or near commercial buildings.

b. *Frequency of PCB Transformer fires.* In the Proposed Rule, EPA estimated that 0.003 to 0.004 percent of nonsubstation PCB Transformers are involved in "serious" PCB Transformer fires (PCB Transformer fires involving smoke spread into buildings) each year. Within the category of "serious" fires are fires with moderate smoke distribution and fires with extensive smoke distribution. EPA used data from the National Fire Incident Reporting System (NFIRS) for 1982 on the frequency of structure-related electrical transformer fires, data from the NFIRS on the frequency of structure-related transformer fires with smoke spread beyond the room of origin of the fire, limited data from the NFIRS on the make, model, and year of transformers involved in these fires, and data supplied by various sources in response to the ANPR to develop this estimate. While EPA received several comments on this estimate (some indicating that EPA had severely underestimated the frequency of occurrence and other indicating that EPA had significantly overestimated the frequency of occurrence), little additional quantitative data were submitted to support modifying EPA's estimate of the frequency of occurrence of serious PCB Transformer fires. Thus, EPA believes that its estimate of 50 serious PCB Transformer fires over the remaining useful life of PCB Transformers is a reasonable estimate of the future frequency of serious PCB Transformer fires.

Since many comments on the Proposed Rule suggested that EPA evaluate separately the risks posed by PCB Transformers in or near industrial facilities, EPA has developed estimates of the frequency of PCB Transformer fires in industrial facilities and in commercial buildings.

As discussed in Unit IV.C, EPA believes that the probability of PCB Transformer fault-related failure varies depending upon the type of PCB Transformer installation (and includes such considerations as the amount of associated electrical equipment present, the secondary voltage of the transformers, and the current level of protection provided against sustained high current faults and sustained low current faults). Based on this analysis, and available empirical data on installation types in documented PCB

Transformer fires, EPA has developed estimates of the relative probabilities of failure for different types of PCB Transformer installations (high and low secondary voltage network transformers versus high and low secondary voltage radial transformers). EPA has used these estimates and available data on the distribution of these installation types in commercial locations and industrial locations to estimate the frequency of serious PCB Transformer fires both in commercial buildings and in industrial facilities.

EPA believes that 480 volt network PCB Transformers would have a particularly high probability of failure; that lower secondary voltage network PCB Transformers and 480 volt radial PCB Transformers would have a lower probability of failure (compared to 480 volt network transformers); and that lower secondary voltage radial PCB Transformers would have the lowest probability of fault-related failures.

EPA estimates that 44 of the 50 structure-related serious PCB Transformer fires which will occur over the remaining useful life of PCB Transformers will occur in or near commercial buildings. This estimate is supported by electrical engineering theory concerning the mechanisms of PCB Transformer fault-related failures and the likelihood of failures in different types of installations as well as by available empirical data. The PCB Transformer fires in Binghamton, San Francisco, Chicago, Miami, and Tulsa all occurred in or near commercial buildings; specifically, in office buildings.

Further, the San Francisco fire, the Chicago fire, and the Miami fire all reportedly occurred in 480 volt network PCB Transformers. Three other fire-related incidents in commercial buildings in the Boston area also reportedly involved 480 volt network PCB Transformers. A total of 6 out of 10 known PCB Transformer fires have occurred in higher secondary voltage network PCB Transformers (in 480 volt network installations). This is particularly dramatic when one considers that there are only an estimated 7,600 480 volt network PCB Transformers in use.

c. *Exposure assessment.* EPA has evaluated likely exposures from a serious PCB Transformer fire in or near a commercial building by using reasonable yet environmentally conservative assumptions. EPA assumes that a PCB Transformer fire in a commercial building would involve sustained high temperatures in the transformer location, the rupture of the transformer casing, the release of PCBs, the volatilization of PCBs, and the widespread distribution of PCBs and oxidation products throughout the interior of a densely populated building (i.e., an office building), into the ambient air, and into waterways. EPA assumes that smoke and soot containing PCBs and oxidation products are spread throughout a large office building during peak use hours, that emergency response personnel are unaware that certain precautions should be taken to minimize exposures, and, that reoccupancy occurs only after the removal of visible traces of soot by cleanup crews.

EPA assumes that a PCB Transformer fire in or near a commercial building would involve the rupture of the transformer and sustained high temperatures in the transformer location for up to 4 hours. EPA has assumed this because transformers located in or near commercial buildings are more likely to be located in inaccessible, low visibility areas, where malfunctions would not be readily identified. Further, EPA has assumed that the transformer will not be deenergized automatically and that the transformer will not have the capability to be deenergized manually from an on-site location. EPA made these assumptions because many PCB Transformers located in or near commercial buildings are network transformers, which are currently less well-protected electrically, and, are less likely to be able to be deenergized manually from an on-site location.

EPA's assessment of the potential for human exposures to PCBs and oxidation products from a PCB Transformer fire in a commercial building serves as the baseline for subsequent assessments of the expected effectiveness of fire hazard risk reduction measures in these locations. This assessment is also used in assessing likely human exposures from PCB Transformer fires in industrial settings and in outdoor locations (away from commercial and residential areas), and for estimating likely human exposures from PCB-Contaminated transformer fires in or near commercial buildings.

A PCB Transformer fire which occurs in or near a commercial building during a period of peak use may expose hundreds to thousands of building occupants to smoke and soot from the fire during the evacuation of the building. The potential for exposures of large numbers of building occupants to this smoke and soot is increased if the transformer involved in a fire is located near building ventilation equipment and ductwork. EPA estimates that evacuation times will be on the order of 6 to 8 minutes, and, that during these 6 to 8 minutes, building occupants will be exposed to smoke and soot, primarily through inhalation.

Emergency response personnel, unaware that the smoke and soot from the fire may contain PCBs and toxic products of incomplete combustion, may be exposed to these materials through inhalation, and may incur some dermal exposure to facial areas. EPA estimates that 30 to 60 emergency response personnel may be exposed for up to 4 hours during the extinguishing of a PCB Transformer fire. Dermal and inhalation exposures of firefighters and other emergency response personnel may continue during the completion of equipment maintenance procedures and during the cleaning of personal clothing and firefighting equipment after the fire.

EPA has developed quantitative estimates of exposures by cleanup crews, firefighters, building occupants, and members of the general public to PCBs, PCDFs, and PCDDs. EPA developed these estimates primarily to evaluate relative exposures among these populations for different types of PCB Transformer fires and not to define in an absolute sense expected human exposures. In developing quantitative exposure estimates, EPA must make assumptions about parameters such as the concentration of PCBs, PCDFs, and PCDDs present in soot, the amount of soot generated, the distribution of soot in the interior of a building, the duration of exposure, the frequency of exposure, and the expected routes of exposure. As would be expected, the assumptions selected for use in quantitative exposure assessments can strongly influence the final exposure estimates. Recognizing this, EPA tends to routinely adopt more environmentally conservative assumptions for the different parameters of the exposure assessment.

EPA's quantitative estimates of potential firefighter exposures (assuming that respiratory protection is not worn during a PCB Transformer fire of 4 hours duration, as well as other assumptions detailed in support document 1 in Unit X.B.) in terms of estimated lifetime average daily doses (LADD) is 8,006 picograms per kilogram per day (pg/kg/day) PCBs, 98 pg/kg/day 2,3,7,8-TCDF, 56 pg/kg/day other TCDFs, 319 pg/kg/day other PCDFs, 5.1 pg/kg/day 2,3,7,8-TCDD, 0.98 pg/kg/day other TCDDs, and 45 pg/kg/day other PCDDs.

Building occupants also may incur additional exposures (above those which may occur during building evacuation), if these parties remain nearby, as onlookers during the extinguishing of the fire. Further, there is an increased potential for these

additional exposures when emergency response personnel (the principal authority figures at the scene of a fire) are unaware of the nature of risks posed by exposures to smoke and soot from these fires.

The rupture of a PCB Transformer and the release of potentially hundreds of gallons of PCBs (and potentially PCDFs and PCDDs) into floor drains in transformer locations could result in the contamination of waterways. Further, if water is used to extinguish the fire, or if water pipes rupture due to high temperatures caused by the fire, water runoff could ultimately result in contamination of surface waters and drinking water. Members of the general public, in addition to fish and wildlife, in the vicinity of a PCB Transformer fire may be exposed to PCBs and oxidation products through the ingestion of residues. While comments on the ANPR suggest that water is not frequently used in extinguishing an electrical transformer fire, EPA believes that there is a potential for contamination of water from the rupture of the transformer, burst water pipes, the extinguishing of ignited materials in the area (other than electrical equipment) and from cleanup efforts.

The presence of a floor drain leading to a storm sewer in a transformer location provides a readily accessible pathway for the contamination of surface waters, and potentially, drinking water supplies. Water contaminated with soot containing PCBs, PCDFs, and PCDDs can enter these drains as a result of firefighting operations, burst water pipes, and cleanup operations. Very large amounts of water can be used in the cleanup process. For example, during the first year of cleanup at the Binghamton site, over 160,000 gallons of water were used, treated by charcoal filtration and secondary treatment, and discharged to surface waters. The nearest drinking water intake downstream is 45 miles away and serves 16,500 persons.

Atmospheric transport of PCBs and oxidation products in an urban area could also be responsible for exposing many members of the general population who live or work in the vicinity of a fire. In the Binghamton, New York incident, 2,585 people lived within 3 to 4 kilometers of the building. While inhalation exposures by the general public as a direct result of a PCB Transformer fire would be unlikely to occur for an extended period of time, soot fallout from a PCB Transformer fire may contaminate surface soil and surface water, in addition to outdoor furniture, automobiles, and other types of materials which are commonly stored outside. Contamination of surface soil and surface water may result in exposures to fish and wildlife as well. Thus, dermal, inhalation, and even oral exposures to the general population in the vicinity of a fire may occur on a continuing basis long after the initial incident.

Exposures at the site of a fire to soot containing PCBs and oxidation products may also continue long after the extinguishing of the fire. Cleanup crews, dispatched to the scene by a building owner who is unaware of the nature of risks posed by a PCB Transformer fire, may not be initially equipped with respiratory protection or protective clothing. Inhalation and dermal exposures would be expected to occur as these crews work to remove soot from surfaces inside the building. Soot particles are likely to become airborne as a result of cleanup efforts, and would be expected to be inhaled by workers. In addition, because of the strenuous nature of cleanup work, these workers would be expected to have a high respiration rate, further increasing exposures to PCBs and oxidation products through inhalation.

EPA's quantitative estimates of potential exposures to cleanup crews (assuming a 4-hour fire, the lack of protective clothing, and the superficial cleanup of a building, as well as other assumptions detailed in support document 1 in Unit X.B.) is 13,784 pg/kg/day PCBs, 34 pg/kg/day 2,3,7,8-TCDF, 19.9 pg/kg/day other TCDFs, 109 pg/kg/day other PCDFs, 1.8 pg/kg/day 2,3,7,8-TCDD , 0.33 pg/kg/day other TCDDs, and 15.7 pg/kg/day other PCDDs.

Even if respiratory protection and protective clothing are utilized by cleanup crews, EPA expects that some level of exposure to these materials may occur both dermally and through inhalation because of the expected prolonged period of exposure. Cleanup crews may work long hours for extended periods of time. For example, in the Binghamton incident, 40 to 70 workers were involved in cleanup operations for 7 hours a day for over 250 days.

Finally, depending upon the level of knowledge of the building owner, emergency response personnel, the utility, and local public health authorities about the nature of risks posed by PCB Transformer fires, building occupants may be allowed to return prematurely to a building following the removal of only visible traces of soot. Exposures may occur to faces, hands, and lower arms for 8 hours a day over the course of 250 working days in a year. EPA also expects that inhalation exposures would occur as a result of the circulation of airborne contaminants by the building's ventilation system. Further, these exposures may continue for an indefinite period of time because these materials are expected to the quite persistent, and resistant to degradation. Residual concentrations may remain on interior building surfaces for several years. EPA's quantitative estimates of potential building occupant exposures (assuming that the fire burns for 4 hours, that the building is occupied at the time of the fire, and that reoccupancy occurs following cleanup to visible traces of soot in the buildings, as well as other assumptions detailed in support document 1 in Unit X.B.) is 39,593 pg/kg/day PCBs, 65 pg/kg/day 2,3,7,8-TCDF, 65 pg/kg/day other TCDFs, 277 pg/kg/day other PCDFs, 1.2 pg/kg/day 2,3,7,8-TCDD, 0.76 pg/kg/day other TCDDs, and 35 pg/kg/day other PCDDs.

EPA has prepared additional quantitative estimates of potential human exposures to PCBs, PCDFs, 2,3,7,8-TCDF, PCDDs, and 2,3,7,8-TCDD from a reasonable worst-case PCB Transformer fire in a commercial building. These estimates are presented in support document 1 in Unit X.B.

2. *PCB Transformer fires in or near commercial buildings with risk reduction measures in place.* In order to evaluate the effectiveness of risk reduction measures in reducing exposures to PCBs and oxidation products, EPA has assessed expected exposures to these materials from a PCB Transformer fire in a commercial building, assuming the implementation of certain risk reduction measures.

In the Proposed Rule, EPA evaluated the expected exposures associated with a PCB Transformer fire in or near a commercial building with certain risk reduction measures in place. The risk reduction measures addressed in the Proposed Rule were transformer isolation from building ventilation equipment and ductwork, the control of potential water releases, the reporting of the fire to the National Response Center, the registration of the transformer with the responding fire department and the building owner, and the labeling of the exterior of the transformer location. EPA assumed that most PCB Transformers could be deenergized within 15 minutes of failure (without the installation of additional protection), and, for those transformers that EPA believed could not be deenergized completely, EPA proposed requiring additional electrical protection on the secondary side of the transformers.

Thus, in evaluating the effectiveness of transformer isolation, registration, labeling, and reporting of PCB Transformers fires, EPA assumed that all but a subset of PCB Transformers could be easily deenergized within 15 minutes of failure. For that subset, EPA required increased electrical protection on the secondary side of the transformers.

Comments on the Proposed Rule, however, indicate that: (1) Many PCB Transformers in commercial buildings are not capable of being easily deenergized after failures; (2) PCB Transformers in commercial buildings could be equipped with enhanced electrical protection which would reduce the probability of transformer failures from electrical faults; and, (3) while the proposed additional electrical protective measures (for a subset of the PCB Transformer population) would have avoided some failures in this equipment, failures in these transformers from other common mechanisms of failure could still occur.

Many comments on the Proposed Rule suggested that EPA increase its emphasis on the reduction of risk through the prevention of PCB Transformer fault-related failures and decrease its emphasis on the use of isolation measures to reduce structure and environmental contamination. These comments indicate that while transformer isolation can reduce exposures in the event of a PCB Transformer fire (by reducing widespread structure and environmental contamination), if a transformer cannot be easily deenergized after failure occurs, then substantial quantities of smoke and soot can be generated. The longer a transformer remains energized, the less likely it is that isolation will be an effective risk reduction measure.

EPA agrees that measures designed to prevent PCB Transformer failures are preferred over measures designed to contain and control already released and/or formed incomplete combustion products. Further, EPA's evaluation of mechanisms of transformer failure, commercial installation characteristics and operations, and the current levels of electrical protection in commercial PCB Transformer installations indicates that many of these PCB Transformers could be better protected electrically to reduce the frequency of fault-related failures and fires. Thus, in this final rule, EPA has focused on increased electrical protection rather than transformer isolation as the preferred measure for reducing the frequency of serious PCB Transformer fires.

