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WHO: The Office of the Federal Register.

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RESERVATIONS: Call the Federal Information Center
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WASHINGTON, DC

WHEN: September 25; at 9:00 a.m.
WHERE: Office of the Federal Register
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1100 L Street NW., Washington, DC
RESERVATIONS: 202–523–5240

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Reader Aids
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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

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 917

[Docket No. FV-89-056FR]

Pears, Plums and Peaches Grown in California; Modification of Pack Requirements for Plums for the 1989 Season

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department is adopting as a final rule the provisions of an interim final rule which relaxed pack requirements established for California plums. The interim final rule authorized an additional container size for the 1989 season. The continued relaxation permits the shipment of plums packed in 24-pound as well as 28-pound net weight, loose-filled or tight-filled packages for the 1989 season. This smaller container provides handlers with additional marketing flexibility during the 1989 marketing year.

DATES: This final rule becomes effective August 30, 1989.

FOR FURTHER INFORMATION CONTACT: George J. Kelhart, Marketing Order Administration Branch, F&V, AMS, Room 2525-S, P.O. Box 96456, Washington, D.C. 20090-6456; telephone (202) 475-3919.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Marketing Order No. 917 [7 CFR part 917], both as amended, regulating the handling of fresh pears, plums and peaches grown in California, hereinafter referred to as the order. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601-674], hereinafter referred to as the Act.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1, and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the FRA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatability.

There are approximately 390 handlers of plums subject to regulation under the order (7 CFR part 917), and there are approximately 1,500 producers in the regulated areas. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having gross annual revenues for the last three years of less than $500,000. Small agricultural firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of California plums may be classified as small entities.

Shipments of California plums are regulated by container and pack under Plum Regulation 17 [7 CFR 917.454]. Based on an interim final rule published in the Federal Register on June 9, 1989 (54 FR 24667), an additional container size was authorized for the 1989 season. That container holds 24 pounds, net weight, of plums. Interested persons were invited to submit comments to the interim final rule until July 10, 1989. Four comments were received favoring the interim rule from: Mr. Clifford A. Kemper, an attorney representing Gerawan Co., Inc., a plum producer/handler in Reedley, California; Mr. Dan J. Gerawan, of Gerawan Co., Inc., Mr. Jay Liotta, Head Produce Buyer for the Grand Union Company in Wayne, New Jersey; and Mr. James A. Moody, Coordinator of the Farmers Alliance for Improved Regulation, in Washington, D.C. No comments were received opposing the rule.

This final rule is based on information provided by the Plum Commodity Committee (committee) from comments received, and other available information.

Inspected shipments of California plums for the 1988 season totalled approximately 15,250,000 28-pound equivalent packages, and were marketed primarily in the fresh market. Inspected shipments of plums during the 1989 season are expected to total slightly more than 14 million 28-pound equivalent packages.

Paragraph (a)(5) of § 917.454 specifies that each package or container of loose-filled or tight-filled plums other than bulk bin containers, master containers of consumer packages, and individual consumer packages shall bear on one outside end in plain sight and in plain letters, the words "28 pounds net weight." Because these regulations do not change substantially from season to season, they have been issued on a continuing basis subject to amendment, modification, or suspension as approved by the Secretary.

In meetings on May 3, and May 24, 1989, the committee considered a request from a handler to test market plums packed in 24-pound net weight, volume-filled containers which were 5¾ inches deep. The handler indicated that a market existed for plums sold in these containers. The 28-pound net weight containers currently in use are generally 6½ inches deep. The 24-pound container is the same length and width as the larger container and is used for shipping plums packed in molded forms (tray-packs). According to the handler, an individual buyer preferred the smaller containers, volume filled, because the buyer could ripen and display the fruit without moving the fruit from packing to display containers. Thus, handling costs were reduced. The buyer also contended that, because some peaches and nectarines were packed in the smaller containers, similar use of smaller containers for plums enhanced the display of summer fruit in the buyer's stores and thus increased sales.

At both meetings, some committee members opposed the use of the smaller 24-pound net weight container because they believed such containers could cause confusion in the marketplace. They believed this would defeat the purpose of having one standard 28-pound net weight container. Also,

previous research showed that less fruit bruising occurred in the 28-pound net weight container. In addition, some members believed that approval of this handler's request would set a precedent and could require approval of future requests for different net-weight containers. Further, it was indicated that the 5¾ inch deep containers would limit the handler to using smaller sized fruit because larger fruit would either not fit in the small container or would be bruised during packaging or shipment. Other members indicated that the request to market fruit in a 24-pound net weight container should be approved if sales of fruit could be increased. One member was of the opinion that the use of a 24-pound net weight container would not cause confusion in the marketplace. It was suggested that information on the 24-pound pack was needed from other retailers.

A representative of the handler who requested the use of the 24-pound net weight container attended the May 24, 1989, meeting of the committee, and a representative of the retailer who wished to purchase fruit in that container attended both the May 3 and 24, 1989 meetings. The handler indicated that the 24-pound net weight container would be used only in shipments to the one buyer. The handler further indicated that the quantity expected to be shipped would be approximately 1 percent of total industry plum shipments during the 1989 season. Thus, the handler and retailer both felt that there was little possibility of confusion in the marketplace caused by the use of another weight container. Most members agreed that additional marketing research on the 24-pound net weight container would be helpful in making a recommendation on the use of that shipping container in the future. The committee voted to authorize a study of the marketing effects of the smaller containers and of buyer interest before shipments were authorized. At both meetings, the committee voted to not recommend the use of the 24-pound net weight container.

The Department carefully considered the votes of the committee, the differing viewpoints of the individual committee members, and other information. The Department believed, and continues to believe, that handlers should be permitted to take advantage of marketing outlets which desire 24-pound net weight containers of plums during the 1989 season, while the committee conducts its study evaluating the effects of using such containers. Moreover, the Department believed that the limited use of the smaller container as discussed above for the 1989 season would not disrupt the market.

The Department also believes that continued approval of the 24-pound net weight container for the remainder of the 1989–90 season will not necessarily result in additional handler requests for different sized containers with net weights other than 24 and 28 pounds. The 1989 season is more than 50 percent completed and a proliferation of handler requests for other sized or weight containers has not resulted. The four commenters favoring relaxation of the container requirements agreed that the action would reduce handling costs, reduce bruising and shrinkage of the plums marketed, and not cause confusion in the marketplace. Mr. Moody further indicated that markets, handlers, sellers, and consumers would benefit from the widest possible diversity and choice of containers.

The interim final rule adopted the relaxed container requirements on an experimental basis for the 1989 season. Mr. Kemper requested that the relaxation be issued on a continuing basis. However, the Department believes that the committee should evaluate the market effects of and buyer interest in the 24-pound container and then decide if recommendation of such a relaxation is warranted on a continuing basis. Such evaluation by the committee should be conducted at the conclusion of the 1989 shipping season. Any positive recommendations, including recommendations that the regulation be effective on a continuing basis, will be considered at that time.

In view of the above, it is the Department's view that the continued application of this change in container requirements for the remainder of the 1989 season will provide additional marketing opportunities and should not disrupt the marketplace. Thus, the revision of paragraph (a)(5) of § 917.454, allowing the shipment of plums in 24-pound net weight, volume-filled containers for the 1989 marketing season should continue in effect.

Based on available information, the Administrator of the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant information presented, including the committee's recommendation, the comments received, and other information, it is found that the modification of the container requirements, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register because: (1) Shipments of the 1989/90 plum crop are more than 50 percent complete; (2) this action gives handlers the opportunity to use a smaller net-weight container to meet buyer preferences for the remainder of the 1989 season; (3) this action adopts, without change, the interim final rule in effect since June 5, 1989 (54 FR 24668); and (4) no useful purpose would be served by delaying the effective date of the changed requirements.

List of Subjects in 7 CFR Part 917

California, Marketing agreements and orders, Peaches, Pears, Plums.

For the reasons set forth in the preamble, 7 CFR part 917 is amended as follows:

Note: This section will not appear in the *Code of Federal Regulations.*

PART 917—FRESH PEARS, PLUMS AND PEACHES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 917 continues to read as follows:

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

2. Accordingly, the interim final rule amending the provisions of 7 CFR part 917, published in the Federal Register on June 9, 1989 (54 FR 24667–24668), is adopted as a final rule.