Since electrical protective devices are subject to malfunction, EPA has also assessed expected exposures to PCBs and oxidation products in the event that transformer failure occurs despite the presence of increased electrical protection; but, has assumed that measures are taken to control water releases; that the incident is reported to the National Response Center; and, that the transformer is registered with both the responding fire department and the building owner. In addition, EPA assumes that the exterior of the transformer location is marked with PCB identification labels.

a. *Frequency of serious PCB Transformer fires with risk reduction measures in place.* EPA has used data from transformer and electrical equipment reliability studies to evaluate the probability of electrical protective device malfunction; and thereby, to estimate the effectiveness of electrical protection in avoiding serious PCB Transformer fires. For purposes of this rule, EPA defines electrical protective device malfunction as the failure of a device to operate when called upon to operate. It is difficult to develop a precise estimate of the expected rate of failure of specific combinations of electrical protective devices such as those which appear in this final rule. However, based upon available information on the failure rate of circuit breakers, current-limiting fuses, and heat and fluid level sensors, EPA expects the failure rate to be low, below 3 percent. Further, according to data on the failure modes of circuit breakers, only 9 percent of circuit breaker failures are failures to operate when called upon to open. The majority of circuit breaker failures are characterized by the operation of a circuit breaker when it should not have operated or opened. That is, circuit breaker failure typically involves deenergization without cause rather than failure to deenergize when called upon to open.

EPA has assumed that enhanced electrical protective systems will function to avoid between 97 and 99 percent of the serious PCB Transformer fires (about 43 fires) which would be expected to occur in commercial buildings over the remaining useful life of this equipment (this assumes that electrical protection can be implemented immediately). Electrical protection for commercial transformers phased in over a 5-year period is expected to avoid about 36 serious PCB Transformer fires. EPA expects that one to two serious PCB Transformer fires will occur over the remaining useful life of this equipment as a result of the failure of the enhanced electrical protective systems to operate.

b. *Exposure assessment.* The potential for the volatilization of large amounts of PCBs, and the formation of products of incomplete combustion from PCB Transformer fires is reduced if efforts are made to control combustion conditions in the transformer location. EPA believes that the removal of stored combustibles from a PCB Transformer location will reduce the likelihood of a fire occurring external to a PCB Transformer resulting in transformer failure. More importantly, the installation of enhanced electrical protection on commercial PCB Transformers is expected to reduce substantially the frequency of PCB Transformer fault-related failures in this equipment.

Comparing the circumstances surrounding well-documented PCB Transformer fires indicates that the sooner a faulted transformer is deenergized, the less likely it is that significant quantities of PCDFs and PCDDs will be formed. Experience from actual incidents indicates that EPA is correct in its belief that there are practical means available for successfully controlling combustion conditions in PCB Transformer locations. Certain measures, once implemented, would reduce the likelihood of fault-related failures and sustained high temperatures. These measures are expected to reduce significantly the fire-related risks posed by the continued use of these transformers.

Analyses of the levels of electrical protection currently provided for many commercial PCB Transformer locations indicate that these PCB Transformers could be better protected electrically to reduce the frequency of transformer failures from electrical faults. Comments on the Proposed Rule suggest that many of the well-documented PCB Transformer fires could have been avoided if transformer failure had been avoided through the use of enhanced electrical protection, such as current-limiting devices, sensors, and disconnect equipment.

Enhanced electrical protection, that is, the installation of overcurrent protection on transformers which lack such protection, and sensors and disconnect equipment to avoid sustained low current faults will reduce the likelihood of PCB Transformer fault-related failures. These systems are intended to actuate complete deenergization of transformers when abnormal conditions are sensed. While abnormal conditions are expected to be typically caused by sustained high and low current faults, the low current fault protection system

in particular would also function to avoid sustained high temperatures and changes in internal pressure from other causes as well. Finally, the final rule requires the removal of stored combustibles near PCB Transformers to reduce the likelihood of a PCB Transformer fire occurring from an external source of combustion.

If transformer failure and fire occurs despite the presence of the required electrical protection system and the removal of stored combustibles, the nature and magnitude exposures to PCBs and oxidation products by building occupants, firefighters, cleanup crews, and members of the general population could be equivalent to that described above, in Unit IV.C.1.c. However, the presence of disconnect equipment on site (which can be manually operated) for many PCB Transformers will provide for more rapid deenergization than is currently the case.

Registration, labeling, containment of potential water releases, and notification of the National Response Center would also be expected to reduce exposures to these populations in the event that transformer failure occurred despite the presence of increased electrical protection. Advance knowledge on the part of fire departments and building owners about the contents of a transformer and the notification of EPA in the event of a fire would be expected to reduce exposures to building occupants, in addition to reducing exposures to firefighters and other emergency response personnel. EPA expects that firefighters, aware of the nature of risks posed by a transformer fire, would be more likely to wear respiratory protection and protective clothing and would be more protective of bystanders and onlookers. Building owners who are aware that a transformer fire involves a PCB Transformer would be less likely to dispatch unprotected cleanup crews to the site, and would be less likely to allow building occupants to return unprotected to an involved building.

If PCB Transformer owners take measures as soon as practically and safely possible to contain any spilled PCBs and or PCDFs/PCDDs (released as a result of a fire-related incident) and water potentially contaminated with PCBs, PCDFs, and PCDDs, EPA expects that potential releases to waterways will be substantially reduced. The blocking of floor drains in a transformer location as soon as practically and safely possible, and the containment of all water associated with the incident (including cleanup water) should reduce the potential for the release of PCBs and untreated water into surface waters. Finally, by requiring the reporting of all PCB Transformer fire-related incidents to the National Response Center (NRC), EPA will be able to monitor cleanup efforts and the treatment and discharge of water, to insure that safe levels are not exceeded.

3. *Industrial PCB Transformer fires*—a. *Nature of installations and operations.* PCB Transformers used in industrial applications may be located indoors or outdoors, depending upon variables such as the service being supplied by the unit, the size of the unit, and the geographic location of the facility. According to comments submitted in response to the Proposed Rule, many (but not all) industrial transformers are located in production areas, near motors, machinery, and other equipment. These transformers are typically unvaulted and readily visible to facility workers during the routine conduct of their work. This is in contrast to the typical commercial PCB Transformer installation, which is generally inaccessible and less visible to employees.

Comments on the Proposed Rule indicate that in many industrial facilities, the performance of transformers in monitored during production shifts by engineers, electricians, or other similarly trained personnel. Further, comments indicate that industrial transformer owners reportedly utilize visual inspections, monitoring, and electrical testing of transformer function on a routine basis. Electrical equipment failure and fire in an industrial facility means loss of production time, which can have severe economic impacts. Thus, industrial transformer owners have this incentive to provide for transformer maintenance and testing on a routine basis to avoid fault-related failures and for providing disconnect equipment on site to provide for rapid deenergization in the event of a fault-related failure.

EPA's analysis indicates that there are approximately 26,700 PCB Transformers used in or near industrial facilities. Of these 26,700 PCB Transformers, EPA estimates that 98 percent are radial PCB Transformers, and, that 2 percent are network PCB Transformers. Of the estimated 7,600 480 volt network PCB Transformers in use, EPA estimates that only 3 percent (or 179 PCB Transformers) are used in or near industrial facilities.

b. *Frequency of PCB Transformer fires.* EPA estimates that 6 out of the expected 50 serious PCB Transformer fires which will occur over the remaining useful life of PCB Transformers will occur in or near industrial facilities. Four of these fires are expected to occur after October 1, 1990. This estimate was derived by considering available information on the number and type of PCB Transformers used in or near industrial facilities and available information on the probability of PCB Transformer fault-related failure for each type of transformer installation.

EPA has very little data on PCB Transformer fires which have actually occurred in industrial facilities. Limited data were submitted by the American Paper Institute (API) regarding two PCB Transformer fire-related incidents in forest industry facilities. According to the results of an API survey, during an 8.5 year period, between January 1976 and March 1984, there were two PCB Transformer fires (which involved smoke spread into buildings) out of an estimated 3,509 PCB Transformers used by the surveyed companies. API indicates that none of these incidents approached "Binghamton" proportions, and could be classified as moderate incidents on the spectrum of PCB Transformers fires.

c. *Exposure assessment.* EPA has little data on the circumstances surrounding actual PCB Transformer fires in industrial facilities. However, EPA has used environmentally conservative yet reasonable assumptions in evaluating likely human and environmental exposures from a PCB Transformer fire in a typical industrial facility. EPA recognizes that PCB Transformer fires may occur in atypical industrial facilities, where the exposures may be somewhat greater than those described here. However, based on comments on the Proposed Rule, EPA believes that there are fundamental differences between the potential for human exposures to PCBs, PCDFs and PCDDs from the use of PCB Transformers in industrial facilities versus their use in commercial buildings.

EPA assumes that a PCB Transformer fire in an industrial facility would involve an indoor PCB Transformer, sustained high temperatures in the transformer location, the rupture of the transformer, the release of PCBs, the volatilization of PCBs, and the distribution of PCBs and oxidation products into the interior of an industrial facility, into the ambient air, and into waterways. EPA assumes that smoke and soot containing PCBs and oxidation products are spread throughout the interior of an industrial facility during peak use hours, worker evacuation occurs during the early stages of the fire, an on-site fire brigade makes the initial

response, and, that reoccupancy of the facility by workers occurs after the removal of visible traces of soot.

EPA assumes that a PCB Transformer fire in an industrial facility will involve the rupture of the transformer and sustained high temperatures in the transformer location for up to 0.5 hour (in contrast to a 4-hour burn time assumed for commercial buildings). EPA has assumed this reduced burn time because comments on the Proposed Rule and available data indicate that transformers used in or near industrial facilities are more likely to be located in higher visibility areas, where malfunctions would be more rapidly identified. This is in contrast to the typical commercial PCB Transformer installation, which is not readily accessible or visible to employees. Further, EPA has assumed that once a malfunction has been identified, the transformer can be more easily deenergized in industrial facilities by on-site trained personnel. EPA made this assumption because comments indicate that industrial use PCB Transformers are typically equipped with primary disconnect equipment on site. Further, comments indicate that many industrial facilities employ electrical engineers or technicians during duty hours to monitor electrical equipment operations. This too is in contrast to the typical commercial installation, which is not equipped with primary disconnect equipment on site. Further, commercial PCB Transformer operations are not typically monitored.

An industrial PCB Transformer fire which occurs during a period of peak use may expose hundreds of workers to smoke and soot from the fire during the evacuation of the facility. However, EPA expects that worker evacuation times may be quicker than those assumed for commercial buildings. First, industrial facilities are not typically high-rise buildings. Second, there are typically fewer people to be evacuated. Finally, industrial workers would be expected to be more educated about the potential risks posed by any type of fire in an industrial location, and about proper evacuation procedures. EPA has assumed that exposures by workers to residual levels of PCBs and oxidation products would, however, continue following reoccupancy. EPA's estimate of potential exposures to industrial workers (assuming a 0.5 hour burn time and cleanup to visible traces of soot, as well as other assumptions detailed in support document 1 in Unit X.B.) is 2,888 pg/kg/day PCBs, 6.7 pg/kg/day 2,3,7,8-TCDF, 3.8 pg/kg/day other TCDFs, 22 pg/kg/day other PCDFs, 0.36 pg/kg/day 2,3,7,8-TCDD, 0.06 pg/kg/day other TCDDs, and 3.1 pg/kg/day other PCDDs.

Many industrial facilities have fire brigades on site to handle initial emergency response situations. According to comments on the Proposed Rule, these fire brigades are typically well-trained and well-equipped to handle industrial accidents and fires, including PCB Transformer fires. A PCB Transformer located in an industrial facility would likely be less confined than in a commercial building, and, therefore, would provide easier access to firefighters than a commercial location. Firefighting time may be reduced by the accessibility of the transformer, the capability to deenergize the equipment on site, and the level of site-specific training of industrial fire brigades.

EPA assumes that a 10-man fire brigade would respond to a PCB Transformer fire in an industrial facility, and that brigade members would be more likely to wear appropriate protective clothing and respirators. (Other assumptions are detailed in support document 1 in Unit X.B.) EPA's estimate of potential exposures to these firefighters is 45 pg/kg/day PCBs, 0.11 pg/kg/day 2,3,7,8-TCDF, 0.068 pg/kg/day other TCDFs, 0.37 pg/kg/day other PCDFs, 0.006 pg/kg/day 2,3,7,8-TCDD, 0.001 pg/kg/day other TCDDs, and 0.05 pg/kg/day other PCDDs. Additional exposures following the fire may, however, occur during the cleanup of turnout gear and firefighting equipment. EPA expects that industrial fire brigade personnel would take appropriate precautions to limit further exposures.

If water is used to extinguish the fire, or if water pipes rupture due to high temperatures, water runoff could ultimately result in contamination of surface waters and drinking water supplies. Industrial facilities typically have many floor drains, which are readily accessible pathways for the release of PCBs and oxidation products to waterways.

Atmospheric transport of PCBs and oxidation products in a metropolitan area could also be responsible for exposing many people who live or work in the vicinity of an industrial plant to PCBs and oxidation products. Higher ventilation rates in industrial facilities may lead to more rapid distribution of PCBs and oxidation products into the ambient air than would be the case for a fire in a commercial building. However, the shorter burn time for the fire would decrease the total amount of PCBs volatilized and incomplete combustion products formed and released.

Cleanup following an industrial PCB Transformer fire could be as time-consuming as an indoor commercial PCB Transformer fire. The cleaning and decontamination of valuable machinery and equipment would be very time-consuming. The cleanup of the structure itself may be less involved than for a high-rise office building. Industrial facilities are more open and building surfaces are generally more accessible to cleaning and decontamination. In addition, higher ventilation rates in industrial facilities would encourage the distribution of smoke and soot into the ambient air outside the facility. Further, the ability to deenergize the transformer from an on-site location would reduce both the amount of PCBs volatilized and the amount of incomplete combustion products formed and released.

In facilities which operate around the clock (24 hours per day operations), electrical equipment operations would be expected to be monitored during the entire operating time. However, smaller industrial facilities may operate only 8 hours per day, leaving electrical equipment operations unmonitored for 16 hours per day.

A PCB Transformer fire in an industrial facility after normal hours of operation could, therefore, burn longer than the assumed 0.5 hour. Electrical equipment operations are not typically monitored by operating personnel during off-shift hours. While occasional security patrols would inspect the area, a PCG Transformer fire could progress in much the same manner as a PCB Transformer fire in a commercial building. Deenergization of the transformer, even when on-site disconnect equipment is available, would take longer in these cases, because personnel trained in disconnecting the equipment would most likely not be on site during off-shift hours.

An industrial PCB Transformer fire during off-hours would be more likely to expose volunteer and municipal salaried firefighters than fires during normal operating hours, when company fire brigades would have primary responsibility for initial emergency response. Exposures to members of the general population in the vicinity of the fire would be expected to be higher for fires during off-hours, as would exposures to cleanup crews. Exposures to workers, however, would only be expected to occur following reoccupancy of the building, from contact with residual materials on building surfaces and in the air.

4. *Outdoor fires involving PCB Transformers*—a. *Nature of*

installations and operations. PCB Transformers which are used in outdoor applications may be located on the tops of utility poles, pad-mounted in urban, metropolitan, and rural areas, or in electric utility substations. The operation of these transformers is not typically monitored by on-site personnel. Electric utility substation PCB Transformers are typically fenced off to restrict access to authorized personnel, and their operation may be monitored by personnel in control rooms at utility transmission stations and/or generating stations.