Dated: August 25, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–20429 Filed 8–29–89; 8:45 am]

BILLING CODE 3410–02–M

Farmers Home Administration

7 CFR Part 1806

Elimination of Obsolete Insurance Expiration Notice Forms

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) is amending its Real Property Insurance regulation. FmHA recently appointed a taskforce to evaluate all of the Agency's forms and make recommendations for elimination of unnecessary and/or obsolete forms. Two of the forms recommended for elimination are Form FmHA 426–3,

"Notice of Expiration of Insurance," and Form FmHA 426–7, "Insurance Binder." The intended effect of this action is to remove references to these forms in FmHA's regulations.

EFFECTIVE DATE: August 30, 1989.

FOR FURTHER INFORMATION CONTACT: Robin H. Ponton, Loan Specialist, Single Family Housing Servicing and Property Management Division, Farmers Home Administration, USDA, Room 5313, Washington, DC 20250. Telephone (202) 382–1452.

SUPPLEMENTARY INFORMATION:

Classification

This final rule has been reviewed under USDA procedures established in Departmental Regulation 1512–1 which implements Executive Order 12291, and since this action has no impact on FmHA borrowers or other members of the public, it has been determined to be exempt from those requirements because it involves only internal agency management. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since it involves internal agency management and publication for comment is unnecessary.

Programs Affected

These changes affect the following FmHA programs as listed in the Catalog of Federal Domestic Assistance:

10.404 Emergency Loans
10.405 Farm Labor Housing Loans and Grants
10.407 Farm Ownership Loans
10.410 Low Income Housing Loans (Section 502 Rural Housing Loans)
10.415 Rural Rental Housing Loans
10.416 Soil and Water Loans

Intergovernmental Consultation

This activity, for obvious reasons, is not listed in the Catalog of Federal Domestic Assistance. However, the following programs of which the activity is a part are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials:

10.405 Farm Labor Housing Loans
10.415 Rural Rental Housing Loans
10.416 Soil and Water Loans

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969 (Pub. L. 91–190), an Environmental Impact Statement is not required.

List of Subjects in 7 CFR Part 1806

Insurance, Loan programs—agriculture, Real property insurance, Rural areas.

Accordingly, FmHA amends Chapter XVIII, Title 7, Code of Federal Regulations is amended to read as follows:

PART 1806—INSURANCE

1. The authority citation for Part 1806 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart A—Real Property Insurance

§ 1806.2 [Amended]

2. Section 1806.2(b)(4) is amended by removing the second sentence beginning with "Form FmHA 426–7."

3. Section 1806.4 is amended by revising the introductory text of paragraph (a)(2) to read as follows:

§ 1806.4 Examining and general servicing of insurance.

(a) * * *

(2) *Expiration Records and Notices.* After the insurance has been accepted, the expiration date will be inserted on Form FmHA 1905–1, "Management System Card—Individual," or Form FmHA 1905–5, "Management System Card—Individual (Rural Housing Only)," or Form FmHA 1905–10, "Management System Card—Association or Organization," or Form 1905–12, "Monthly Expirations," as provided in FmHA Instruction 1905–A for servicing the renewal of insurance.

* * * * *

§ 1806.4 [Amended]

4. Section 1806.4(a)(2)(i) is amended by removing the last sentence beginning with "Form FmHA 426–3."

Exhibit B of Subpart A [Removed]

5. Exhibit B of Subpart A is removed.

Dated: July 19, 1989.

Neal Sox Johnson,

Acting Administrator, Farmers Home Administration.

[FR Doc. 89–20372 Filed 8–29–89; 8:45 am]

BILLING CODE 3410–07–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1232

RIN 2700—AA73

Care and Use of Animals in the Conduct of NASA Activities

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Interim final rule with request for comment.

SUMMARY: This rule establishes NASA policy, responsibilities, procedures, and authority for the care and use of vertebrate animal subjects in the conduct of NASA activities. The purpose is to assure the proper and humane care and use of animal subjects involved in NASA activities.

DATE: Effective: August 30, 1989. Comments must be submitted on or before October 30, 1989.

ADDRESS: Comments may be mailed to the Life Sciences Division, Code EB, NASA Headquarters, Washington, DC 20546. Comments received may be inspected in room 112, FB 10B, between 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Dr. Thora Halstead 202–453–1527.

SUPPLEMENTARY INFORMATION: Enactment of new laws with new and expanded provisions regulating the care and use of animal subjects in research, increased public awareness and concern for the care and use of animal subjects in research, and the unique environment of space in which some NASA research is conducted dictate that NASA develop a specific written policy with regard to the care and use of animal subjects in NASA facilities and NASA-sponsored research.

The policies described here have been created to develop a policy specific to NASA's unique needs and to be in concordance with provisions of the Animal Welfare Act, as amended [7 U.S.C. 2131 et seq.), as implemented in 9 CFR Subchapter A Parts 1, 2, 3, and 4, and also follow guidelines of the Public Health Service Policy on Humane Care and Use of Laboratory Animals, guidelines developed to ensure compliance with the animal welfare provisions of the Health Research Extension Act of 1985. Policy, procedures, authority, reporting requirements, and provisions for dealing with noncompliance are included in this rule.

This rule incorporates appropriate changes from comments received from the reviewing NASA Headquarters

Office and NASA Field Installations and the Office of Protection from Research Risks, National Institutes of Health. Comments of interested persons with respect to implementation and interpretation of the relevant laws, rules, and guidelines and the implementation and management procedures described in this rule will be taken into consideration before taking final action on the rule.

This regulation does not constitute a major rule for the purpose of Executive Order 12291, and is not subject to the Regulatory Flexibility Act, 5 U.S.C. 601–612, since it will not exert a significant economic impact on a substantial number of small entities.

List of Subjects in 14 CFR Part 1232

Animal welfare, Animal housing, Research facilities, Humane animal handling, Humane animal research, Institutional animal care and use committees, Adequate veterinary care.

Title 14 of the Code of Federal Regulations is amended by adding Part 1232 to read as follows:

PART 1232—CARE AND USE OF ANIMALS IN THE CONDUCT OF NASA ACTIVITIES

Sec.

Authority: 42 U.S.C. Sec. 2451; Pub. L. 89–544, as amended; 7 U.S.C. Sec. 2131; 39 U.S.C. Sec. 3001; 9 CFR Subchapter A Parts 1, 2, 3, and 4; and Pub. L. 99–158, Sec. 495.

§ 1232.100 Scope.

This rule establishes the policy, implementation procedures, and management authority and responsibility for the care and use of vertebrate animals (hereinafter referred to as "animal subjects") in the conduct of NASA activities.

§ 1232.101 Applicability.

This rule applies to NASA Headquarters and NASA field installations and will be followed in all activities using animal subjects that are supported by NASA, conducted in NASA facilities, aircraft, or spacecraft, or which involve NASA to any degree. All activities using animal subjects conducted under a contract, grant, cooperative agreement, memorandum of understanding, or joint endeavor agreement entered into by NASA and another Government agency, private entity, non-Federal public entity, or foreign entity are included within the scope of this rule.

§ 1232.102 Policy.

(a) It is NASA policy to require its laboratories and the institutions performing NASA-supported activities using animal subjects to comply with the Animal Welfare Act of 1966 (Pub. L. 89–544), as amended (Pub. L. 91–579, Pub. L. 94–279, and Pub. L. 99–198), 7 U.S.C. 2131 et seq., and 39 U.S.C. 3001, and with the regulations promulgated thereunder by the Secretary of Agriculture (9 CFR Subchapter A Parts 1, 2, 3, and 4) pertaining to the care, handling, and treatment of animal subjects held or used for research, testing, teaching, or other activities supported by the Federal government. Investigators shall follow the guidelines described in the National Institutes of Health (NIH) Publication No. 85–23 (Rev. 1985), "Guide for the Care and Use of Laboratory Animals" (the Guide) or subsequent revisions. Attention is called to the U.S. Government "Principles for the Utilization and Care of Vertebrate Animals Used in Testing, Research, and Training" on pp. 81–83 of the Guide. In order to implement these guidelines and principles, investigators will comply with the revised Public Health Service (PHS) Policy on Humane Care and Use of Laboratory Animals (hereinafter referred to as PHS Policy) effective November 1, 1986.[1]

(b) This rule authorizes NASA to have the same authority for NASA-supported programs as that delegated to PHS by the PHS Policy, including the functions and responsibilities of the Animal Care and Use Committees (ACUC's).

(c) All research supported by NASA that involves activities using animal subjects shall be conducted under protocols that conform to this rule and that are reviewed and approved as prescribed in this rule.

§ 1232.103 Definitions.

The following definitions of terms comply with the PHS Policy and apply to the conduct of all NASA activities related to the care and use of animal subjects.

(a) "Activity" includes research, testing of hardware for animal use, flight experimentation, and any other tasks involving the use of animal subjects.

(b) "Animal" is any live vertebrate animal.

(c) "Animal Care and Use Committee" (ACUC) is the committee established at each institution and NASA field installation involved in research with animal subjects. It is responsible for evaluating the care and use of animal subjects at the facility and for ensuring that the care and use of animal subjects at the facility is in compliance with this rule and PHS Policy.

(d) "Authorized NASA Official" is the Director, Life Sciences Division, NASA Headquarters, or designee, who is the NASA Administrator's representative and is responsible for all NASA activities involving animal subjects. This individual is responsible for implementation of the provisions of this rule and for ensuring that agency programs involving animal subjects comply fully with all applicable laws, regulations, and guidelines.

(e) "Field Installation Director" is the Director of a NASA Field Installation, or designee, who is the institutional official responsible for the care and use of animal subjects in research conducted at that field installation and for ensuring compliance with this rule at that field installation.

(f) "Investigator" is any person who uses or proposes to use live animal subjects in NASA-supported activities, e.g., receives funds, salaries, or support under a grant, award, agreement, contract, or direct employment by NASA, or the use of any NASA facilities, aircraft, or spacecraft for the purpose of carrying out research, tests, or experiments using animal subjects.

(g) "PHS Assurance" is a document prepared by an awardee institution assuring its compliance with PHS Policy.

(h) "Research of Flight Program Manager" is the NASA Headquarters manager of each program in which NASA has a manifest interest.

(i) "Supported" pertains to activities either funded in part or in whole by NASA or an approved activity that is not funded by NASA but that utilizes NASA facilities, including spacecraft and aircraft.

(j) "Veterinarian" is the NASA attending veterinarian, a person who has graduated from a veterinary school accredited by the American Veterinary Medical Association's Council on Education or has a certificate issued by the American Veterinary Medical Association's Education Commission for Foreign Veterinary Graduates, has received training and/or experience in the care and management of the species being attended, and who has direct or delegated authority and responsibility for activities involving animal subjects at the NASA field installation.

[1] Available from the Office of Protection from Research Risks (OPRR), National Institutes of Health, 9000 Rockville Pike, Bldg. 31, Room 5B59, Bethesda, MD 20892, Telephone 301–496–7005.

§ 1232.104 Implementation procedures by non-NASA institutions.

(a) Proposal Information. No animal subjects may be utilized unless a proposal justifying and describing their use is submitted to NASA for approval. The required proposal information is outlined in the PHS Policy (IV.D.1.a.-e.).

(b) Proposal Approval by the Institutional ACUC. Before a proposal for research involving the use of animal subjects will be considered for NASA support, the NASA Headquarters Research or Flight Program Manager must receive a statement that the research has been reviewed in accordance with the PHS Policy (IV.C.) and approved by the appropriate ACUC at the participating institution.

(c) Proposal Approval for Flight Experiments. In addition to the institution's ACUC review, activities involving animal subjects to be flown on NASA spacecraft will be subject to review and approval by the Ames Research Center (ARC) ACUC. The ARC ACUC will submit each evaluation report to the ARC Director who will transmit the report with his/her recommendation to the Authorized NASA Official, NASA Headquarters. Animal activities to be flown onboard NASA manned spacecraft may also be subject to review by the Human Research Policy and Procedures Committee (HRPPC) at the Johnson Space Center (JSC). Animal activities utilizing the facilities of any NASA field installation are also subject to approval of that field installation's ACUC (§ 1232.105(d)).

(d) Institutions with PHS Assurance on File. The institution, by an approved or provisionally acceptable Assurance on file at the NIH Office for Protection from Research Risks (OPRR), Department of Health and Human Services (HHS), assures NASA that it will comply with the PHS Policy. The Assurance file number must be included in the research proposal submitted to NASA.

(e) Institutions with no PHS Assurance on File. Proposals from institutions without an approved Assurance on file with the NIH OPRR will first be peer-reviewed for scientific merit. If the proposed research is deemed worthy of support, NASA will arrange for a special Assurance to be negotiated by the Director, Life Sciences Division, NASA Headquarters. The arrangements for a special Assurance review by NIH should be undertaken in consultation with the NASA representative to the Interagency Research Animal Committee (IRAC) and will be handled on a case-by-case basis.

(f) Foreign institutions must comply with the PHS Policy (see Section II Of PHS Policy) and this rule before being supported by NASA for any activities involving animal subjects.

§ 1232.105 Implementation procedures by NASA field installations.

(a) *Proposal Information.* The information required for proposals involving the use of animal subjects is identical to that described in § 1232.104(a).

(b) *Proposal Approval by the NASA ACUC.* Before a proposal for research involving the use of animal subjects will be considered for NASA support, the NASA Headquarters Research or Flight Program Manager must receive a statement that the research has been reviewed in accordance with PHS Policy (IV.C.) and approved by the ACUC at the appropriate field installation.

(c) *Proposal Approval for Flight Experiments.* In addition to the Field Installation ACUC review, activities involving animal subjects to be flown on NASA spacecraft will be subject to review and approval by the ARC ACUC. The ARC ACUC will submit each evalaution report to the ARC Director who will transmit the report with his/her recommendation to the Authorized NASA Official, NASA Headquarters. Animal activities to be flown onboard NASA manned spacecraft may also be subject to review by the HRPPC at JSC.

(d) *Approval for Use of Field Installation Facilities.* The NASA Field Installation ACUC will review and approve or disapprove those parts of proposals that call for the use of their facilities to conduct any activity involving animal subjects (e.g., Kennedy Space Center or ARC Dryden facilities used to support experiments using animal subjects). The ACUC will submit each evaluation report to the Field Installation Director who will transmit the report with his/her recommendation to the Authorized NASA Official, NASA Headquarters.

(e) *NASA Animal Care and Use Committees.* (1) The Director of each NASA Field Installation that is involved in animal research activities will establish an ACUC to ensure compliance with the policies and provisions of this rule. The membership of the ACUC shall be in accordance with PHS Policy.

(2) The NASA Field Installation ACUC's will review and approve or disapprove all proposals using animal subjects. In accordance with the PHS Policy (IV.C.), the ACUC will submit each report to the Field Installation Director who will, upon request, transmit the report with his/her recommendation to the Authorized NASA Official, NASA Headquarters.

(3) NASA ACUC's have the authority to approve, disapprove, or require changes to be made in those components of proposals involving the care and use of animal subjects that are submitted by NASA investigators. All decisions shall be based on the response of a majority of a quorum of the members. A minority opinion including abstentions should be recorded; this record should include a justification for the opinion.

(4) The ACUC shall conduct continuing review of proposals at appropriate intervals as determined by the ACUC, but not less than once every 3 years.

(5) Proposals that have been approved by the ACUC may be subject to further appropriate review by the Authorized NASA Official, NASA Headquarters. However, the official may not approve those sections of a proposal related to the care and use of animal subjects if they have not been approved by the ACUC.

(6) Once experimental procedures are approved, no substantial changes can be made unless a formal request with appropriate justification for such a request is submitted to and approved by the appropriate ACUC. If the experiment involves exposure of the flight crew to the animal subjects, the HRPPC at JSC must review and approve the proposed modifications. Copies of ACUC approval of the proposed modifications shall be submitted to the Field Installation Director who will, upon request, transmit the report to the Authorized NASA Official, NASA Headquarters.