EPA estimates that there are about 17,000 PCB Transformers used in outdoor applications. EPA expects that the majority of these transformers are in radial installations.

b. *Frequency of PCB Transformer fires.* Based on estimates of the frequency of "serious" PCB Transformer fires in radial transformer installations, and the estimated number of PCB Transformers located in outdoor electrical substations, EPA estimates that outdoor PCB Transformer fires with smoke generation will occur at a frequency of about 0.0014 percent per year, or, about 3 incidents over the remaining useful life of this equipment.

c. *Exposure assessment.* Fires involving PCB Transformers located in outdoor locations, away from commercial buildings, are expected to result in lower human exposures to PCBs and oxidation products in fire situations than transformer fires in or near buildings. First, because combustion conditions in an outdoor PCB Transformer fire are not expected to be as conducive to the volatilization of spilled PCBs and the formation of large quantities of PCDFs, 2,3,7,8-TCDF, PCDDs, or 2,3,7,8-TCDD as would be the case with transformers located in machinery rooms or vaults. Generally, combustible materials are not present near outdoor PCB Transformers and some of the heat generated from arcing or fires would be expected to dissipate in the environment.

Further, outdoor utility substations in particular are generally fenced to restrict access to authorized personnel only, thus limiting the number of people at immediate risk of exposure in the event of a fire. In contrast to the smoke and soot produced from transformer fires in or near buildings, any smoke or soot produced in an outdoor transformer fire, away from commercial buildings, is expected to be more widely dispersed in the environment. EPA has developed a model for the release of PCBs and the formation of PCDFs and/or PCDDs from an outdoor PCB Transformer fire. EPA has estimated the expected exposures from releases to air from an outdoor fire and has found that exposures decrease with increasing distance, and that at a distance of 200 meters from a fire, inhalation exposures from a typical fire would be expected to be relatively low.

While there is a potential that emergency response personnel and cleanup crews responding to such fires may be exposed to some PCDFs, 2,3,7,8-TCDF, PCDDs, and 2,3,7,8-TCDD, exposures to PCBs would be more likely to occur. Firefighting equipment and protective clothing may become contaminated with PCBs, and may result in exposures to firefighters during equipment cleanup and maintenance.

Fires involving outdoor PCB Transformers near commercial buildings (i.e., within 30 meters of commercial buildings) could result in more people being exposed to higher levels of PCBs and any oxidation products produced. For this reason, EPA has included outdoor PCB Transformers located within 30 meters of commercial buildings within the definition of PCB Transformers located in or near commercial buildings.

5. *Fires involving transformers containing less than 500 ppm PCBs*—a. *Nature of installations and operations.* EPA estimates that there are over 20 million mineral oil transformers in the electric utility industry and about 5 million in all other applications. These mineral oil transformers may contain low levels of PCBs (less than 500 ppm PCBs) as a result of contamination from past servicing activities. EPA estimates that approximately 18 million of these mineral oil transformers are used in nonsubstation applications, in or near commercial buildings, industrial facilities and outdoors on utility poles. These transformers are installed in both radial and network configurations.

b. *Exposure assessment.* PCB Transformers typically contain 65 percent PCBs, or about 1,300 times the maximum amount of PCBs present in PCB Contaminated transformers (and 13,000 times the amount of PCBs present in transformers containing 50 ppm PCBs). EPA has assessed the potential for exposures to PCBs, PCDFs, 2,3,7,8-TCDF, PCDDs, 2,3,7,8-TCDD from fires involving PCB-Contaminated equipment by assuming that the transformer present in the Binghamton State Office Building was a PCB-Contaminated transformer, and, by assuming reasonable worst-case values for other parameters. Based on the results of EPA's study of the incomplete combustion of PCB-Contaminated transformer fluids, EPA has assumed that the formation of PCDFs and PCDDs in a PCB-Contaminated transformer would be linearly related to the amount of PCBs present in the transformer. Given this situation, PCB, PCDF, 2,3,7,8-TCDF, PCDD, and 2,3,7,8-TCDD levels in the soot from such a fire would be expected to be reduced by a factor of 1,300, compared to levels actually measured in Binghamton. Similarly, human exposures to these materials are assumed to be reduced by the same factor.

6. *Conclusions—Risks posed by fires involving transformers that contain PCBs.* Toxicity and exposure are the two basic components of risk. In earlier units of this preamble, EPA evaluated the toxicity of PCBs, PCDFs, 2,3,7,8-TCDF, PCDDs, and 2,3,7,8-TCDD and presented assessments of the potential for human exposure to these materials from transformer fires. EPA concluded that both 2,3,7,8-TCDD and PCBs are probable human carcinogens, based upon studies in laboratory animals. Further, since 2,3,7,8-TCDF is structurally and chemically similar to 2,3,7,8-TCDD, EPA has concluded that it is prudent to assume that an oncogenic potential exists in 2,3,7,8-TCDF and perhaps in other PCDD and PCDF congeners as well.

EPA has determined that relatively large quantities of these compounds can be formed and released during a PCB Transformer fire, particularly a fire which occurs in or near a commercial building. Sustained high temperatures in these transformer locations are more likely than in industrial or outdoor locations because of the nature of commercial PCB Transformer installations. Many commercial transformers are network transformers (which are the least well protected distribution (transformers). Further, malfunctions in commerical PCB Transformers are more likely to progress into more serious incidents because these transformers are typically located in low visibility areas, and because these locations typically lack on-site electrical technicians and necessary disconnect equipment to insure complete deenergization in the event of a sustained fault or failure.

Finally, there are many routes through which commercial building occupants, emergency response personnel, cleanup crews, onlookers, and the general public can be exposed to these materials, once generated. Building evacuation times for large commercial buildings can be relatively long, reoccupancy may occur before adequate cleanup has been completed, emergency response personnel may lack necessary protective equipment, cleanup crews may be dispatched without proper protection,

onlookers may be unaware of the risks posed, and members of the general population in the vicinity of the fire may incur inhalation exposures and dermal exposures during the fire, and for extended periods after the fire from contamination of waterways, drinking water supplies and outdoor materials with PCBs, PCDFs, and PCDDs.

EPA has concluded that fires involving PCB Transformers in or near commercial buildings can pose significant risks of human and environmental exposures to PCBs and oxidation products. EPA believes that 44 of the estimated 50 structure-related serious incidents over the remaining useful life of PCBs Transformers will occur in or near these buildings. Further, based on its analysis of the relative probabilities of PCB Transformer failures and fires, EPA has concluded that many of these fires will involve 480 volt network PCB Transformers.

Given that a single serious PCB Transformer fire in or near a commercial building can potentially expose thousands of people to PCBs and oxidation products in soot in air, water, or on surfaces, EPA has concluded that PCB Transformer fires in or near commercial buildings can pose significant risks to human health and the environment. However, EPA also believes that reducing the potential for the release of PCBs and the potential for the formation and release of PCB oxidation products from PCB Transformers substantially reduce the fire-related risks posed by the continued use of this equipment.

EPA has determined that sustained high temperatures in industrial PCB Transformer locations and in outdoor substation PCB Transformers are less likely than for commercial PCB Transformers because of the nature of these installations. Many of these transformers are radial transformers (which are typically better protected against sustained faults and failures than network transformers). Further, malfunctions in industrial PCB Transformers which go undetected by existing electrical protection are less likely to progress into more serious incidents because of the location of these transformers in higher visibility areas, and because industrial facilities reportedly have on-site electrical engineers and technicians and necessary disconnect equipment to provide for complete deenergization. Finally, the suggested higher frequency of maintenance, inspection, and testing of industrial transformers and utility substation transformers would further decrease the likelihood of fire-related failures in this equipment.

EPA estimates that up to 6 out of the expected 50 serious PCB Transformer fires over the remaining useful life of PCB Transformers will occur in or near industrial facilities, and that less than 3 PCB Transformer fires with smoke distribution will occur in outdoor PCB Transformer locations.

While exposures to workers, emergency response personnel, cleanup crews and the general population may occur from an industrial PCB Transformer fire, the magnitude of exposure associated with a PCB Transformer fire in a typical industrial facility would be anticipated to be greatly reduced (when compared to a commercial PCB Transformer fire) as a result of several factors. First, EPA expects that the duration of industrial PCB Transformer fire-related incidents would be significantly less than the duration of commercial PCB Transformer fires, because of the presence of trained personnel and disconnect equipment on site. The reduced duration would reduce exposures to all populations potentially at risk of exposures. Second, there are generally fewer workers present in industrial facilities than in commercial buildings, and worker evacuation times would be expected to be less for industrial facilities than for commercial buildings. This is because of the single-story nature of many industrial facilities, and the expected increased level of education of industrial workers about workplace hazards. Third, according to comments on the Proposed Rule, industrial facilities often utilize well-trained, well-equipped fire brigades for initial emergency response, rather than local volunteer or salaried municipal firefighters. Emergency response personnel as a group, then, would be expected to incur lower exposures in responding to industrial PCB Transformer fires than would be the case for commercial PCB Transformer fires.

A comparison of estimated exposures from a commercial PCB Transformer fire to an industrial PCB Transformer fire indicates that exposures by building occupants to PCRs, 2,3,7,8-TCDF, other TCDFs, other PCDFs, 2,3,7,8-TCDD, other TCDDs, and other PCDDs could be as much as an order of magnitude higher for commercial building fires than for industrial building fires.

EPA recognizes that exposures from PCB Transformer fires in atypical industrial facilities could be higher than described earlier. However, EPA's estimate of the frequency of industrial PCB Transformer fires is 6 fires over the remaining useful life of industrial PCB Transformers. Even if EPA were to assume that all 6 of these fires resulted in individual exposures of the same order of magnitude suggested for commercial PCB Transformer fires, there are fewer people at risk of these exposures in industrial locations when compared to commercial buildings.

One could consider the overall fire-related risk posed by the continued use of PCB Transformers and compare the different frequencies of occurrence of fires in commercial buildings versus industrial facilities (assuming as a worst-case, that the risks posed by commercial PCB Transformer fires and industrial PCB Transformer fires are equivalent). This analysis indicates that 88 percent of the fire-related risk posed by the continued use of PCB Transformers (in locations in or near buildings) are associated with their use in or near commercial buildings and 12 percent of the total risks are associated with their use in industrial locations.

EPA has further determined that outdoor PCB Transformer fires, (away from commercial buildings) and fires involving PCB-Contaminated transformers pose lower risks than PCB Transformer fires in or near commercial buildings. While EPA expects that outdoor PCB Transformer fires may result in the release of PCBs, EPA expects that outdoor PCB Transformer fires would be less likely to result in the volatilization of large amounts of PCBs and less likely to lead to the formation and release of large amounts of PCDFs and PCDDs. Further, PCBs and oxidation products released from outdoor PCB Transformer fires would be expected to be more widely dispersed in the environment. Although PCBs may be released and oxidation products may be formed during the PCB-Contaminated transformer fires, the amounts of these materials formed and released are expected to be significantly reduced compared to the amounts formed and released from PCB Transformers.

IV. Benefits of PCB-Transformers and the Availability of Substitutes

As part of the unreasonable risk determination, EPA must consider both the benefits of PCBs and the availability of substitute materials. The unreasonable risk determination requires EPA to balance the risks posed by the use of PCBs against the availability of adequate substitute materials and the costs associated with regulatory control measures.

A. Benefits of PCBs

PCBs were originally used as dielectric fluid in electrical transformers primarily because of their fire-resistance properties. Generally, PCB Transformers were placed in locations where concerns for fire safety were paramount. Other dielectric fluids, such as mineral oil, have superior electrical properties to PCBs, but their fire resistance properties are not as good as PCBs.

Monsanto Company has had in progress for over a year a study assessing and comparing fire risks of PCBs and of mineral oil. The Monsanto-sponsored study indicates that the average frequency of a fire spreading beyond the transformer room is 300 times greater for a mineral oil transformer than for a PCB Transformer containing 50 percent PCBs and 50 percent chlorinated benzenes. The report further indicates that there is a significant decrease in the risk of fatalities when a mineral oil transformer is replaced by a PCB Transformer containing 50 percent PCBs and 50 percent chlorinated benzenes.

B. Substitute Transformers

In its August 1982 PCB Electrical Use Rule, EPA concluded that adequate substitutes exist for PCBs in indoor transformer locations. There are two basic categories of transformers, fluid-filled and dry. There are six general types of fluid-filled substitutes for PCBs in transformers: Silicones; high-temperature hydrocarbon (HTH); chlorinated hydrocarbons; non-PCB askarels; fluorocarbons; and mineral oil. EPA summarized available data on these substitute fluids in the Proposed Rule and concluded that adequate substitutes exist for PCBs for indoor transformer locations, including silicone-filled transformers and dry transformers.

As discussed earlier, EPA-sponsored studies indicate that PCDFs and PCDDs can be formed from the incomplete combustion of chlorinated benzenes. Similarly, an EPA-sponsored study indicates that PCDFs can be formed from the incomplete combustion of tetrachloroethylene (perchloroethylene).

The replacement of PCB dielectric fluid with substitute fluids which in fire situations may also lead to the formation of PCDFs and PCDDs should be carefully considered in light of the Agency's decision in this rule to place additional conditions and restrictions on the use of PCB Transformers. EPA's evaluation of the risks posed by the incomplete combustion of PCB dielectric fluid and the frequency of occurrence of PCB Transformer fires indicate that the fire-related risks posed by the use of a dielectric fluid which can be transformed into PCDFs and/or PCDDs can be significant. EPA will study this issue further and evaluate the need for additional EPA action.

C. Retrofilling PCB Transformers

1. *Introduction.* Two general types of substitutes for PCBs in transformers stand out as the best retrofill candidates. These fluids are silicones and high temperature hydrocarbons (HTH). The principal questions to be considered are the cost of retrofill versus the value of the remaining life of the transformer and the qualification of the fluid as "less flammable" for insurance purposes. A related question is the potential for the formation of toxic products of incomplete combustion from the retrofill fluid and remaining residual concentration of PCBs. Other fluids, such as chlorinated hydrocarbons, fluorocarbon, and mineral oil, are used in new transformers but are inappropriate for retrofilling because the design of the PCB Transformers does not fit the properties of the fluids.

Experience with retrofilling to date indicates that reclassification of askarel PCB Transformers to non PCB status is often not cost-effective. Reclassification to PCB Contaminated status, however, has been accomplished in a cost-effective manner for a number of askarel PCB Transformer units. Testimony at the public hearing, however, indicates that retrofill technology continues to evolve, and, that cost-effective reclassification of askarel PCB Transformers to non PCB status may be on the horizon.

2. *Silicones.* There are six silicone fluids sold by six different companies for use as dielectric fluid. Four of the six fluids have been approved by Factory Mutual Research Corporation (FMRC) as "less flammable" fluids. Silicones have a higher viscosity than PCBs and are therefore not quite comparable to PCBs as a coolant. For this reason, it is possible that transformers retrofilled with silicone would have to be derated. According to one silicone fluid manufacturer, if the transformer were fully loaded, a derating not exceeding 5 percent could be necessary. (Derating means lowering the maximum level of electrical load that the transformer can handle.)

It has been mentioned in the literature that a leaking problem could be created because silicone fluids are not compatible with silicone rubber gaskets and the coefficient of expansion of silicone fluids is 50 percent greater than that of PCBs. In actual practice, however, the silicone gaskets are replaced during retrofilling. (Further, even though the coefficient of expansion is greater than that for PCBs, the greater solubility of the filler gas (nitrogen) in silicone eliminates the expected increase in pressure.)