(7) Other functions of the field installation ACUC include:

(i) Reviewing at least once every 6 months the field installation's program for humane care and use of animals, using the Guide as a basis for evaluation;

(ii) Inspecting at least once every 6 months all of the field installation's animal facilities (including satellite facilities), using the Guide as a basis for evaluation;

(iii) Preparing reports of the ACUC evaluations conducted as required by § 1232.105 (e)(7)(i) and (ii), and submitting the reports to the Field Installation Director. (Note: the reports shall be updated at least once every 6 months upon completion of the required semiannual evaluations and shall be maintained by the field installation and made available to the Authorized NASA Official upon request. The reports must contain a description of the nature and extent of the field installation's adherence to the Guide and this rule and must identify specifically any departures

from the provisions of the Guide and this rule, and must state the reasons for each departure. The reports must distinguish significant deficiencies from minor deficiencies. A significant deficiency is one which, consistent with PHS Policy, and, in the judgment of the ACUC and the Field Installation Director, is or may be a threat to the health or safety of the animals. If program or facility deficiencies are noted, the reports must contain a reasonable and specific plan and schedule for correcting each deficiency.)

(iv) Reviewing concerns involving the care and use of animals at the field installation;

(v) Making recommendations to the Field Installation Director regarding any aspect of the field installation's animal program, facilities, or personnel training.

(f) *NASA Assurances.* Each NASA field installation involved in activities using animal subjects must assure that its programs and facilities have been evaluated and accredited by the American Association for the Accreditation of Laboratory Animal Care (AAALAC). Written assurance of compliance with the provisions of the PHS Policy and this rule is also required from NASA field installations involved in animal activities before approval of any such activity. This Assurance should follow the sample PHS Assurance format shown on pages 19–26 of the PHS Policy and must be submitted by the Field Installation Director to the Authorized NASA Official. The Assurance is subject to renewal every 5 years.

(g) *Recordkeeping Requirements.* (1) Each NASA field installation involved in activities using animal subjects shall maintain:

(i) An Assurance of compliance with PHS Policy and this rule (§ 1232.105 (f));

(ii) Minutes of ACUC meetings, including records of attendance, activities of the committee, and committee deliberations;

(iii) Records of applications, proposals, and proposed significant changes in the care and use of animals and whether ACUC approval was given or withheld;

(iv) Records of semiannual ACUC reports and recommendations (including minority views) as forwarded to the Field Installation Director;

(v) Records of AAALAC accreditation; and

(vi) The Field Installation's Animal Users Guide and Animal Care Facility Management Manual. The Field Installation Animal Users Guide and Animal Care Facility Management Manual should be revised at appropriate intervals.

(2) All records shall be maintained for at least 3 years; records that relate directly to applications, proposals, and proposed significant changes in ongoing activities reviewed and approved by the ACUC shall be maintained for the duration of the activity and for an additional 3 years after completion of the activity. All records shall be furnished upon request to the Authorized NASA Official.

(h) *Reporting Requirements.* For each NASA field installation involved in activities using animal subjects:

(1) Statements of ACUC approval of research proposals, ACUC evaluation reports of flight experiment proposals and of experiment proposals utilizing field installation facilities, and the field installation's Assurance of compliance shall be submitted in the manner prescribed in § 1232.104 (c) and § 1232.105 (b) (c) (d) and (f).

(2) At least once every 12 months, the ACUC, through the Field Installation Director, shall report in writing to the Authorized NASA Official:

(i) Any change in the field installation's program or facilities that would affect the AAALAC accreditation status;

(ii) Any change in the description of the field installation's program for animal care and use;

(iii) Any changes in the ACUC membership;

(iv) Notice of the dates that the ACUC conducted its semiannual evaluations of the field installation's program and facilities and submitted the evaluations to the Field Installation Director;

(v) A statement that the field installation has no changes to report as specified in § 1232.105 (h) (2) (i) (ii) or (iii) of this rule, if there are no changes.

(3) The ACUC, through the Field Installation Director, shall promptly provide the Authorized NASA Official with a full explanation of the circumstances and actions taken with respect to:

(i) Any serious or continuing noncompliance with this rule and PHS Policy;

(ii) Any serious deviation from the provisions of the Guide; or

(iii) Any suspension of an activity by the ACUC.

(4) Reports filed under § 1232.105 (h) of this rule shall include any minority views filed by members of the ACUC.

(5) A copy of the U.S. Department of Agriculture (USDA) Annual Report will be furnished to the Authorized NASA Official.

§ 1232.106 Management authority and responsibility.

(a) *Authorized NASA Official.* The Authorized NASA Official is the NASA Administrator's representative and is responsible for all NASA activities involving animal subjects. This individual is responsible for implementation of the provisions of this rule and for ensuring that agency programs involving animal subjects comply fully with all applicable laws, regulations, and guidelines.

(b) *Field Installation Director.* The Field Installation Director is responsible for and has the authority to:

(1) Sign the field installation's Assurance, making a commitment on behalf of the field installation that the requirements of the PHS Policy and this rule will be met in all field installation activities involving animal subjects;

(2) Create and oversee the functioning of the field installation ACUC;

(3) Decide and administer sanctions in cases of noncompliance with this rule;

(4) Fulfill the reporting requirements assigned to this individual in § 1232.105 (h); and

(5) Sign the annual USDA report.

(c) *NASA Field Installation(s) ACUC Responsibility.* Each NASA Field Installation ACUC is responsible to its Field Installation Director for the activities described in § 1232.104(c) and § 1232.105 (b) (c) (d) (e) and (h).

(d) *Research or Flight Program Manager Responsibility.* The Research or Flight Program Manager is responsible for ascertaining the presence of the required PHS Assurance file number for proposals involving animal subjects received from non-NASA institutions, and a statement of ACUC review and approval of all NASA and non-NASA proposals involving animal subjects. No awards for activities involving animal subjects can be made without this documentation [see § 1232.104 (b) and (d) and § 1232.105(b)].

(e) *NASA Veterinarian(s) Responsibility.* NASA veterinarian(s) have direct or delegated authority and responsibility for activities involving animal subjects at their field installation. Such authority and responsibilities shall include recommending approval or disapproval of procedures involving animal subjects as a member of the ACUC, continual monitoring of these activities, surveillance of the health and condition of animal subjects, and reporting any observed deviations from approved procedures involving animal subjects to the Field Installation Director and the ACUC. In the case of deviation from

ACUC-approved practices or procedures, the veterinarian shall have the authority to immediately halt such procedures until they are reviewed and resolved by the ACUC. In cases of a conflict concerning animal usage by an investigator that cannot be resolved between him/her and the veterinarian, the matter may be brought to the attention of the Field Installation ACUC for review and recommendation for action as set forth in this rule. Whereas the performance of the veterinarian's duties can be delegated to other qualified individuals, the ultimate responsibility rests with the veterinarian. This responsibility extends not only to the Animal Care Facility (ACF), but also to other locations where animal subjects are used.

Other specific areas of responsibility and authority vested in the veterinarian are:

(1) *Entry of personnel into the ACF.* The veterinarian has the responsibility to develop access procedures to the ACF and submit them to the ACUC for approval.

(2) *Personnel Training.* The veterinarian will participate in the training of personnel in the handling of animal subjects and in specimen sampling procedures.

(3) *Animal Training.* The veterinarian will monitor all schedules and procedures involving the training and acclimation of animal subjects.

(4) *Surgery and Surgical Procedures.* The veterinarian will monitor all surgical procedures and verify that the principles of the Guide with regard to aseptic surgery are employed. Post-surgical recovery procedures are included. If necessary, training will be provided by the veterinarian to bring procedures conducted by investigators to the level of these standards.

(5) *Veterinary Medical and Engineering Procedures.* The veterinarian will monitor all veterinary medical and engineering procedures performed on animal subjects and verify their appropriateness. The veterinarian will actively participate in identifying and/or establishing the design requirements and adequacy of animal facilities for ground and spaceflight-related activities.

(f) *NASA Representative to the Interagency Research Animal Committee (IRAC).* The NASA representative to the IRAC will obtain information of all cases in which an institution's Assurance has been revoked by the PHS. The NASA IRAC representative will notify NASA ACUC's, Field Installation Directors, the Authorized NASA Official, and all Headquarters Research and Flight Program Managers so that they can determine which NASA awards involving the use of animal subjects are affected and can take appropriate sanctions.