3. *HTHs.* There are six HTH fluids sold by five companies that may be used as transformer dielectric fluids. There are also two products sold by two other companies that when mixed with other products may be used as HTH transformer fluids. Three of the six fluids are paraffinic based oils and three are esters. As mentioned earlier, the three esters are more specialized for use in railroad transformers.

The other three fluids are more viscous than the silicones at lower temperatures, but thin more rapidly at higher temperatures. According to an HTH manufacturer, this property allows the transformers to be retrofilled with HTH without any derating. At lower normal load temperatures, however, the transformers do run hotter. These fluids are completely compatible with the materials that make up PCB Transformers, and they are soluble in PCBs. Two of these fluids are approved by FMRC as "less flammable transformer fluids," and the fire point of the third is over 300 °C.

Because the paraffinic HTHs have high convective and radiant heat release rates, the owner's insurance company may recommend more stringent installation requirements.

V. Benefits and Costs of Regulatory Options

A. Introduction

This unit presents an analysis of the effectiveness and economic impact of various regulatory options for reducing the fire-related risks posed by the continued use of PCB Transformers. For a full analysis of the expected economic impacts see the regulatory analysis for this final rule, support document 7 in Unit X.B. The analysis considers separately, the effectiveness and costs of five major regulatory control options for four categories of PCB Transformers: (1) PCB Transformers in or near commercial buildings, (2) PCB Transformers in or near industrial locations, (3) PCB Transformers in outdoor electrical substations, and (4) PCB Contaminated Transformers. The regulatory control measures considered are: (1) Placing no additional conditions or restrictions on the use of PCB Transformers; (2) requiring the registration and additional labeling of PCB Transformers, the removal of stored combustibles, the containment of potential water releases and the

reporting of PCB Transformer fires to the National Response Center; (3) requiring the isolation of PCB Transformers to reduce widespread structure and environmental contamination with PCBs and products of incomplete combustion; (4) requiring the installation of increased electrical protection on PCB Transformers to avoid PCB Transformer failures; and, (5) requiring the removal or retrofill of PCB Transformers. The analysis includes a consideration of the expected savings in cleanup costs as a result of implementing these measures.

Given the well-established toxicity of PCBs, and the presence of materials that are much more toxic than PCBs in the soot from a fire involving a PCB Transformer, owners of PCB Transformers involved in PCB Transformer fires have invested more than $20 million dollars each to ensure the safety of persons returning to occupy these buildings. These costs, for sampling, cleanup and removal of contaminated materials containing PCBs, PCDFs, and PCDDs can be factored into the economic analysis of the benefits of the continued use of PCB Transformers. Earlier analyses of the benefits of the continued use of these transformers, completed in support of the August 1982 PCB Electrical Use Rule, did not take into consideration the costs of cleanup in the event of PCB Transformer fires.

B. Summary of Benefits and Costs

The removal or retrofill of PCB Transformers is both the most effective, and, the most costly measure for reducing the frequency of serious PCB Transformer fires. This measure, once implemented, gives the greatest assurance that PCB Transformer fires will be avoided, regardless of initiating cause. However, it is also the measure which, as a practical matter, would require the longest time for implementation. Concerns such as the availability of PCB disposal capacity, transformer manufacturing capacity, and avoiding the disruption of electrical service make phaseout and/or retrofill more difficult to implement quickly than other risk reduction measures. Based upon EPA's analysis of the frequency of PCB Transformer fires, it is likely that serious PCB Transformer fires will occur in the interim, between the date of promulgation of any phaseout requirement and the actual date of the removal of PCB Transformers from use.

Providing enhanced electrical protection is anticipated to be very effective in avoiding serious PCB Transformer fires, through the prevention of PCB Transformer fault-related failures. Studies of the causes of PCB Transformer failures and fires and the level of protection currently provided indicate that many PCB Transformers could be better protected to avoid fires caused by more common mechanisms of failure, electrical faults. The effectiveness of increased electrical protection is expected to approach that of phaseout/retrofill, although EPA recognizes that electrical protective devices are subject to some (low) rate of malfunction, and, that PCB Transformer fires can also result from less common mechanisms of failure. Requiring a certain level of redundancy in the type of sensors used and the placement of sensors provide increased assurance of a higher level of effectiveness. Further, as a practical matter, this control measure could be implemented more quickly than phaseout/retrofill, because availability of PCB disposal capacity and transformer manufacturing capacity are not primary concerns. Further, this measure would be less disruptive to electrical service than phaseout/retrofill.

Increased electrical protection can be costly, however, compared to other risk reduction measures (other than phaseout/retrofill). Further, while electrical protection systems are expected to have a high degree of reliability in avoiding failures, there is the potential for false outages. These are circumstances in which a transformer is mistakenly deenergized when a sustained fault condition does not in fact exist. While EPA acknowledges the potential economic impact of false outages, EPA has not attempted to quantify this impact.

The isolation of PCB Transformers is expected to be effective in avoiding serious PCB Transformer fires by avoiding widespread structure and environmental contamination. The effectiveness of isolation in actually avoiding more serious PCB Transformer fires depends, however, to a great degree on the capability of a failed transformer to be deenergized within 15 minutes of failure. Isolation is not expected to be very effective for transformers which cannot be easily deenergized after failure occurs. Isolation is expected to be effective in minimizing the distribution of PCBs and incomplete combustion products in circumstances where a transformer has the capability to be deenergized within 15 minutes of failure.

As was the case for the installation of increased electrical protection, isolation measures can be implemented more quickly than PCB Transformer phaseout/retrofill, because availability of PCB disposal capacity and transformer manufacturing capacity are not primary concerns. However, implementation of transformer isolation requirements would be, in general, more complex than providing enhanced electrical protection in a transformer installation. This is because the isolation of transformers would typically require negotiation between building owners and transformer owners for necessary structural changes to buildings. While transformer isolation is costly, it would be in many cases less expensive than either phaseout/retrofill or increased electrical protection.

The registration of PCB Transformers with building owners and fire departments, the labeling of the exterior of PCB Transformer locations, the containment of potential water releases, and the reporting of PCB Transformer fires to the NRC are measures which are expected to reduce exposures in the event of a serious PCB Transformer fire. However, these measures will not be effective in avoiding any of projected 50 serious building fires, or the estimated 3 outdoor PCB Transformer fires from occurring. The effectiveness of these risk reduction measures depends, to a large extent, on the implementation of voluntary measures based on knowledge about the contents of a transformer involved in a fire-related incident. These measures are the least costly control measures that EPA considered.

C. Regulatory Options and Economic Impacts

1. *PCB Transformers in or near commercial buildings*—a. *Summary table.* The following table (Table 1) summarizes the real costs, benefits, and net costs (after a consideration of savings in cleanup costs from avoided fires) of the major regulatory control measures considered for commercial PCB Transformers. For a full discussion of the assumptions made for this analysis, see support document 7 in Unit X.B.

TABLE 1.—COSTS AND BENEFITS OF CONTROL MEASURES FOR COMMERCIAL PCB TRANSFORMERS

Option	Real cost (millions)	Expected fires	Avoided fires	Net cost (millions)
No action	N/A	44	0	[1] $399
Labeling and registration	$7.3	44	[2] 0	7.3
Enhanced E. protection, 5-years	590	9	35	343
Removal:				
5-years	953	8	36	704
10-years	640	15	29	470
Removal of 480 network 5-years	168	19	25	[3] -4.7

TABLE 1.—COSTS AND BENEFITS OF CONTROL MEASURES FOR COMMERCIAL PCB TRANSFORMERS—Continued

Option	Real cost (millions)	Expected fires	Avoided fires	Net cost (millions)
Removal of 480 network & E protection of remaining (5-years)	628	9	35	390

[1] Fire-related cleanup expense over remaining useful life.
[2] Would be expected to reduce exposures.
[3] Avoided cleanup costs exceed real cost of measure.

b. *Take no additional action.* The first regulatory option that EPA considered for PCB Transformers located in or near commercial buildings was to take no further regulatory action at this time to restrict the use of these transformers. This would allow the continued use of PCBs in or near buildings such as office buildings, shopping centers, apartment buildings, and hospitals without additional restrictions above the requirements of the August 1982 PCB Electrical Use Rule. That rule authorized the continued use of transformers containing PCBs (that pose no exposure risk to human food or animal feed) for the remainder of their useful lives subject to certain recordkeeping and inspection requirements, based on the concentration of PCBs in the equipment.

There are no costs to transformer owners associated with EPA's allowing the continued use of these transformers, other than the potential future costs associated with cleanup and liability suits following fires involving this equipment. If the use of PCB Transformers in or near commercial buildings were authorized indefinitely, without additional restrictions, EPA expects that 44 additional incidents will occur over the remaining useful life of this equipment.

For purposes of this analysis, these 44 incidents would be expected to require cleanup efforts whose cost would approach $20 million each (1985 dollars) or an estimated $399 million over the remaining useful life of this equipment.

c. *Labeling and registration programs.* The registration of PCB Transformers located in or near commercial buildings with fire departments and building owners, in combination with the labeling of the exterior of transformer locations with PCB identification labels may be effective in reducing exposures to firemen, building occupants, and bystanders. Compared to the other regulatory alternatives under consideration (other than the alternative of taking no additional action), the cost of this option is relatively low. EPA believes that in addition to registration with fire departments, the labeling of the exterior of transformer locations is necessary to insure that emergency response personnel arriving at the scene of a fire know that the fire involves a transformer that contains PCBs. EPA expects that the costs of labeling the exterior of PCB Transformer locations will be about $76.00 per location. EPA estimates that the total cost of labeling the exterior of commercial PCB Transformer installations will be about $3.5 million.

The costs of registering commercial PCB Transformers are also expected to be minimal, since the location of all PCB Transformers should already be known by the owners of this equipment. The costs to transformer owners of forwarding this information to all building owners and to fire departments with primary jurisdiction is expected to be minimal, on the order of $50.00 per transformer. EPA estimates that total costs of this registration program for commercial PCB Transformers would be approximately $3.8 million. The total real costs of registration and labeling of commercial PCB Transformers would be on the order of $7 million.

While transformer registration and labeling programs would be expected to reduce human and environmental exposures to PCBs, and oxidation products, they will not reduce the frequency of serious PCB Transformer fires.

d. *Smoke control technologies.* Certain design techniques or changes in commercial PCB Transformer locations may be effective in reducing the likelihood of widespread structure and environmental contamination from a failed PCB Transformer. The effectiveness of transformer isolation as a control measure depends to a large extent, however, on the type of PCB Transformer installation and the ease of actuating deenergization.

Unlike the ventilation systems for other oil-filled transformers, the ventilation systems for PCB Transformers were not designed for the purpose of fire isolation but rather were designed only to keep the ambient temperature at or below 30° Centigrade (C). However, the removal or alteration of existing ventilation systems could result in higher operating temperatures which shorten transformer operating lives and may increase the likelihood of equipment failure.

Thus, the design of alternative ventilation or cooling systems may be necessary to reduce the potential for building contamination. Ventilation alternatives include air conditioners, redirected venting, and heat exchangers, or simply limiting the contamination potential of the existing system by reducing the ventilation cooling effectiveness.

The objective of isolation is to reduce the widespread contamination of structures and the environment by smoke and soot from a transformer fire. These techniques often include the modification of the ventilation system serving the transformer location and/or sealing cracks or openings which would permit smoke to escape freely into occupied areas and the environment. In the more serious transformer incidents, the presence of building ventilation systems, building ductwork, and openings in construction in transformer locations have been responsible for the dispersion of toxic contaminants into buildings.

While transformer isolation can reduce exposures in the event of a failure and fire involving a PCB Transformer (by reducing the spread of contaminants), if a transformer cannot be easily deenergized within 15 minutes after a sustained fault occurs, then substantial quantities of smoke and soot can be generated. The longer a transformer remains energized after a serious fault occurs, the less likely it is that isolation will be effective in reducing exposures to PCBs and incomplete combustion products.

Although specific design changes and costs of isolation techniques are dependent on the individual transformer location, EPA has developed some general cost estimates. A firm involved in survey and design projects for PCB Transformers estimates that in 85 to 90 percent of all cases where isolation is the desired alternative, the costs are about $8,000 per transformer location.

For purposes of the cost-effectiveness analysis, an average cost of $8,000 per location is assumed for all locations where some form of suitable transformer enclosure is already present. For nonenclosed transformers, an estimated cost of $15,000 is assumed for retrofit of an enclosure that provides for smoke containment.

In order to facilitate compliance monitoring efforts, EPA would require the development of written PCB Smoke Spread Reduction Plans (PCB–SSRPs). The development of PCB–SSRPs involves documenting measures taken to isolate PCB Transformers from building ventilation equipment, ductwork, and openings in construction. EPA expects that maintaining these records would create a minimal additional burden on PCB Transformer owners (above the burden created by requiring transformer isolation procedures).

The total real costs of isolation procedures for commercial PCB Transformers implemented over a 5-year period are $318 million. Avoidance of cleanup costs through transformer isolation depends to a great extent on the ability to deenergize a transformer rapidly. EPA has limited data on the number of commercial transformers which can be rapidly deenergized (i.e., which currently have the capability to be deenergized within 15 minutes of a sustained fault); these transformers would be the group most likely to derive benefits from isolation in the event of PCB Transformer failure. Available data suggest that most commercial PCB Transformers are not capable of being rapidly deenergized in the event of a sustained fault. This severely reduces the effectiveness of PCB Transformer isolation alone, without increased electrical protection, as a mechanism for avoiding serious PCB Transformer fires in or near commercial buildings.

e. *Increased electrical protection.* Avoidance of serious PCB Transformer fires in commercial buildings through increased electrical protection involves the installation of appropriate sensors and disconnect equipment to detect common causes of transformer failures and to allow for deenergization. The disconnect equipment would either be automatically activated in response to sensed abnormal conditions (with a provision for manual deenergization), or, manually opened following the receipt of an audio or visual signal (indicating abnormal conditions) at an on-site manned control center. Devices which respond to overcurrent conditions and sensors which respond to low current faults would protect against failures from two basic mechanisms of fault-related transformer failures. Low current fault protection in the form of heat and pressure sensors and associated disconnect equipment would also provide deenergization following high temperatures and changes in pressure from other causes, such as mechanical failures or external fires.

As discussed in Unit IV.C, transformer failures can occur as a result of excessive current flow of a transformer. Of the 77,568 PCB Transformers used in or near commercial buildings, approximately 21,000 PCB Transformers (the network transformers) are currently without overcurrent protection on the primary side (the high voltage side) of the transformers. Second, virtually none of the 77,568 PCB Transformers in or near commercial buildings are currently equipped with sensors to detect low current faults. Finally, virtually none of the 21,000 network PCB Transformers in use have disconnect equipment (in the form of a primary circuit breaker or equivalent technology) on site to allow for rapid deenergization, and, EPA expects that many of the 55,000 commercial radial PCB Transformers do not utilize primary circuit breakers for high current fault protection.

The installation of certain safety equipment to detect sustained high current and low current faults on PCB Transformers which currently lack such protection would reduce the probability of failures, fires, and explosions in commercial PCB Transformers, particularly events resulting from electrical malfunctions. Electrical malfunctions, specifically electrical faults, have been implicated in many known PCB Transformer fires.