§ 1232.107 Sanctions.

(a) *Non-NASA Institutions.* Principal investigators not employed by NASA whose activities are supported by NASA but whose activities using animal subjects are restricted to non-NASA facilities shall be subject to the control of their institution's ACUC and responsible institutional official. Notification of noncompliance with this rule shall be made either as described in § 1232.106(f) or by the non-NASA institution to the Director of the NASA Field Installation through which the activity has been supported and to the Authorized NASA Official. Any continued noncompliance may be caused for termination of funding or support.

(b) *NASA Field Installations.* (1) Inappropriate procedures on animal subjects by NASA principal investigators shall be halted by the NASA Field Installation Veterinarian or line management and brought to the attention of the ACUC if the issue cannot be immediately resolved. The ACUC will review the activity and report any noncompliance with this rule to the Field Installation Director. Principal investigators not employed by NASA, whose activities using animal subjects are performed in NASA facilities, aircraft, or spacecraft, are subject to similar action. Such noncompliance will be cause for sanctions. The principal investigator can contest, in writing, these decisions to the ACUC.

(2) The ACUC as the agent of the Field Installation Director may suspend an activity that it previously approved if it determines that the activity is not being conducted in accordance with applicable provisions of the Animal Welfare Act, the Guide, PHS Policy requirements, or this rule.

(3) Any suspension or termination of approval will include a statement of the reasons for the action and will be promptly reported to the principal investigator and the appropriate Field Installation Director. In the case of investigators from non-NASA institutions, notification should be sent to the investigator, the appropriate institution, and the Director of the Field Installation through which the activity has been supported. If the ACUC suspends an activity involving animal subjects, the Field Installation Director in consultation with the ACUC shall review the reasons for suspension, take appropriate corrective action, and report that action with a full explanation to the Authorized NASA Official, NASA Headquarters. If an ACUC recommends disapproval suspension, termination, or conditional approval of an activity, the principal investigator will be given the opportunity to ask for reconsideration of the decision in person and/or in writing to the appropriate NASA ACUC.

(4) If, after notification of the Field Installation Director and an opportunity for correction, such deficiencies or deviations remain uncorrected, the ACUC will notify (in writing) the Authorized NASA Official, NASA Headquarters, who is then responsible for all corrective action to be taken.

Richard H. Truly,

Administrator.

August 22, 1989.

[FR Doc. 89-20318 Filed 8-29-89; 8:45 am]

BILLING CODE 7510-01-M

RAILROAD RETIREMENT BOARD

20 CFR Ch. II

Appeals Procedures

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board (Board) amends 20 CFR Chapter II to remove the title "referee" wherever it appears and to add in its place the title "hearings officer", and to remove the title "referee's" wherever it appears and to add in its place the title "hearings officer's". This action is being taken as a result of a reclassification of positions, and should eliminate any confusion which could arise from the existence of the title "referee" in 20 CFR Chapter II, and the use of the amended title "hearings officer" in the Board's correspondence with the public.

EFFECTIVE DATE: This final rule is effective August 30, 1989.

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, (312) 751-4513 (FTS) 386-4513.

SUPPLEMENTARY INFORMATION: This amendment is being made to remove the title "referee", as that term is used throughout the Board's regulations, and to add the title "hearings officer" wherever it appears in 20 CFR Chapter II. The title change resulted from a reclassification of the referees' positions in the Board's Bureau of Hearings and Appeals. Since the term "referee" (and its possessive "referee's") appears in several sections of 20 CFR Chapter II,

some sections of which may not require amendment for any other purpose, this amendment is intended to eliminate any confusion which could arise on the part of the public. It should be noted, however, that for purposes of the Board's regulations, the terms "referee" and "hearings officer" (and their possessive tenses) may be considered synonymous; the use of one term n lieu of the other would have no legal effect.

The Board has determined that this is not a major rule for purposes of Executive Order 12291. Therefore no regulatory impact analysis is required by the Regulatory Flexibility Act (5 U.S.C. 601–611). For purposes of the collection of information within the meaning of the Paperwork Reduction Act of 1980, this nomenclature change will have no legal effect.

CHAPTER II—RAILROAD RETIREMENT BOARD

Under the authority provided in 45 U.S.C. 231f(b)(5) and 362(b), Chapter II, Title 20 of the Code of Federal Regulations is amended as follows:

1. Remove the title "referee" wherever it appears and add in its place the title "hearings officer".

2. Remove the title "referee's" wherever it appears and add in its place the title "hearings officer's".

Dated: August 23, 1989.

By authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 89–20443 Filed 8–29–89; 8:45 am]

BILLING CODE 7905–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 88F–0427]

Indirect Food Additives: Polymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to raise the limitation on the maximum absorbed dose of radiation that may be used to produce molecular crosslinking of ethylene-vinyl acetate copolymers. This action is in response to a petition filed by Cryovac Division of W.R. Grace & Co.

DATES: Effective August 30, 1989; written objections and requests for a hearing by September 29, 1989.

ADDRESSES: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Laura M. Tarantino, Center for Food Safety and Applied Nutrition (HFF–330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of January 6, 1989 (54 FR 483), FDA announced that a food additive petition (FAP 9M4117) had been filed by Cryovac Division of W.R. Grace & Co., P.O. Box 464, Duncan, SC 29334, proposing that § 177.1350 *Ethylene-vinyl acetate copolymers* (21 CFR 177.1350) be amended by raising the limitation in paragraphs (d)(1) and (d)(3) on the maximum absorbed dose of radiation that may be used to produce molecular crosslinking of ethylene-vinyl acetate copolymers.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed increase in the permitted maximum absorbed dose of ionizing radiation from 8 to 15 megarads is safe, and that the regulations should be amended as set forth below. The agency is also revising the wording in § 177.1350 (d)(1), (d)(3), and (e)(1) to describe the permitted radiation dose by the Système International unit of measurement for absorbed dose of radiation (Gray), as well as by the previously used unit (rad).

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before September 29, 1989 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR Part 177 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. Section 177.1350 is amended by revising paragraphs (d)(1), (d)(3), and (e)(1) to read as follows:

§ 177.1350 Ethylene-vinyl acetate copolymers.

* * * * *

(d) * * *

(1) Electron beam source of ionizing radiation at a maximum energy of 3 million electron volts: Maximum absorbed dose not to exceed 150 kiloGray (15 megarads).

* * * * *

(3) The ethylene-vinyl acetate copolymer films may be further

irradiated in accordance with the provisions of paragraph (e)(1) of this section: *Provided,* That the total accumulated radiation dose from both electron beam and gamma ray radiation does not exceed 150 kiloGray (15 megarads).

(e) * * *

(1) Gamma photons emitted from a cobalt-60 sealed source in the dose range of 5–50 kiloGray (0.5–5.0 megarads).

* * * * *

Dated: August 18, 1989.

Fred R. Shank,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89–20353 Filed 8–29–89; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 178

[Docket No. 87F–0269]

Indirect Food Additives, Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of 5-[(2,3-dihydro-6-methyl-2-oxo-1*H*-benzimidazol-5-yl)azo]-2,4,6(1*H*, 3*H*, 5*H*)-pyrimidinetrione as a colorant in all polymers. This action responds to a petition filed by Ciba-Geigy Corp.

DATES: Effective August 30, 1989; written objections and requests for a hearing by September 29, 1989.

ADDRESSES: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Richard H. White, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of September 17, 1987 (52 FR 35143), FDA announced that a food additive petition (FAP 7B4016) had been filed by Ciba-Geigy Corp., Three Skyline Dr., Hawthorne, NY 10532, proposing that § 178.3297 *Colorants for polymers* (21 CFR 178.3297) be amended to provide for the safe use of 5-[(2,3-dihydro-6-methyl-2-oxo-1*H*-benzimidazol-5-yl]azo]-2,4,6(1*H*, 3*H*, 5*H*)-pyrimidinetrione as a colorant in all polymers.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive use is safe, and that the regulation in 21 CFR 178.3297 should be amended in paragraph (e) as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before September 29, 1989 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR Part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR Part 178 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. Section 178.3297 is amended in paragraph (e) by alphabetically adding a new entry in the table to read as follows:

§ 178.3297 Colorants for polymers.

* * * * *

(e) * * *

Substances	Limitations
5-[(2,3-Dihydro-6-methyl-2-oxo-1*H*-benzimidazol-5-yl)azo]-2,4,6(1*H*, 3*H*, 5*H*)-pyrimidinetrione (CAS Reg. No. 72102–84–2).	For use at levels not to exceed 1 percent by weight of polymers. The finished articles are to contact food only under conditions of use B through H described in Table 2 of § 176.170(c) of this chapter.

* * * * *

Dated: August 18, 1989.

Fred R. Shank,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89–20352 Filed 8–29–89; 8:45 am]

BILLING CODE 4160–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

706 Agencies; Designation of Texas Commission on Human Rights

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations on certified designated 706 agencies. Publication of this amendment effectuates the designation of the Texas Commission on Human Rights as a certified 706 Agency.

EFFECTIVE DATE: August 30, 1989.

FOR FURTHER INFORMATION CONTACT: Valentina Jackson, Equal Employment Opportunity Commission, Office of Program Operations, Systemic Investigations and Individual Compliance Programs, State and Local Branch, 1801 L Street, NW., Room 8060, Washington, DC 20507, Telephone 202/663–4892.

SUPPLEMENTARY INFORMATION: The Commission has determined that the Texas Commission on Human Rights meets the eligibility criteria for certification of a designated 706 agency as established in 29 CFR § 1601.75(b). In accordance with 29 CFR § 1601.75(c), the Commission hereby amends the list of certified designated 706 agencies to include the Texas Commission. Publication of this amendment to § 1601.80 effectuates the designation of the following agency as a certified 706 agency: Texas Commission on Human Rights.

List of Subjects in 29 CFR Part 1601

Administrative practice and procedure, Equal employment opportunity, Intergovernment relations.

Accordingly, 29 CFR part 1601 is amended as follows:

PART 1601—[AMENDED]

1. The authority citation for part 1601 continues to read as follows:

Authority: 42 U.S.C. 2000 e to 2000 e–17.

§ 1601.80 [Amended]

2. Section 1601.80 is amended by adding the Texas Commission on Human Rights in alphabetical order.

Signed at Washington, DC this 22nd day of August, 1989, for the Commission.

James H. Troy,

Director, Office of Program Operations.

[FR Doc. 89–20378 Filed 8–29–89; 8:45 am]

BILLING CODE 6570–06–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–89–82]

Special Local Regulations for Marine Events; Hampton Bay Days Festival; Hampton River, Hampton, VA

AGENCY: Coast Guard, DOT.

ACTION: Notice of Implementation of 33 CFR 100.508

SUMMARY: This notice implements 33 CFR 100.508 (53 FR 35069; September 9, 1988) for the Hampton Bay Days Festival. The event will be held on the Hampton River. The special local regulations are necessary to control vessel traffic in the immediate vicinity of this event. The effect will be to restrict general navigation in the regulated area for the safety of spectators and participants.

EFFECTIVE DATES: The regulations in 33 CFR 100.508 are effective for the following periods: 3:30 p.m. to 8:30 p.m, September 8, 1989. 9:00 a.m. to 11:30 p.m., September 9, 1989. 12:00 Noon to 3:00 p.m., September 10, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Billy J. Stephenson, Chief, Boating Affairs Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004 (804) 398–6204.

SUPPLEMENTARY INFORMATION:

Drafting Information: The drafters of this notice are Billy J. Stephenson, project officer, Chief, Boating Affairs Branch, Boating Safety Division, Fifth Coast Guard District, and Lieutenant Commander Robin K. Kutz, project attorney, Fifth Coast Guard District Legal Staff.

Discussion of Regulations: Bay Days, Inc. submitted an application on June 12, 1989 to hold the Hampton Bay Days Festival on September 8, 9, and 10, 1989. The marine portion of the festival will consist of a parade of boats, water ski shows, and various type boat races. There will also be a fireworks display launched from within the regulated area. The regulations in 33 CFR 100.508 govern the activities of the Hampton Bay Days Festival held on the Hampton River, in and around downtown Hampton, Virginia. Implementation of 33 CFR 100.508 also implements as special anchorage areas the spectator anchorages designated in that section for use by vessels during the event. Vessels less than 20 meters long may anchor in these areas without displaying the anchor lights and shapes required by Inland Navigation Rule 30 (33 USC 2030(g)).

Since these regulations were specifically established to enhance the safety of the participants in and spectators of the marine portions of the Hampton Bay Days Festival the regulations are hereby implemented. This notice also will appear in the Fifth District Local Notice to Mariners.

Date: August 17, 1989.

P.A. Welling,

Rear Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 89–20447 Filed 8–29–89; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 165

[Regulation 89–10]

COTP Los Angeles/Long Beach, CA; Safety Zone Regulations

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone of the navigable waters in the Ports of Los Angeles/Long Beach within a 1000 yard radius seaward of the breakwater around vessels in approximate position 33–43N, 118–12.5W for filming of the movie Hunt for Red October.

The zone is needed to protect boating traffic transiting the near by area. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective at 0800, 18 August 1989. It terminates at 2400, 2 September 1989.

FOR FURTHER INFORMATION CONTACT: Lt R.L. Booth at (213) 499–5580.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rule making was not published for this regulation and it is being made effective in less than 30 days after Federal Regulation publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent potential damage to the boating traffic transiting the near by area.

Drafting Information

The drafters of this regulation are Lt R.L. Booth, project officer for the Captain of the Port, and LCDR G.R. Wheatly, project attorney, Eleventh Coast Guard District Legal Office.

Discussion of Regulation

The event requiring this regulation will occur between 0800, 18 August 1989 and 2400, 2 September 1989. This safety zone is necessary to ensure the safety of boating traffic transiting the near by area.

List of Subjects in 33 CFR Part 165

Harbors Marine Safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, subpart C of part 165 of title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5, 49 CFR 1.46.

2. A new § 165.T1199 is added to read as follows:

§ 165.T1199 Safety zone.

In the navigable waters in position 33–43N, 118–12.5W.

(a) *Location.* The following area is a safety zone: The navigable waters seaward of the breakwater within a 1000 yard radius of approximate position 33–43N, 118–12.5W around the vessels engaged in the filming of the movie The Hunt for Red October.

(b) *Effective Date:* This regulation becomes effective on 18 August 1989 at 0800. It terminates on 2 September 1989 at 2400.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, no vessel may enter, remain in, or transit the Safety Zone without the permission of the Captain of the Port.

Dated: August 18, 1989.

C.T. Desmond,

Commander, U.S. Coast Guard, Captain Of The Port, Los Angeles/Long Beach.

[FR Doc. 89–20448 Filed 8–29–89; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 180 and 186

[8F3629, 8F3678, 8H5555/R1036; FRL 3636–6]

Tolerances for 2-[1-(Ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexene-1-one

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the herbicide 2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexene-1-one and its metabolites containing the 2-cyclohexene-1-one moiety, calculated as parent, in or on the raw agricultural commodities (RACs) bulb vegetables at 1.0 part per million (ppm), and pome fruits at 0.2 ppm, and the animal feed commodity apple pomace (wet and dry) at 0.8 ppm. These regulations were requested by BASF Wyandotte Corp. and establish the maximum permissible level for residues of the herbicide in or on these RACs and the animal feed commodity.

EFFECTIVE DATE: August 30, 1989.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Robert J. Taylor, Product Manager (PM) 25, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 243, CM 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)–557–1800.

SUPPLEMENTARY INFORMATION: EPA issued notices in the Federal Register that announced that BASF Wyandotte Corp., P.O. Box 181, 100 Cherry Hill Rd., Parsippany, NJ 07054, proposed amending 40 CFR 180.412 and 21 CFR Part 561 by establishing tolerances for the combined residues of the herbicide 2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexene-1-one and its metabolites containing the 2-cyclohexene-1-one moiety (calculated as parent) in or on the following RACs and animal feed commodity.

Pesticide/food additive petition number	Crops	Parts per million (ppm)	Federal Register citation
8F3629	Pome fruits.	0.2	May 25, 1988 (53 FR 18897)
8H5555	Dry pomace.	0.8	May 25, 1988 (53 FR 18897)
8F3678	Onions	1.0	Oct. 12, 1988
	Garlic	1.0	(53 FR 37983)

No comments were received in response to the notices of filing.