The highest reduction in the probability of PCB Transformer fault-related failure is attained when protection is provided against both basic mechanisms of transformer fault-related failures. Installation of overcurrent protection without protection against low current faults will avoid only those PCB Transformer fires which occur as a result of overcurrent conditions.

Electrical faults in general are more likely in network transformers than radial transformers because network transformers have more associated electrical equipment (on the secondary side of transformers); network transformers have network protectors and network buswork for faults to occur in. This does not mean that faults will not occur in radial transformers; it simply means that when radial installations are compared to network installations, one would expect more electrical faults in general to occur in network installations.

When the secondary voltage of a transformer is higher, any faults which occur in the secondary are more likely to be sustained rather than self-clearing or self-extinguishing. Sustained faults cause PCB Transformer failures and fires. Thus, higher secondary voltage network PCB Transformers would have the highest probability of failure from faults. Using the same logic, low secondary voltage radial PCB Transformers would have the lowest probability of failure from faults.

According to comments on the Proposed Rule, historically, utilities have installed high current fault protection on the primaries and secondaries of radial transformer installations. Network installations, however, have been less well protected against high current faults.

The cost of installing increased protection on commercial PCB Transformers depends both on the form of protection selected, and, whether the device involves a retrofit of the transformer. High current fault protection is much less costly than low current fault protection. Low current fault protection involves the installation of disconnect equipment as well as the installation of appropriate sensors. High current fault protection involves the installation of current-limiting or energy limiting fuses.

Since comments on the Proposed Rule and EPA's analysis indicate that the probability of a transformer failure from electrical faults is influenced by the type of transformer installation, not all of the above protection would be warranted on a cost/benefit basis for all types of commercial PCB Transformer installations.

Under the option of increased electrical protection, EPA would require that all commercial PCB Transformers be equipped with overcurrent protection to avoid transformer failures as a result of high current faults. Current-limiting fuses are relatively inexpensive, and would avoid failures from high current faults in the primary and secondary areas of transformers. The cost of installing current-limiting fuses (on the estimated 22,191 commercial network PCB Transformers which currently lack such protection) is estimated at $53 million. The installation of these devices on the approximately 15,072 lower secondary voltage network transformers is estimated at $35 million.

EPA would also require that all commercial PCB Transformers with higher secondary voltages be equipped with protection against sustained low current faults. This is because transformers with higher secondary voltages are more likely to experience sustained rather than self-clearing faults. While 480 volt network PCB Transformers may have a particularly high probability of sustained low current faults (because of the high secondary voltage and the presence of more associated electrical equipment), when a low current fault occurs in a higher secondary voltage radial PCB Transformer (in the voltage winding, low voltage leads, or other equipment), it too will be sustained and can result in transformer failure.

For the majority of these higher secondary voltage commercial PCB Transformers, protection against failures from low current faults would mean the installation of a primary circuit breaker on site as well as the installation of non-electrical sensors, such as pressure sensors and temperature sensors in the transformer. For high secondary voltage

network PCB Transformers, fault sensors would also be needed in the network protector and the network bus as well. Requiring the installation of both pressure and temperature sensors in the transformer tank and fault sensors in the network protector and network bus of high secondary voltage network PCB Transformers provides a level of redundancy in the protection system; this increases the reliability of electrical protection, and provides increased assurance that increased electrical protection would actually avoid PCB Transformer failures and fires.

The cost of protection against low current faults is principally the cost associated with the installation of disconnect equipment such as circuit breakers on site. The cost of the indicated sensors is a fraction of the cost of the installation of a primary circuit breaker.

The total real costs associated with requiring the installation of high current fault protection on all commercial PCB Transformers and low current fault protection on higher secondary voltage commercial PCB Transformers over a 5-year period is estimated at $590 million. EPA expects that the installation of these electrical protection systems will avoid about 97 percent of serious PCB Transformer fires in commercial buildings which would have otherwise occurred, or, 35 serious PCB Transformer fires over the remaining useful life of this equipment. The net cost of this control measure, after adjusting for avoided cleanup costs is estimated at $343 million.

The increased electrical protection requirement which appeared in the Proposed Rule required installation in 3 years, by October 1, 1988. Based on comments submitted in response to the Proposed Rule concerning the type of electrical protection needed, the higher costs of this protection (compared to the proposed electrical protection requirement and the proposed isolation requirement), and the larger number of PCB Transformers which require additional electrical protection, EPA believes that it is reasonable to allow a longer phasein period for this control measure than was proposed. Further, EPA recognizes that many PCB Transformer owners may choose PCB Transformer removal in lieu of enhanced electrical protection, and that this will place additional burdens on PCB disposal capacity. Requiring the installation of enhanced electrical protection on a schedule which recognizes both the fact that many PCB Transformer owners have chosen or will choose removal rather than electrical protection and that there are constraints on PCB disposal capacity will encourage PCB Transformer owners who have voluntary 5-year phaseout programs in place to continue and may stimulate other owners to initiate such programs. Thus, EPA has allowed 5 years for the implementation of the requirement for enhanced electrical protection.

f. *Retrofilling.* Retrofilling of commercial PCB Transformers to reduce the PCB concentration to below 500 ppm would be expected to reduce human and environmental exposures to PCBs and their oxidation products in the event of a fire. This would be accomplished through a substantial reduction in the amount of PCBs present in the transformers. EPA has completed an analysis of the costs of retrofilling commercial PCB Transformers to reduce PCB concentrations to below 500 ppm. EPA estimates that retrofill costs will range from $15,505 for a 50 KVA transformer to $32,034 for a 3,000 KVA transformer. These estimates include the costs of disposal of PCB fluid, but do not include any consideration of a loss of efficiency or derating as a result of the retrofill.

An estimate of the total resource costs of retrofilling all commercial PCB Transformers (77,568 at end of 1984) to below 500 ppm is about $1.2 billion. Although the retrofilling of PCB Transformers reduces the risks to humans posed by the transformer in the event of a fire (by reducing the amount of PCBs present, the amount of PCBs released, and the amount of PCDF formed and released), it is difficult to estimate the effectiveness of this option in avoiding cleanup costs from fire incidents, since PCDFs and PCDDs may still be formed.

g. *Phaseout of commerical PCB Transformers.* The removal of all PCB Transformers from locations in or near commercial buildings or the removal of particularly high risk PCB Transformers from locations in or near commercial buildings would give increased assurance that future serious PCB Transformer fires from all causes will be avoided. The following table uses a population of 77,568 units (EPA's estimate of the number of PCB Transformers in or near commercial buildings that will be in use at the end of 1984) and a population of 7,420 units (EPS's estimate of the number of high secondary network PCB Transformers in use). EPA uses an estimate of equipment life of 30 years, and presents total real costs of phase-out over 5- and 10-year periods of all commercial PCB Transformers, and phaseout over a 5-year period of higher secondary network PCB Transformers, as well as estimates of the number of PCB Transformer fires avoided, and the net costs, after a consideration of avoided cleanup costs. (EPA did not evaluate an immediate ban because comments indicated that manufacturing capacity was insufficient to allow for this option.) For a full description of the assumptions used in the following analysis, and for a more detailed analysis of phaseout costs versus cleanup costs avoided, see the regulatory analysis for the final rule, support document 7 in Unit X.B.

TABLE 2—PHASEOUT COST COMPARISON

Group	Regular option	Cost ($ millions)	PCB fires avoided	Net cost ($ millions)
All commercial	10-year phaseout	640	29	470
All commercial	5-year phaseout	953	36	704
Commercial 480 Network	5-year phaseout	168	25	−47

2. *PCB Transformers in or near industrial facilities*—a. *Summary table.* The following table (Table 3) summarizes the real costs, the benefits, and the net costs (after deducting avoided cleanup costs) of the major regulatory options for industrial PCB Transformers.

TABLE 3—COSTS AND BENEFITS OF CONTROL MEASURES FOR INDUSTRIAL PCB TRANSFORMERS

Option	Real cost (millions)	Expected fires	Avoided fires	Net cost (millions)
No action	N/A	6	0	$64
Labeling & Registration	$2.5	6	0	2.5
Enhanced E. protection 5-years	170	2	4	136
Removal 5-years	319	2	4	285

b. *Take no additional action.* This option would allow the continued use of PCB Transformers in or near facilities such as chemical manufacturing plants, electric power generating plants, forest products processing plants, and warehouses without additional restrictions above the requirements of the August 1982 PCB Electrical Use Rule. There are no costs associated with EPA's allowing the continued use of these transformers, other than the potential future costs associated with cleanup and liability suits following fires involving this equipment. If the use of PCB Transformers in or near industrial facilities were authorized indefinitely, without additional restrictions, EPA expects that up to six PCB Transformer fires with smoke

spread will occur over the remaining useful life of this equipment.

c. *Labeling and registration programs.* The registration of PCB Transformers located in or near industrial facilities with fire departments or fire brigades and the registration with building owners (when the PCB Transformer is not owned by the building owner), in combination with the labeling of the exterior of PCB Transformer locations would cost approximately $2.5 million, assuming that there are about 26,700 industrial PCB Transformers.

While labeling and registration programs would be expected to reduce exposures in the event of a PCB Transformer fire, they will not reduce the frequency of occurrence of these fires.

d. *Smoke control technologies.* Since many industrial PCB Transformers are currently unenclosed, the costs associated with industrial PCB Transformer isolation would be, on the average, higher than for PCB Transformers located in or near commercial buildings. For purposes of the cost-effectiveness analysis, EPA assumes that the cost of the isolation of industrial PCB Transformers will approach $30,000 per transformer location. Assuming that there are 26,700 industrial PCB Transformers, and that there are, on average, 2 PCB Transformers per location, the total cost of the isolation of industrial PCB Transformers over a 5-year period is estimated at $109 million.

The isolation of industrial PCB Transformers (which are typically capable of being more rapidly deenergized than commercial PCB Transformers) would be effective in reducing the relatively low fire-related risks posed by the use of PCB Transformers in industrial facilities even further. Since the majority of PCB Transformers located in or near industrial facilities are capable of being deenergized from an on-site location, isolation of these transformers would be expected to be effective in reducing the spread of any volatilized PCBs or oxidation products released before deenergization could occur.

e. *Increased electrical protection.* For industrial PCB Transformers, increased electrical protection would (typically) involve the installation of appropriate heat and pressure level sensors to detect low current faults and the connection of these sensors to existing primary circuit breakers to allow for automatic deenergization in the event of abnormal conditions. Since industrial PCB Transformers reportedly have primary circuit breakers which provide these transformers with the capability to be deenergized from an on-site location, the costs of increased electrical protection of these transformers would be the costs of installing heat sensors in the secondary winding, and pressure sensors in the transformer tank and connecting these sensors to provide automatic or rapid manual deenergization of the equipment.

For some industrial PCB Transformers, new circuit breakers would have to be installed to allow for the use of these sensors and automatic deenergization.

During plant operating hours, these sensors would reduce the time between the occurrence of a low current fault (or mechanical failure) and the deenergization of the transformer, and, during plant off-hours/non-operational periods, would reduce the probability of a serious incident occurring. Increased electrical protection of industrial transformers (phased-in over a 5-year period) would be expected to avoid four serious PCB Transformer fires which would otherwise occur in these facilities.

The costs associated with the installation of this protection on industrial PCB Transformers would be approximately $170 million for the estimated 26,700 industrial PCB Transformers (phased in over a 5-year period). After adjusting for avoided cleanup costs, the net costs would be estimated at $136 million.

f. *Retrofilling of industrial PCB Transformers.* Retrofilling of industrial PCB Transformers would be expected to reduce even further the fire-related risks posed by the continued use of PCB Transformers in industrial facilities, by reducing the amount of PCBs present for potential release and for conversion to oxidation products. The costs associated with immediately retrofilling the 26,700 industrical PCB Transformers for purposes of reclassification to PCB Contaminated status is estimated at $489 million.

g. *Phaseout of industrial PCB Transformers.* The removal of PCB Transformers from industrial facilities would eliminate the relatively low fire-related risks posed by the continued use of these transformers. Phaseout of industrial PCB Transformers over a 5-year period would avoid up to four industrial PCB Transformer fires with smoke spread at a total cost of $319 million. After adjusting for avoided cleanup costs, the total net cost would be $286 million. Phaseout of industrial PCB Transformers over a 10-year period would avoid about three serious PCB Transformer fires at a total cost of $215 million. After adjusting for avoided cleanup costs, the total net cost would be $192 million.

3. *PCB Transformers in outdoor electrical substations*—a. *Take no additional action.* EPA has few data on PCB Transformer fires which have occurred in outdoor electrical substations. However, EPA has evaluated the potential risks posed by such fires and has developed an estimate of the frequency of these fires. This estimate is based on available information on the probability of serious PCB Transformer fires in or near buildings, and the probability of failures in different types of installations. EPA estimates that up to three outdoor electrical substation fires (with some PCB volatilization and smoke distribution) will occur over the remaining useful life of this equipment.

Since EPA believes that an outdoor PCB Transformer fire will not typically result in the formation of large amounts of incomplete combustion products which would require cleanup, EPA has assumed that cleanup from these incidents will involve primarily the cleanup of spilled PCBs. This type of cleanup operation is significantly less costly than cleanup following a PCB Transformer fire in or near a building.

b. *Labeling and registration programs.* The labeling of the exterior of outdoor PCB Transformer locations, and the registration of these transformers with appropriate fire department jurisdictions is expected to reduce exposures to firefighters and cleanup crews. The cost associated with this registration and labeling program for 17,000 outdoor PCB Transformers is approximately $1.6 million.

c. *Isolation of outdoor PCB Transformers.* Outdoor PCB Transformers could be enclosed to reduce the spread of PCBs and any incomplete combustion products formed. However, enclosing these transformers could create conditions more conducive to the formation of incomplete combustion products. Heat is more likely to be retained rather than dissipated when transformers are enclosed. Thus, while enclosing these transformers would decrease the spread of PCBs following fire-related failures, it could increase the amount of PCBs converted into dibenzofurans from outdoor PCB Transformer fires.

The costs associated with enclosing 17,000 outdoor PCB Transformers over a 5-year period would be on the order of $69 million.

d. *Increased electrical protection.* Outdoor PCB Transformers are typically radial installations, which are already equipped with current-limiting fuses.

The cost of the installation of low current fault protection on the higher secondary voltage outdoor PCB Transformers (over a 5-year period) would be on the order of $108 million. Increased electrical protection would be expected to avoid up to three outdoor PCB Transformer fires.

e. *Retrofilling.* EPA has estimated the costs associated with requiring the immediate retrofilling of the approximately 17,000 outdoor PCB Transformers. These costs are estimated to be $270 million.

f. *Phaseout.* EPA has estimated the costs associated with requiring the removal of an estimated 17,000 PCB Transformers in outdoor locations, over 5- and 10-year periods. A 5-year phaseout is estimated to cost $203 million, and a 10-year phaseout is estimated to cost $137 million.

4. *PCB Contaminated transformers.* EPA has also estimated the costs associated with requiring additional controls on the use of PCB Contaminated transformers. The costs range from over $8 billion for the testing of transformer fluids for PCB concentration and the registration and labeling of PCB Contaminated transformers, to over $263 billion for removal within 5 years. Registration and labeling of PCB Contaminated transformers would reduce the low PCB fire-related risks posed by the use of this equipment; and, removal would eliminate these risks.