The Agency subsequently issued a notice, published in the Federal Register of June 29, 1988 (53 FR 24688), redesignating 21 CFR Part 561 as 40 CFR Part 186 and assigning this chemical as 40 CFR 186.2800. The petitioner subsequently revised Food Additive Petition No. 8H5555 and Pesticide Petition No. 8F3678 by submitting revised Section F's to reword dry pomace as apple pomace (wet and dry) and onions and garlic as bulb vegetables. Because there is no potential increase to humans from these revisions, no period of public comment is needed.

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

1. Several acute toxicology studies placing technical sethoxydim in Toxicity Categories III and IV.

2. A subchronic feeding study in dogs fed dosages of 0, 2, 20, and 200 milligrams per kilogram of body weight per day (mg/kg bwt/day) with a no-observable-effect level (NOEL) of 20 mg/kg/day based on liver effects and nonspecfic anemia at 200 mg/kg/day.

3. A 1-year feeding study with dogs fed dosages of 0, 8.86/9.41, 17.5/19.9, and 110/129 mg/kg/day (males/females) with a NOEL of 8.86/9.41 mg/kg (males/females) based on equivocal anemia in males at 17.5/19.9 mg/kg/day (males/females).

4. A 2-year chronic feeding/oncogenicity study with mice fed dosages of 0, 6, 18, 54, and 162 mg/kg/day with no oncogenic effects observed under the conditions of the study at dose levels up to and including 162 mg/kg/day (highest dose tested [HDT]) and a systemic NOEL of 18 mg/kg/day based on nonneoplastic liver lesions at 54 mg/kg/day.

5. A 2-year chronic feeding/oncogenicity study with rats fed dosages of 0, 2, 6, and 18 mg/kg/day (HDT) with no oncogenic effects observed under the conditions of the study at dose levels up to and including 18 mg/kg/day (HDT) and a systemic NOEL greater than or equal to 18 mg/kg/day.

6. A teratology study in rats fed dosages of 0, 40, 100, and 250 mg/kg/day with no teratogenic effects occurring at 250 mg/kg/day (HDT) and a maternal NOEL of 40 mg/kg/day based on significantly decreased adrenal weight at 100 mg/kg/day.

7. A teratology study in rabbits fed dosages of 0, 40, 160, and 480 mg/kg/day with a teratogenic NOEL of 160 mg/kg/day based on an increased number of a variety of random effects including skeletal and visceral abnormalties, reduced fetal weight, and changes in male/female ratios, considered due to extreme toxicity in dams and a maternal NOEL of 160 mg/kg/day based on severe weight loss, deaths, abortions, and reduction in the number of litters and viable fetuses at 480 mg/kg/day (HDT).

8. Mutagenic studies including a host-mediated assay (mouse) with *S. typhimurium*, negative at 2.5 grams (g)/kg/day of chemical, and recombinant assay and forward mutations in *B. subtilis*, *E. coli*, and *S. typhimurium* (all negative at concentrations of the chemical up to 100 percent).

The acceptable daily intake (ADI), based on a 1-year feeding study in dogs (NOEL = 8.86 mg/kg bwt/day) and using a hundredfold safety factor is calculated to be 0.09 mg/kg/day. The theoretical maximum residue contribution (TMRC) for published tolerances is 0.19566 mg/kg/day. The current action will contribute 0.000293 mg/kg/day to the TMRC and will utilize 0.3 percent of the ADI. Published

tolerances utilize 21.7 percent of the ADI.

Data lacking are a repeat of a rat primary hepatocyte unscheduled DNA synthesis assay on a hydroxylated plant metabolite of the parent compound. The company has been notified of this deficiency and has agreed to repeat the study.

The pesticide is useful for the purposes for which these tolerances are sought. The nature of the residue is adequately understood for the purpose of establishing the tolerances. Adequate analytical methodology (gas chromatography using sulfur-specific flame photometric detection) is available for enforcement purposes. The method is listed in the *Pesticide Analytical Manual* (PAM II) as Method I. There are currently no actions pending against the registration of this chemical. Any secondary residues occurring in meat, milk, poultry, and eggs will be covered by existing tolerances on these commodities.

Based on the above information considered by the Agency, it is concluded that the tolerances established by amending 40 CFR Parts 180 and 186 will protect the public health. The tolerances are therefore established as set forth below.

Any person adversely affected by this regulation may, within 30 days after the date of publication in the **Federal Register**, file written objections with the Hearing Clerk (address above). Such objections should be submitted in quintuplicate and 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. A hearing will be granted if the objections are legally sufficient to justify the relief sought.

The Office of Management and Budget (OMB) has exempted this regulation from OMB requirements of Executive Order 12291 pursuant to section 8(b) of that Order.

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). (Sec. 408(b)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)).)

List of Subjects in 40 CFR Parts 180 and 186

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

Dated: August 16, 1989.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 180—[AMENDED]

1. In Part 180:

a. The authority citation for Part 180 is amended as follows:

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

b. In § 180.412(a), by adding and alphabetically inserting entries for the following raw agricultural commodities, to read as follows:

§ 180.412 2-[1-(Ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexene-1-one; tolerance for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Bulb vegetables	1.0
* * * * *	
Pome fruits	0.2
* * * * *	

PART 186—[AMENDED]

2. In part 186:

a. The authority citation for Part 186 continues to read as follows:

Authority: 21 U.S.C. 348.

b. In § 186.2300, by adding and alphabetically inserting in the list of commodities the following entry, to read as follows:

§ 186.2800 2-[1-(Ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexene-1-one.

* * * * *

Commodities	Parts per million
* * * * *	
Apple pomace, wet and dry	0.8
* * * * *	

[FR Doc. 89–20206 Filed 8–29–89; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 173

[Docket No. HM–201B; Amdt. No. 173–215]

RIN 2137–AB39

Shippers; Use of Tank Car Tanks with Localized Reductions in Shell Thickness

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule; Further extension of effective date.

SUMMARY: RSPA is further extending the effective date of a final rule published in the **Federal Register** (54 FR 8336) on February 28, 1989, under Docket No. HM–201B, Amendment No. 173–208, from September 1, 1989 to January 1, 1990. This action is necessary to allow RSPA and the Federal Railroad Administration (FRA) more time to review several petitions for reconsideration which were received in response to the final rule.

EFFECTIVE DATES: January 1, 1990. However, compliance with Amendment No. 173–208 is authorized as of March 30, 1989.

FOR FURTHER INFORMATION CONTACT: Marilyn E. Morris, Standards Division (DHM–10), Office of Hazardous Materials Transportation, RSPA, DOT, 400 7th Street SW., Washington, DC 20590, (202) 366–4488.

SUPPLEMENTARY INFORMATION: On February 28, 1989, RSPA published a final rule (Docket No. HM–201B; Amdt. No. 173–208; 54 FR 8336) concerning the use of tank cars which have localized reductions in shell thickness due to repairs. RSPA has received 13 petitions for reconsideration as a result of that final rule. This action, which extends the effective date of the final rule, is necessary because RSPA finds it impracticable to take action and respond to certain issues discussed in the petitions within the 90 day period mentioned in 49 CFR 106.37(b) or within the period of the earlier time extension of effective date, published in the May 15, 1989 **Federal Register** (Docket HM–201B; Amdt. 173–211; 54 FR 20856), which extended the effective date from June 1, 1989, to September 1, 1989.

The extension of the effective date of Amendment Nos. 173–208 to January 1, 1990, will allow additional time for RSPA and FRA to consider and review the technical data made available by the petitioners following publication of the

final rule on February 28, 1989, examine the issues raised in the petitions for reconsideration and to prepare an appropriate response. In the interim, voluntary compliance with provisions of the final rule is authorized.

Issued in Washington, DC on August 25, 1989, under authority delegated in 49 CFR part 1.

Douglas B. Ham,

Acting Administrator.

[FR Doc. 89-20428 Filed 8-29-89; 8:45 am]

BILLING CODE 4910-60-M

Federal Railroad Administration

49 CFR Part 219

[FRA Docket No. RSOR-6, Notice No. 23]

RIN 2130-AA43

Alcohol/Drug Regulations: Availability of Random Drug Testing Implementation Guidance

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of availability of guidance for submittal and implementation of random drug testing programs.