VI. Risk/Benefit Assessment

1. *Use of PCB Transformers in or near commercial buildings.* PCBs can be released in fires involving PCB Transformers, and, (depending upon the contents of the transformer and the combustion conditions), 2,3,7,8-TCDF, PCDFs, 2,3,7,8-TCDD, and PCDDs can be formed. Laboratory studies on the formation of PCDFs from PCBs, and PCDDs from chlorinated benzenes, as well as sampling data from actual PCB Transformer fire sites confirm that PCBs can be released and 2,3,7,8-TCDF and 2,3,7,8-TCDD (as well as other PCDF and PCDD congeners) can be formed and released from fires involving PCB Transformers.

EPA believes that PCBs are both toxic and persistent, and, that PCDFs and PCDDs are orders of magnitude more toxic than PCBs. PCB Transformers that remain energized after sustained faults or following failures as a result of fires from external sources are more likely to result in the volatilization of large amounts of PCBs and the formation of large amounts of PSDFs, 2,3,7,8-TCDF, PCDDs and 2,3,7,8-TCDD through incomplete combustion than PCB Transformers that are able to be deenergized rapidly and completely when an arc or fault occurs.

PCB Transformers can become involved in fires from many causes including sustained low current faults, sustained high current faults, and fires external to transformers involving stored combustibles or building materials followed by an inability to deenergize the transformer. The fire-related risks posed by the continued use of PCB Transformers in or near commercial buildings are much higher than the fire-related risks posed by the continued use of PCB Transformers in outdoor locations and industrial facilities. The overall probability of PCB Transformer fault-related failure is higher in commercial buildings than in other PCB Transformer locations and the risks posed are also higher in the event of a PCB Transformer fire.

The fire-related risks posed by the continued use of higher secondary voltage network PCB Transformers in commercial buildings are particularly high, because these transformers have the highest probability of failure from both high and low current faults, and, they are typically used in more densely populated commercial buildings, specifically, in locations such as high-rise office buildings.

The benefit of removing commercial PCB Transformers from use is the complete assurance that PCB Transformer fires will no longer occur in or near commercial buildings. Serious PCB Transformer fires which would have otherwise occurred will definitely be avoided. PCB Transformer fires in or near commercial buildings pose particularly high risks to human health, because sustained high temperatures are more likely in these locations (leading to the volatilization of large amounts of PCBs and the formation of large amounts of incomplete combustion products), and building occupants, cleanup crews, and fire response personnel are more likely to incur these higher exposures. In addition, the lack of knowledge on the part of commercial building occupants, firefighters, and cleanup crews about the potential risks posed make exposures even more likely.

There are an estimated 77,568 PCB Transformers located in or near commercial buildings, and 7,420 of these transformers are expected to be higher secondary voltage network PCB Transformers. The 77,568 PCB Transformers used in commercial buildings represent 64 percent of all PCB Transformers in use. The immediate removal of these transformers from use is not possible because of considerations such as PCB disposal capacity, transformer manufacturing capability, and disruption of electrical service. The cost of removing all of these PCB Transformers from use over the next 5 years is estimated at $953 million. Five years may not be an adequate amount of time for the removal and disposal of this many transformers. There are currently only four EPA-approved commercial PCB incinerators. According to comments on the Proposed Rule, PCB disposal capacity is such that the cost of PCB disposal has significantly jumped (almost doubled) over the last year. Disposal capacity will continue to be of concern over the next few years, since existing EPA regulations require the removal of PCB Transformers in use in food and feed processing facilities by October 1, 1985 and a limited phaseout of PCB Capacitors by October 1, 1988.

The removal of all commercial PCB Transformers by 1990 would, however, avoid an estimated 36 serious PCB Transformer fires in commercial locations. The removal of all commercial PCB Transformers by 1995 is estimated to cost on the order of $640 million for the avoidance of an expected 29 serious PCB Transformer fires.

The costs of removing the particularly high risk 7,420 commercial higher secondary voltage network PCB Transformers from use over the next 5 years is estimated at $168 million. The removal of these particularly high risk PCB Transformers from use by 1990 would be expected to avoid an estimated 25 serious PCB Transformer fires, or about 70 percent of all PCB Transformer fires in commercial buildings which EPA expects would otherwise occur. The removal of higher secondary voltage network PCB Transformers from use by October 1, 1990 will avoid an estimated 70 percent of serious commercial PCB Transformer fires for about 17 percent of the cost associated with the removal of all commercial PCB Transformers from use by this same date.

EPA believes that it is prudent to require the removal of commercial higher secondary voltage network PCB Transformers from use as soon as possible, taking into consideration factors such as PCB disposal capacity and continuity of electrical service. EPA believes that the soonest practical date for requiring the removal of this equipment is by October 1, 1990. Testimony at the public hearing, comments on the Proposed Rule, and EPA's analysis overwhelmingly support a determination that these transformers are of particularly high risk. EPA expects that 25 serious commercial PCB

Transformer fires will be avoided by the removal of these PCB Transformers (over a 5-year period) for a total real cost of less than $7 million per avoided incident. Cleanup costs alone for a single incident in a commercial building would be expected to exceed this $7 million figure substantially.

While EPA has decided to require the removal of these particularly high risk PCB Transformers from use, it believes that less costly yet highly effective measures can be implemented to reduce the remaining fire-related risks posed by the continued use of other commercial PCB Transformers. Namely, EPA has determined that enhanced electrical protection systems will be effective in avoiding many fires in these remaining commercial installations. Electrical protection can be very effective in avoiding PCB Transformer failures and fires through the early detection of common mechanisms of failure and the rapid deenergization of transformers.

EPA is requiring all commercial PCB Transformers to be protected against failures from sustained high current faults in the primary and secondary areas of the transformers. Further, EPA is requiring that all commercial higher secondary voltage radial PCB Transformers be equipped with protection against sustained low current faults as well.

EPA has determined that all commercial PCB Transformers should be registered with fire departments and building owners and that commercial PCB Transformer locations should be labeled on the exterior. Finally, EPA has determined that stored combustible materials should be removed from all commercial PCB Transformer locations, that all fire-related incidents should be reported to the National Response Center, and that measures be taken to contain all potential releases to water associated with a fire-related incident.

The real cost of requiring registration, labeling, and removal of stored combustibles for all commercial PCB Transformers and enhanced electrical protection for 56,605 commercial PCB Transformers (over a 5-year period) is estimated at $459 million. The expected incremental benefit of these measures (for other than higher secondary voltage network PCB Transformers) is the avoidance of an additional 10 serious PCB Transformer fires which would have otherwise occurred, or about 30 percent of all commercial PCB Transformer fires which EPA expects would otherwise occur over the remaining useful life of these transformers.

Increased electrical protection and the removal of stored combustibles is expected to avoid sustained high temperatures in commercial PCB Transformer locations; thus, significantly reducing the likelihood of PCB volatilization and the formation of large amounts of incomplete combustion products. Reducing the likelihood of PCB Transformer failures in commercial locations reduces potential exposures to building occupants, cleanup crews, and emergency response personnel. PCB Transformer fires may occur through less likely mechanisms and electrical protection systems are subject to some (low) rate of malfunction. The requirement for the registration and labeling of commercial PCB Transformers will reduce exposures in the event that sustained high temperatures occur despite the presence of increased electrical protection.

EPA has selected the option of the removal of commercial higher secondary voltage network PCB Transformers from use by October 1, 1990, the immediate registration, labeling, and removal of stored combustibles for all commercial PCB Transformers, and enhanced electrical protection (by October 1, 1990) for a large majority of the remaining 70,000 commercial PCB Transformers currently in use. EPA is also requiring the reporting of all PCB Transformer fire-related incidents to the National Response Center, and, that measures be taken as soon as practically (and safely) possible to contain any potential releases to water in the event of a PCB Transformer fire-related incident. The total real cost of this program to reduce the fire-related risks posed by the continued use of PCB Transformers in commercial locations is estimated at $635 million and is expected to avoid 35 serious PCB Transformer fires which would have otherwise occurred over the remaining useful life of commercial PCB Transformers, or about $17 million per serious PCB Transformer fire avoided. The net cost, after deducting for avoided cleanup costs, is estimated at $390 million,or about $10 million per serious PCB Transformer fire avoided.

EPA has also banned the further installation of PCB Transformers in locations in or near commercial buildings. EPA recognizes that the costs associated with PCB Transformer removal include the costs of physically removing PCB Transformers as well as providing replacement transformers. The costs associated with not installing a PCB Transformer (which has been placed into storage for reuse) in a commercial building are minimal. Further, even with increased electrical protection, there is some level of risk posed by the use of PCB Transformers in or near commercial buildings. While EPA has selected increased electrical protection for many commercial PCB Transformers, it has determined that the installation of PCB Transformers (which have been placed into storage for reuse) in or near commercial buildings presents an unreasonable risk. Thus, EPA has banned the new installation of PCB Transformers in or near commercial buildings.

2. *Use of PCB Transformers in or near industrial facilities.* PCBs can be released in fires involving industrial PCB Transformers, and, depending upon combustion conditions, incomplete combustion products can be formed. PCB Transformers that remain energized for prolonged periods after sustained faults occur or following failures as a result of fires external to the PCB Transformers are more likely to result in the volatilization of PCBs and the formation of incomplete combustion products than PCB Transformers that are able to be deenergized rapidly and completely when a fault or failure occurs.

Based on comments on the Proposed Rule, EPA believes that PCB Transformers located in or near industrial facilities are less likely to be involved in fires involving sustained high temperatures than PCB Transformers located in or near commercial buildings. This is because these transformers, as a group, are typically equipped with more protection from failures than commercial PCB Transformers, and, are typically able to be deenergized from an on-site location. Thus, the probability of industrial PCB Transformer fault-related failure and fire is lower in industrial facilities than in commercial buildings, and the risks posed in the event of a fault-related failure and fire are also expected to be less.

EPA recognizes that exposures from PCB Transformer fires in atypical industrial facilities (where deenergization does not occur as rapidly) could be higher than the exposure previously described. However, EPA's estimate of the frequency of industrial PCB Transformer fires indicates that up to 6 PCB Transformer fires (with smoke spread into industrial facilities) are expected to occur over the remaining useful life of this equipment. Four industrial PCB Transformer fires would be expected to occur after October 1, 1990. Even if EPA were to assume as a worst-case that the risks posed by PCB Transformer fires in industrial facilities were equivalent to the risks posed by PCB Transformer fires in commercial buildings, EPA expects that only 4 serious industrial

PCB Transformer fires could be avoided by requiring the removal or enhanced electrical protection of industrial PCB Transformers by 1990.

The costs, however, of the removal of these industrial PCB Transformers from use by 1990 is estimated at $319 million. The removal of industrial PCB Transformers from use by 1990 would avoid about four PCB Transformer fires involving smoke spread into buildings. The real cost per avoided serious fire is almost $80 million. Enhanced electrical protection of these transformers by 1990 would be expected to avoid about the same number of incidents at a total real cost of $170 million, or, $43 million per avoided incident. Isolation of these transformers by 1990 would be expected to reduce building contamination; thereby, reducing potential exposures to workers, cleanup crews, and fire response personnel at a total cost of $109 million, or, $27 million per incident.

The benefit of removing these transformers or protecting these transformers by 1990 is the avoidance of up to four industrial PCB Transformer fires. PCB Transformer fires involving the formation of large amounts of incomplete combustion products are less likely in industrial facilities than in or near commercial buildings. Sustained high temperatures are less likely in these locations due to equipment visibility and deenergization capability, and, as a result, building occupants (workers), cleanup crews, fire response personnel, and members of the general population are less likely to incur high exposures. Further, there are generally fewer people at risk of incurring these exposures from fires in industrial facilities than from fires in commercial buildings.

The cost of requiring the registration, increased labeling, and removal of stored combustibles from industrial PCB Transformer locations is estimated at $1.9 million. While these measures will not reduce the frequency of serious industrial PCB Transformer fires, they should reduce any exposures to workers, cleanup crews, and fire response personnel.

EPA has selected the option of the registration, external labeling, and removal of stored combustibles from industrial PCB Transformer locations for the estimated 26,700 industrial PCB Transformers in use or in storage for reuse in industrial locations. This is a relatively inexpensive measure which will reduce exposures in the event of a PCB Transformer fire. EPA is also requiring the reporting of all PCB Transformer fire-related incidents to the National Response Center, and, that measures be taken as soon as practically and safely possible to contain any potential release to waterways. These requirements are not burdensome, and will reduce further any human and environmental exposures following industrial PCB Transformer fires.

3. *Use of PCB Transformers in outdoor locations.* EPA's evaluation of the risks posed by PCB Transformer fires indicates that the use of PCB Transformers in outdoor locations away from commercial areas poses less risk to public health and the environment than the use of this equipment in or near buildings. First, combustion conditions in outdoor locations may not be so conducive to the volatilization of PCBs and the formation of incomplete combustion products as combustion conditions in enclosed areas such as sidewalk vaults and machinery rooms.

Second, EPA believes that fewer people are generally present near outdoor PCB Transformer locations, and, that many of these areas are fenced in to restrict access to authorized personnel. Further, if PCBs were volatilized and dispersed into the environment, individual human exposures to PCBs and potential oxidation products from such a fire are expected to be much lower than from fires in or near buildings. EPA expects fewer than three outdoor PCB Transformer fires (with smoke spread) over the remaining useful life of this equipment.

There are an estimated 17,000 PCB Transformers in outdoor locations. The total real cost of the removal of these PCB Transformers from use by 1990 is estimated at $207 million, or, $69 million per avoided incident. The total real cost of installing increased electrical protection on these transformers is $36 million, or, $12 million per avoided incident.

EPA believes, however, that it is prudent to require registration and increased labeling of outdoor PCB Transformers, the containment of all potential releases to water, and the reporting of all PCB Transformer fire-related incidents to the NRC. These measures will reduce exposures of emergency response personnel to spilled PCBs (which is anticipated to be the more prevalent situation in outdoor locations) and would serve to limit the spread of these materials into the environment.

4. *PCB Contaminated transformers.* A fire involving a PCB Contaminated transformer can result in the formation and/or release of PCBs and oxidation products. Thus, the use of these transformers does pose some level of risk in a fire-related incident. However, the level of risk posed is considerably less than the risks posed by the use of PCB Transformers. Further, there are an estimated 20 million PCB Contaminated transformers in use. Even the least costly regulatory alternative, the registration and external labeling of PCB Contaminated transformers, would cost more than $8 billion.

Thus, EPA has determined that the continued use of PCB Contaminated transformers without additional controls will not present unreasonable risks to public health or the environment.

VII. Findings on the Use of PCBs in Electrical Transformers

1. Based on the analyses presented in Unit VI, EPA has determined that the use of PCBs in electrical transformers does not pose unreasonable risks to public health or the environment, provided, that in addition to the inspection, recordkeeping, and servicing requirements of the August 25, 1982 Electrical Equipment Rule:

a. Higher secondary voltage network PCB Transformers (network PCB Transformers with secondary voltage at or above 480 volts, including 480/277 volt network PCB Transformers) in or near commercial buildings are removed from use, reclassified, placed into storage for disposal or disposed by October 1, 1990.

b. By October 1, 1990, higher secondary voltage radial PCB Transformers (radial PCB Transformers with secondary voltages at or above 480 volts, including 480/277 volts radial PCB Transformers) and lower secondary voltage network PCB Transformers used in or near commercial buildings are equipped with sensors to detect electrical faults and insure rapid deenergization prior to transformer failure.

c. All PCB Transformers are registered with appropriate fire response organizations and PCB Transformers located in or near buildings are also registered with building owners.

d. The vault door, machinery room door, or means of access (other than grates and manhole covers) to PCB Transformers are labeled with PCB identification labels.

e. PCB Transformer locations are cleared of stored combustibles.

f. In the event of a PCB Transformer fire, measures are taken to contain water releases.

g. In the event of a PCB Transformer fire, the National Response Center is immediately notified.

2. The use of PCBs in transformers that comply with: (1) The inspection, recordkeeping, and servicing

requirements of the August 25, 1982 Electrical Use Rule; and (2) the fire hazard risk reduction measures described above, does not pose unreasonable risks to public health or the environment for the following reasons:

a. If EPA immediately banned the continued use of PCB Transformers it would cost the public and United States industry billions of dollars, primarily as a result of the disruption of electrical service. There are over 120,000 PCB Transformers currently in use and an estimated 20 million PCB Contaminated transformers currently in use. The resulting reduction in risk from an immediate ban, after considering both the risks posed by spills and leaks of PCBs as well as the risks posed by fires involving this equipment, would not outweigh these substantial costs.

b. The required inspection, maintenance, and servicing requirements under the August 25, 1982 Electrical Use Rule, and the fire hazard risk reduction measures listed above (including the required removal of commercial higher secondary voltage network PCB Transformers from use by October 1, 1990) reasonably reduce the exposures associated with the use of PCBs in PCB Transformers. The required fire hazard risk reduction measures and the required 5-year phaseout of commercial higher secondary voltage network PCB Transformers are measures which are much less costly than a total ban on the use of PCBs but are of similar effectiveness in reducing the overall fire-related risks posed by the use of these transformers.

c. The costs of phaseout and retrofilling of all PCB Transformers are not reasonable when considering the potential reduction in release of PCBs and the reduction in the risks posed by PCB Transformer fires if these measures were required for all PCB Transformers. EPA has targeted phaseout requirements for those PCB Transformers which EPA has concluded pose particularly high risks of failure and fire.

d. Releases of PCBs to the environment and exposures to humans and biota from the use of PCB-Contaminated and non-PCB transformers are minimal. Further, the risks posed by fires involving this equipment are substantially less than the risks posed by fires involving PCB Transformers, and the costs of any control measures to reduce these low risks further are very high.

VIII. Amendments to the PCB Electrical Equipment Rule

A. Registration/Labeling/Removal of Stored Combustibles

EPA has required the registration of all PCB Transformers by December 1, 1985, with fire departments with primary response jurisdiction. This means that each PCB Transformer in use or in storage for reuse must be registered with the fire department(s) which would be called upon for the initial response to a fire involving the equipment. The information to be supplied to the fire department(s) includes the address of the building in which the transformer is located (or the nearest building for PCB Transformers located near buildings, or, the nearest intersection for outdoor PCB Transformers); the location of the transformer within the building or near the building (e.g., third floor east end, or, west side of the building); and the principal constituent of the dielectric fluid in the transformer (e.g., PCBs, mineral oil, silicone oil). For industrial PCB Transformers, this may mean only the registration of the transformers with the industrial fire brigade on site.

EPA has also required the registration, by December 1, 1985, of PCB Transformers located in or near buildings with building owners. Each owner of a PCB Transformer(s) is responsible for registering the transformer(s). This means that all PCB Transformers located in or near buildings must be registered with appropriate building owners. For PCB Transformers located inside buildings, this means the registration of the transformer(s) with the building owner of record. For PCB Transformers located "near" buildings, this means the registration of the PCB Transformer(s) with all building owners whose buildings are located within 30 meters of the PCB Transformer(s).

EPA has required the labeling of the exterior of all PCB Transformers with the Mark M_L. This means that doors, fences, hallways, and other easily markable means of access to PCB Transformer locations must be marked with PCB identification labels. These labels must be prominently displayed and visible to emergency response personnel in the event of a fire involving this equipment. The exterior of sidewalk and underground vaults, that is, grates and manhole covers, are not required to be marked (because of difficulties in maintaining the mark over time).

EPA has required the removal of stored combustibles from all PCB Transformer locations. This means that materials such as paints, solvents, paper, rubber, and sawn wood must not be stored within a PCB Transformer enclosure, within 5 meters of a PCB Transformer enclosure, or within 5 meters of a PCB Transformer. A PCB Transformer enclosure is defined as a confined area such as a vault, machinery room, partitioned area or fenced-in area that contains a PCB Transformer.

The objective of requiring the removal of stored combustibles is to avoid, to the extent possible and practical, PCB Transformer involvment in fires initiated by the combustion of stored materials and to eliminate a potential source of fuel for a fire initiated by an electrical fault or malfunction in a transformer.

B. Phaseout of Commercial Higher Secondary Voltage Network PCB Transformers

EPA has prohibited the use of all network PCB Transformers with secondary voltages at or above 480 volts (this includes 480 volt network PCB Transformers, 480/277 volt network PCB Transformers and other network PCB Transformers with secondary voltages at or above 480 volts) in or near commercial buildings beyond October 1, 1990, and has required that these transformers be placed into storage for disposal or disposed (or be reclassified to PCB Contaminated or non PCB status).

Commercial buildings are defined as non industrial (non substation) buildings which are generally or typically accessible to both members of the general public and employees. These buildings include: public assembly properties (e.g., arenas, stadiums, libraries, museums, restaurants, theaters, etc.); educational properties (e.g., schools, colleges, universities, etc.); institutional properties (e.g., nursing homes, hospitals, prisons, etc.); residential properties (e.g., apartments, hotels, dormitories, etc.); stores (e.g., supermarkets, clothing stores, malls, etc.); offices (e.g., general business offices (including those located on industrial sites), banks, municipal office buildings, etc.); and, transportation centers (e.g., airport terminal buildings, subway stations, bus stations, train stations, etc.).

An industrial building is defined as a building directly used in manufacturing or technically productive enterprises. Industrial buildings are not generally or typically readily accessible to other than workers. Industrial buildings include buildings used directly in the production of power, the manufacture of products, the mining of raw materials, and the storage of textiles, petroleum products,

wood and paper products, chemicals or plastics, and metals.

A PCB Transformer located in or near a commercial building is located within the interior of the building, on the roof of the building or attached to the exterior wall of the building, in the parking area serving the building, or located within 30 meters of the building.

EPA has required the removal of PCB Transformers located near commercial buildings (in addition to those located inside commercial buildings) because incidents like the San Francisco fire indicate that PCB Transformers located near commercial buildings can result in building contamination. Several comments on the Proposed Rule requested that EPA define the term "near" in a more quantitative manner; such as, within 25, 50 or 100 feet of a commercial building. EPA recognizes the desirability of defining the term "near" in a quantitative manner—this would facilitate monitoring compliance with the rule and make the rule more easily understood by the regulated community.

In adopting this suggestion, EPA has three objectives: (1) to facilitate compliance by industry with the rule, (2) to facilitate EPA's monitoring of compliance with the rule, and (3) to insure that any PCB Transformer which poses a real risk of commercial building contamination is covered by the rule. EPA is somewhat hesitant to dictate an absolute distance at which a PCB Transformer would be considered to pose little risk of significant building contamination. Local climactic and geographic conditions could greatly influence the potential for building contamination from PCB Transformer fires in locations such as sidewalk and underground vaults. However, the benefits of establishing a numerical standard, in terms of ease of compliance with the rule and ease of enforcement, are great.

In urban locations, sidewalk vaults and underground vaults are typically located within 15 to 30 meters of buildings, with many located immediately adjacent to exterior walls. It is EPA's intent to include all of these transformers within the definition of PCB Transformers located "near" commercial buildings. Further, outdoor pad-mounted and pole top PCB Transformers located within 15 to 30 meters of commercial buildings are also covered within the definition of PCB Transformers located "near" commercial buildings.

EPA expects that in general very few vaulted PCB Transformers in urban and metropolitan areas are located at distances greater than 30 meters from commercial buildings. However, EPA has also evaluated the potential for building contamination from vaulted PCB Transformers located at distances greater than 30 meters from commercial buildings. EPA believes that the potential for commercial building contamination from a PCB Transformer fire in a vault located more than 30 meters from a building can be greatly influenced by factors such as wind velocity, wind direction, and plume height. While EPA has defined the term "near" by establishing a distance of 30 meters from commercial buildings, EPA recognizes that in certain geographic locales, vaulted PCB Transformers located more than 30 meters from a commercial building could also present a risk of building contamination. EPA suggests that owners of vaulted PCB Transformers located more than 30 meters from commercial buildings individually evaluate the potential for commerical building contamination from fires involving these transformers as well. Factors considered in this evaluation could include average wind velocity for the region and normal wind direction.

C. Increased Electrical Protection

EPA has required the installation of enhanced electrical protection on many of the remaining commercial PCB Transformers (i.e., other than higher secondary voltage network PCB Transformers) by October 1, 1990. The electrical protection requirements are intended to avoid PCB Transformer fires by allowing for the early detection of faults and the complete deenergization of PCB Transformers prior to failure (rupture and/or release of PCBs). The installation of current-limiting fuses or other equivalent energy limiting devices on PCB Transformers is intended to avoid failures from high current faults. In order to be effective in avoiding PCB Transformer failures from high current faults, these current-limiting devices must (in accordance with good engineering practices) be properly installed, appropriately placed, maintained, and set sensitive enough to provide for complete deenergization within several power cycles or several tenths of a second of the occurrence of a sustained high current fault.

The installation of heat and pressure sensitive detectors in higher secondary voltage commercial radial PCB Transformers (and appropriate disconnect equipment) is intended to avoid PCB Transformer failures from sustained low current faults. Equivalent technology that accomplishes the same goal, that is, the early detection of sustained low current faults and complete deenergization prior to failure, is acceptable. In order to be effective in avoiding PCB Transformer failures, these devices must be maintained, and set sensitive enough to allow for complete deenergization within 30 seconds to 1 minute of detection of a sustained low current fault. In addition, if these sensors are electrically powered, they must be provided with a secondary source of power configured to deenergize the transformer on failure (fail-safe).

The disconnect equipment may be set either to open automatically upon the sensing of abnormal conditions (e.g., temperature or pressure), or, it may be set to send a signal to an on-site manned control center where deenergization must occur (during facility operating hours) within 1 minute of the receipt of an audio or visual signal indicating abnormal conditions. Automatically operated circuit breakers must also have the capability to be opened manually.

EPA received several comments on the Proposed Rule which suggested that EPA should give PCB Transformer owners the option of implementing risk reduction measures on shorter schedule (such as enhanced electrical protection by 1990) or PCB Transformer removal on a longer schedule (such as PCB Transformer removal by 1992). EPA did not adopt this suggestion because, without additional reporting requirements (including the reporting to EPA of the address and location of each PCB Transformer and the option selected by the owner), EPA believes that its ability to effectively enforce the shorter term risk reduction measures would be compromised.

D. Prohibition on the Installation of PCB Transformers

EPA has prohibited the new installation of PCB Transformers in or near commercial buildings. PCB Transformers must not be newly installed in or near commercial buildings after October 1, 1985. This means that PCB Transformers which have been placed into storage for reuse cannot be taken out of storage for reuse and placed in use in or near commercial buildings.

While EPA has placed restrictions on the installation of PCB Transformers (by prohibiting the placement of the equipment in or near commercial buildings), owners of PCB Transformers which are in storage for reuse still have many available options. Owners of PCB Transformers which are in storage for reuse may use these transformers in industrial applications and in any outdoor location where there is no real risk of commercial building

contamination. These transformers may also be reclassified to PCB Contaminated status or non-PCB status and be placed in any desired location.

E. Reporting of Fire-Related Incidents and Containments of Potential Water Releases

EPA has required the reporting of all PCB Transformer fire-related incidents to the National Response Center. A fire-related incident is defined as any incident in which high temperatures or high pressures in a transformer location lead to the rupture of a transformer and/or the release of PCBs. PCB Transformer fire-related incidents must be immediately reported to the NRC. The information to be reported must include the type of PCB Transformer installation involved in the fire-related incident, and reasonably ascertainable information on the cause of the fire-related incident.

EPA has required that owners of PCB Transformers involved in fire-related incidents take measures as soon as practically and safely possible to contain any potential releases of PCBs and oxidation products to waterways. This means that measures must be taken to prevent further environmental release and contamination of waterways as soon as there is no immediate danger of injury from the fire itself. These measures include, but are not limited to the blocking of floor drains, the containment of runoff, and the containment and treatment of cleanup water prior to release. If there is evidence of the release of PCBs, PCDFs, and PCDDs down floor drains, the PCB Transformer owner should also notify the sewer system and water treatment system operators as soon as possible to prevent further environmental release.

IX. Compliance and Enforcement

EPA recognizes that technology is constantly evolving in areas such as the development of electrical protection systems. Thus, EPA has allowed some flexibility on the part of transformer owners in the selection of appropriate enhanced electrical protection systems. Further, by requiring electrical protection for commercial PCB Transformers, EPA implicitly allows the replacement of all commercial PCB Transformers with substitute equipment, and the retrofilling and reclassification of PCB Transformers to PCB Contaminated or non-PCB status.

EPA has, however, required the installation of protection against failures from high current faults and low current faults in all commercial higher secondary voltage radial PCB Transformer installations. The installation of protection against high current faults alone without protection against low current faults in these installations constitutes a violation of the PCB Transformer use authorization. For lower secondary voltage commercial PCB Transformer installations, EPA has required protection against failures from high current faults.

Failure to install properly and maintain protection which is set sensitive enough, based on good engineering judgment, to prevent PCB Transformer failures from sustained high and low current faults (for higher secondary voltage radial PCB Transformers) and PCB Transformer failures from high current faults (for lower secondary voltage PCB Transformers) constitutes a violation of the PCB Transformer use authorization.

X. Official Record of Rulemaking

A. Previous Rulemaking Records

(1) Official rulemaking record from "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce and Use Prohibition Rule" published in the **Federal Register** of May 31, 1979, (44 FR 31514).

(2) Official rulemaking record from "Polychlorinated Biphenyls (PCBs); Disposal and Marking Final Regulation" published in the **Federal Register** of February 17, 1978, (43 FR 7150).

(3) Official rulemaking record from "Polychlorinated Biphenyls (PCBs); Manufacture, Processing, Distribution, and Use in Closed and Controlled Waste Manufacturing Processes" published in the **Federal Register** of October 21, 1982, (47 FR 46980).

(4) Official rulemaking record from "Polychlorinated Biphenyls (PCBs); Manufacturing, Processing, Distribution in Commerce and Use Prohibitions; Use in Electrical Equipment" published in the **Federal Register** of August 25, 1982, (47 FR 37342).

(5) Official record from "Polychlorinated Biphenyls (PCBs); Manufacturing, Processing, Distribution in Commerce and Use Prohibitions; Use in Electrical Transformers" Advance Notice of Proposed Rulemaking, published in the **Federal Register** of March 23, 1984, (49 FR 11070).

(6) Official record from "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce and Use Prohibitions; Use in Electrical Transformers" Proposed Rule, published in the **Federal Register** of October 11, 1984, (49 FR 39966).

B. Support Documents

(1) USEPA, OPTS, EED, Versar, Inc., "Exposure Assessment for Polychlorinated Biphenyls (PCBs), Polychlorinated Dibenzofurans (PCDFs), and Polychlorinated Dibenzodioxins (PCDDs) Released During Transformer Fires" (June 1985).

(2) USEPA, OPTS, HERD, "HERD Work for Proposed Polychlorinated Biphenyl (PCB) Transformer Fires Rulemaking" (August 1, 1984).

(3) USEPA, OPTS, HERD, "Addendum to August 1, 1984 HERD Work for Proposed Polychlorinated Biphenyl (PCB) Transformer Fires Rulemaking" (October 1, 1984).

(4) USEPA, OPTS HERD, "Response to Comments on Health Effects of PCBs Submitted by the Chemical Manufacturers Association and the Edison Electric Institute" (August 19, 1982).

(5) USEPA, OW, "Ambient Water Quality Criteria for 2,3,7,8-Tetrachlorodibenzo-p-dioxin" (February 1984).

(6) USEPA, ORD, OHEA, ECAO, "(DRAFT) Health Assessment Document for Polychlorinated Dibenzo-p-dioxins" (May 1984).

(7) USEPA, OPTS, ETD, Putnam, Hayes and Bartlett, Inc. "Regulatory Impact Analysis of the Final Rule for PCB Transformers" (June 1985).

(8) Kimbrough, Renate, D., *et al.* "Health Implications of 2,3,7,8-Tetrachlorodibenzodioxin (TCDD) Contamination of Residential Soil," Journal of Toxicology and Environmental Health (in press).

(9) USEPA, OPTS, EED, "NFIRS Data for 1982" (April 1984).

(10) USEPA, OPTS, EED, Midwest Research Institute, "Thermal Degradation Products from Dielectric Fluids" (December 1984).

(11) USEPA, OPTS, EED, Midwest Research Institute, "Products of Thermal Degradation of Dielectric Fluids" (January 28, 1985).

(12) National Bureau of Standards, "Factors To Be Considered Regarding Hazard Reduction Strategies for Fires Involving Electrical Transformers Containing Polychlorinated Biphenyls" (March 1985).

(13) USEPA, Barnes and Bellin, "Health Hazard Assessment for Chlorinated Dioxins and Dibenzofurans Other Than 2,3,7,8-TCDD" (October 1984).

(14) USEPA, EED, Versar, "Summary of Comments on the PCB Transformer Fires Proposed Rule" (June 1985).

(15) USEPA, EED, "Response to Comments on the PCB Transformer Fires Proposed Rule" (June 1985)

XI. Executive Order 12291

Under Executive Order 12291, issued February 17, 1981, EPA must judge

whether a rule is a "major rule" and, therefore, subject to the requirement that a Regulatory Impact Analysis be prepared. EPA believes that this amendment to the PCB rule is a major rule as the term is defined in section 1(b) of the Executive Order. Therefore, EPA has prepared a Regulatory Impact Analysis.

While the rule places additional restrictions and conditions on the use of PCB Transformers, it is worth noting that this regulation allows the continued uses of PCBs in electrical transformers that would otherwise be prohibited by section 6(e) of TSCA. This rule avoids the severe disruption of electric service to the public and industry that would occur if the use of this equipment were immediately prohibited. It also avoids the economic impact that would result from a requirement to replace the equipment as soon as possible.

This rule was submitted to the Office of Management and Budget (OMB), as required by the Executive Order.

XII. Regulatory Flexibility Act

Under section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator may certify that a rule will not, if promulgated have a significant impact on a substantial number of small entities and, therefore, does not require a regulatory flexibility analysis.

In general, this rule will reduce the burden on small businesses that would otherwise be encountered if an immediate ban on PCB-containing transformers were to take effect. If an immediate ban on the use of PCBs in transformers were imposed, large costs would be incurred by all producers and users of electricity, including small businesses.

I certify that this rule will not have a significant economic impact on a substantial number of small entities.

XIII. Paperwork Reduction Act

The information collection requirements of this rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. In response to the information collection requirements associated with the proposed rule, OMB commented that the Agency should resubmit the information collection requirements with the final rule showing how EPA has reduced the burdens by limiting the rule's applicability to transformers which because of location or installation type are of higher risk. Based on this comment and other comments made during the public comment period, EPA has segmented transformers for variable treatment based on type and location. The Office of Management and Budget has approved the information collection requirements of this rule under OMB Control Number: 2070–0073.

List of Subjects in 40 CFR Part 761

Hazardous substances, Labeling, Polychlorinated biphenyls, Recordkeeping and reporting requirements, Environmental protection.

Dated: July 1, 1985.

A. James Barnes,

Acting Administrator.

PART 761—[AMENDED]

Therefore, 40 CFR Part 761 is amended as follows:

1. The authority citation for Part 761 is revised to read as follows:

Authority: 15 U.S.C. 2605, 2607, and 2611.

2. In § 761.3, the following paragraphs are alphabetically added to read as follows:

§ 761.3 Definitions.

* * * * *

"In or Near Commercial Buildings" means within the interior of, on the roof of, attached to the exterior wall of, in the parking area serving, or within 30 meters of a non-industrial non-substation building. Commercial buildings are typically accessible to both members of the general public and employees, and include: (1) Public assembly properties, (2) educational properties, (3) institutional properties, (4) residential properties, (5) stores, (6) office buildings, and (7) transportation centers (e.g., airport terminal buildings, subway stations, bus stations, or train stations).

* * * * *

"Industrial buildings" means a building directly used in manufacturing or technically productive enterprises. Industrial buildings are not generally or typically accessible to other than workers. Industrial buildings include buildings used directly in the production of power, the manufacture of products, the mining of raw materials, and the storage of textiles, petroleum products, wood and paper products, chemicals, plastics, and metals.

* * * * *

"Manned Control Center" means an electrical power distribution control room where the operating conditions of a PCB Transformer are continuously monitored during the normal hours of operation (of the facility), and, where the duty engineers, electricians, or other trained personnel have the capability to deenergize a PCB Transformer completely within 1 minute of the receipt of a signal indicating abnormal operating conditions such as an overtemperature condition or overpressure condition in a PCB Transformer.

* * * * *

"On site" means within the boundaries of a contiguous property unit.

* * * * *

"Rupture of a PCB Transformer" means a violent or non-violent break in the integrity of a PCB Transformer caused by an overtemperature and/or overpressure condition that results in the release of PCBs.

* * * * *

3. In § 761.30, the introductory text of paragraph (a) and paragraph (a)(1) are revised and OMB Control Number 2070–0073 is added to read as follows:

§ 761.30 Authorizations.

* * * * *

(a) *Use in and servicing of transformers (other than railroad transformers).* PCBs at any concentration may be used in transformers (other than in railroad locomotives and self-propelled railroad cars) and may be used for purposes of servicing including rebuilding these transformers for the remainder of their useful lives, subject to the following conditions:

(1) *Use conditions.* (i) As of October 1, 1985, the use and storage for reuse of PCB Transformers that pose an exposure risk to food or feed is prohibited.

(ii) As of October 1, 1990, the use of network PCB Transformers with higher secondary voltages (secondary voltages equal to or greater than 480 volts, including 480/277 volt systems) in or near commercial buildings is prohibited. Network PCB Transformers with higher secondary voltages which are removed from service in accordance with this requirement must either be reclassified to PCB Contaminated or non PCB status, placed into storage for disposal, or disposed.

(iii) As of October 1, 1985, the installation of PCB Transformers (which have been placed into storage for reuse or which have been removed from another location) in or near commercial buildings is prohibited.

(iv) As of October 1, 1990, all radial PCB Transformers and lower secondary voltage network PCB Transformers (network transformers with secondary voltages below 480 volts) in use in or near commercial buildings must be equipped with electrical protection to

avoid transformer failures caused by high current faults. Current-limiting fuses or other equivalent technology must be used to detect sustained high current faults and provide for complete deenergization of the transformer within several tenths of a second of detection, before transformer failure occurs. The installation, setting, and maintenance of current-limiting fuses or other equivalent technology to avoid PCB Transformer failures from sustained high current faults must be completed in accordance with good engineering practices.

(v) As of October 1, 1990, all radial PCB Transformers with higher secondary voltages (480 volts and above, including 480/277 volt systems) in use in or near commercial buildings must (in addition to the requirements of paragraph (a)(1)(iv) of this section) be equipped with protection to avoid transformer failures caused by sustained low current faults.

(A) Pressure and temperature sensors (or other equivalent technology which has been demonstrated to be effective in the early detection of sustained low current faults) must be used in these transformers to detect sustained low current faults.

(B) Disconnect equipment must be provided to insure complete deenergization of the transformer in the event of a sensed abnormal condition (e.g., an overpressure or overtemperature condition in the transformer), caused by a sustained low current fault. The disconnect equipment must be configured to operate automatically within 30 seconds to 1 minute of the receipt of a signal indicating an abnormal condition from a sustained low current fault, or can be configured to allow for manual deenergization from a manned on-site control center upon the receipt of an audio or visual signal indicating an abnormal condition caused by a sustained low current fault. Manual deenergization from a manned on-site control center must occur within 1 minute of the receipt of the audio or visual signal indicating an abnormal condition caused by a sustained low current fault. If automatic operation is selected and a circuit breaker is utilized for disconnection, it must also have the capability to be manually opened if necessary.

(C) The enhanced electrical protective system required for the detection of sustained low current faults and the complete and rapid deenergization of transformers must be properly installed, maintained, and set sensitive enough (in accordance with good engineering practices) to detect sustained low current faults and allow for rapid and total deenergization prior to PCB Transformer rupture (either violent or non violent rupture) and release of PCBs.

(iv) As of December 1, 1985, all PCB Transformers (including PCB Transformers in storage for reuse) must be registered with fire response personnel with primary jurisdiction (that is, the fire department or fire brigade which would normally be called upon for the initial response to a fire involving the equipment). Information required to be provided to fire response personnel includes:

(A) The location of the PCB Transformer(s) (the address(es) of the building(s) and the physical location of the PCB Transformer(s) on the building site(s) and for outdoor PCB Transformers, the location of the outdoor substation).

(B) The principal constituent of the dielectric fluid in the transformer(s) (e.g., PCBs, mineral oil, or silicone oil).

(C) The name and telephone number of the person to contact in the event of a fire involving the equipment.

(vii) As of December 1, 1985, PCB Transformers in use in or near commercial buildings must be registered with building owners. For PCB Transformers located in commercial buildings, PCB Transformer owners must register the transformers with the building owner of record. For PCB Transformers located near commercial buildings, PCB Transformer owners must register the transformers with all owners of buildings located within 30 meters of the PCB Transformer(s). Information required to be provided to building owners by PCB Transformer owners includes but is not limited to:

(A) The specific location of the PCB Transformer(s).

(B) The principal constituent of the dielectric fluid in the transformer(s) (e.g., PCBs, mineral oil, or silicone oil).

(C) The type of transformer installation (e.g., 208/120 volt network, 280/120 volt radial, 208 volt radial, 480 volt network, 480/277 volt network, 480 volt radial, 480/277 volt radial).

(viii) As of December 1, 1985, combustible materials, including, but not limited to paints, solvents, plastics, paper, and sawn wood must not be stored within a PCB Transformer enclosure (i.e., in a transformer vault or in a partitioned area housing a transformer); within 5 meters of a transformer enclosure, or, if unenclosed (unpartitioned), within 5 meters of a PCB Transformer.

(ix) A visual inspection of each PCB Transformer (as defined in the definition of "PCB Transformer" under § 761.3) in use or stored for reuse shall be performed at least once every 3 months. These inspections may take place any time during the 3-month periods: January-March, April-June, July-September, and October-December as long as there is a minimum of 30 days between inspections. The visual inspection must include investigation for any leak of dielectric fluid on or around the transformer. The extent of the visual inspections will depend on the physical constraints of each transformer installation and should not require an electrical shutdown of the transformer being inspected.

(x) If a PCB Transformer is found to have a leak which results in any quantity of PCBs running off or about to run off the external surface of the transformer, then the transformer must be repaired or replaced to eliminate the source of the leak. In all cases any leaking material must be cleaned up and properly disposed of according to disposal requirements of § 761.60. Cleanup of the released PCBs must be initiated as soon as possible, but in no case later than 48 hours of its discovery. Until appropriate action is completed, any active leak of PCBs must be contained to prevent exposure of humans or the environment and inspected daily to verify containment of the leak. Trenches, dikes, buckets, and pans are examples of proper containment measures.

(xi) If a PCB Transformer is involved in a fire-related incident, the owner of the transformer must immediately report the incident to the National Response Center (toll-free 1–800–424–8802; in Washington, D.C. 202–426–2675). A fire-related incident is defined as any incident involving a PCB Transformer which involves the generation of sufficient heat and/or pressure (by any source) to result in the violent or non-violent rupture of a PCB Transformer and the release of PCBs. Information must be provided regarding the type of PCB Transformer installation involved in the fire-related incident (e.g., high or low secondary voltage network transformer, high or low secondary voltage simple radial system, expanded radial system, primary selective system, primary loop system, or secondary selective system or other systems) and the readily ascertainable cause of the fire-related incident (e.g., high current fault in the primary or secondary or low current fault in secondary). The owner of the PCB Transformer must also take measures as soon as practically and safely possible to contain and control any potential releases of PCBs and incomplete combustion products into

water. These measures include, but are not limited to:

(A) The blocking of all floor drains in the vicinity of the transformer.

(B) The containment of water runoff.

(C) The control and treatment (prior to release) of any water used in subsequent cleanup operations.

(xii) Records of inspection and maintenance history shall be maintained at least 3 years after disposing of the transformer and shall be made available for inspection, upon request by EPA. Such records shall contain the following information for each PCB Transformer:

(A) Its location.

(B) The date of each visual inspection and the date that leak was discovered, if different from the inspection date.

(C) The person performing the inspection.

(D) The location of any leak(s).

(E) An estimate of the amount of dielectric fluid released from any leak.

(F) The date of any cleanup, containment, repair, or replacement.

(G) A description of any cleanup, containment, or repair performed.

(H) The results of any containment and daily inspection required for uncorrected active leaks.

(xiii) A reduced visual inspection frequency of at least once every 12 months applies to PCB Transformers that utilize either of the following risk reduction measures. These inspections may take place any time during the calendar year as long as there is a minimum of 180 days between inspections.

(A) A PCB Transformer which has impervious, undrained, secondary containment capacity of at least 100 percent of the total dielectric fluid volume of all transformers so contained or

(B) A PCB Transformer which has been tested and found to contain less than 60,000 ppm PCBs (after 3 months of in service use if the transformer has been serviced for purposes of reducing the PCB concentration).

(xiv) An increased visual inspection frequency of at least once every week applies to any PCB Transformer in use or stored for reuse which poses an exposure risk to food or feed. The user of a PCB Transformer posing an exposure risk to food is responsible for the inspection, recordkeeping, and maintenance requirements under this section until the user notifies the owner that the transformer may pose an exposure risk to food or feed. Following such notification, it is the owner's ultimate responsibility to determine whether the PCB Transformer poses an exposure risk to food or feed.

* * * * *

[The recordkeeping requirements of paragraphs (a)(1) (vi), (vii), and (xi) were approved by the Office of Management and Budget under OMB Control Number 2070-0073. The recordkeeping requirements of paragraph (xii) were approved by the Office of Management and Budget under OMB Control Number 2070-0007.]

4. In § 761.40, paragraph (j) is added to read as follows:

§ 761.40 Marking requirements.

* * * * *

(j) As of December 1, 1985, the vault door, machinery room door, fence, hallway, or means of access (others than grates and manhole covers) to a PCB Transformer must be marked with the mark M_L. The mark must be placed so that it can be easily read by firemen fighting a fire involving this equipment.

[FR Doc. 85-16851 Filed 7-16-85; 8:45 am]

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