SUMMARY: FRA announces the availability of guidance for implementation of random drug testing requirements. The materials explain the criteria for review of random testing programs and include questions and answers relating to random testing. Individual copies are available on request from the Office of Safety, FRA.

ADDRESS: Office of Safety Enforcement (RRS-10), FRA, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Dr. Sam Holley, Alcohol & Drug Program Manager (RRS-10), Office of Safety Enforcement, FRA, Washington, DC 20590 (Telephone: (202) 366-0501).

SUPPLEMENTARY INFORMATION: On November 21, 1988, FRA published in the **Federal Register** a final rule (53 FR 47102) making certain amendments to its regulations on control of alcohol and drug use in railroad operations (49 CFR Part 219). The amendments included requirements that railroads submit and implement random drug testing programs. On May 23, 1989, FRA published in the **Federal Register** a revised compliance schedule for the new requirements (54 FR 22283). The requirements pertinent to random drug testing may be summarized as follows:

Class I Freight Railroads

Amtrak and commuter railroads:

Programs due	Oct. 2, 1989.
Begin random testing	Jan. 16, 1990.

Class II Railroads

Programs due	April 2, 1990.
Begin random testing	July 2, 1990.

Class III Railroads

Programs due	July 2, 1990.
Begin random testing	Nov. 1, 1990.

Since issuance of the random drug testing requirements, FRA staff has assisted the railroads in identifying issues through industry meetings, informal contacts and distribution of a working paper. This communication has helped FRA and the railroads identify a number of formal and practical issues that railroads will need to address in their programs. FRA has now prepared guidance for preparation of random testing programs consisting of criteria for approval of random testing programs (describing the regulatory criteria and information that should be included in each program) and a set of questions and answers representative of those that have arisen since issuance of the regulatory requirements. Individual copies are available without charge from the address set forth above. Requesters should refer to "Random Drug Testing Implementation Guidance."

Issued in Washington, DC on August 24, 1989.

Gilbert E. Carmichael,

Federal Railroad Administrator.

[FR Doc. 89-20541 Filed 8-28-89; 8:45 am]

BILLING CODE 4910-06-M

National Highway Traffic Safety Administration

49 CFR Part 580

RIN 2127-AC42

[Docket No. 87-09 Notice 10]

Odometer Disclosure Requirements

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

ACTION: Final rule.

SUMMARY: This final rule clarifies the responsibilities imposed on all parties in conjunction with the disclosure of odometer mileage information when transfering ownership of motor vehicles. It clarifies the definitions of transferor and transferee in situations where a person acts as an agent for the transferor or transferee. In addition, this rule requires a transferee to return to his transferor a signed copy of the odometer disclosure statement that he received from the transferor. This rule also provides that to be valid, title reassignment documents must be issued by a State. Finally, this rule expands the circumstances in which a secure power of attorney form issued by the State may be used to make the required odometer disclosure to include situations in which the title has been lost. The power of attorney would authorize the transferee to restate excactly the mileage on the title document on the transferor's behalf. When such vehicles are resold, this rule allows a transferee to use the same power of attorney form to authorize his transferor to sign the disclosure on the title document on behalf of the transfee.

DATES: The portion of § 580.4 concerning the power of attorney form, § 580.5(h), § 580.8(c) and §§ 580.13, 580.14, 580.15, and 580.16 are effective August 30, 1989. All other sections become effective September 29, 1989.

FOR FURTHER INFORMATION CONTACT: Mattie Cohan, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202-366-1834).

SUPPLEMENTARY INFORMATION:

Background

To implement the Truth in Mileage Act of 1986, Public Law 99-579, and to make some needed changes in the Federal odometer regulations, the National Highway Traffic Safety Administration (NHTSA) published a notice of proposed rulemaking (NPRM) on July 17, 1987. 52 FR 27022 (1987). The agency received numerous comments on the NPRM representing the opinions of new and used car dealers, auto auctions, leasing companies, State motor vehicle administrators, and enforcement and consumer protection agencies. Each of the comments was considered, and a final rule was published on August 5, 1988. 53 FR 29464 (1988).

The agency received seven petitions for reconsideration of the August 1988 final rule. These petitions requested that NHTSA reconsider the provisions of the final rule that: (1) Prohibit a person from signing the odometer disclosure statement as both the transferor and transferee in the same transaction; (2) define "transferor" and "transferee"; (3) define "secure printing process"; (4) concern the language included on the odometer disclosure statement; and (5) require dealers and distributors to retain, for five years, a fully completed and signed copy of every odometer disclosure statement, including the transferee's signature, that they issue and receive.

In response to the petitions for reconsideration, NHTSA published two notices in the Federal Register on March 8, 1989. In granting certain aspects of those petitions, NHTSA issued an NPRM, 54 FR 9858 (1989), that proposed to clarify the definitions "transferor" and "transferee," require the transferee to retrun a completed disclosure statement to his transferor, and require that, to be valid, title reassignment documents must be issued by a State. Other aspects of the petitions for reconsideration were denied. 54 FR 9816 (1989).

While the petitions for reconsideration were pending before the agency, Congress enacted the Pipeline Safety Reauthorization Act of 1988 (PSRA), Public Law 100-561 (October 31, 1988). Section 401 of the PSRA, which amends section 408(d)(1) of the Motor Vehicle Information and Cost Savings Act (MVICSA), 15 U.S.C. 1988(d)(1), authorizes the use of powers of attorney in connection with the required mileage disclosure under certain circumstances. The new law directs the agency to prescribe the form and content of the power of attorney/disclosure document and to establish reasonable conditions for its use by the transferor "consistent with this Act and the need to facilitate enforcement thereof." It also requires NHTSA's rule to provide for the retention of a copy of the power of attorney by the person exercising it and to ensure that the person granted the power of attorney completes the disclosure on the title consistent with the disclosure on the power of attorney form. Finally, the statute provides that the original power of attorney form must be submitted back to the state by the person exercising the power of attorney.

To implement these provisions, NHTSA issued an interim final rule/request for comments on March 8, 1989. 54 FR 9809 (1989). The interim final rule permits, in limited instances when the title is physically held by a lienholder, an individual to sign the odometer disclosure as both transferor and transferee through the use of a secure power of attorney form, issued by a State. When such vehicles are resold, the interim final rule allows a transferee to use the same power of attorney form to authorize his transferor to sign the disclosure on the title document on his behalf.

The March 1989 Notice of Proposed Rulemaking

Definitions

To clarify that the liability for issuing a false odometer disclosure statement could be placed on a person acting as an agent for the owner of the vehicle, in an NPRM, published on July 17, 1987, NHTSA proposed to amend the definition of "transferor" to include the agent of the transferor who transfers the ownership of another and the definition of "transferee" to include an agent of the transferee who accepts transfer of ownership in a motor vehicle. 52 FR 27023 (1987). The definitions were adopted as proposed. 53 FR 29464 (1988).

The National Auto Auction Association (NAAA) and the National Independent Automobile Dealers Association (NIADA) requested NHTSA to reconsider these definitions. NAAA and NIADA suggested that the definitions should be expressly limited to the principal or agent who signs the required disclosure on behalf of the owner. Because the suggestions of NAAA and NIADA were consistent with NHTSA's intention to clarify that the liability for issuing a false statement could be placed on the person acting as an agent for the owner of a vehicle, in the March 1989 NPRM we proposed to amend the portions of the definitions of transferor and transferee concerning the transferor's and transferee's agents. We proposed to define "transferor" to include the transferor's agent who signs any odometer disclosure statement on behalf of the transferor. Similarly, we proposed to define "transferee" to include the transferee's agent who signs any odometer disclosure statement on behalf of the transferee.

We have received four comments on the proposed changes to the definitions. The Delaware Department of Public Safety, Division of Motor Vehicles (Delaware), and the National Automobile Dealers Association (NADA) agree with the proposed definitions. The National Vehicle Leasing Association (NVLA) "urge(s) NHTSA to provide that only one transferor need provide an odometer disclosure statement to a transferee." Furthermore, NVLA requests that NHTSA amend the definitions to read "or" in lieu of "and" and to amend § 580.5(c), which requires "each" transferor to make a disclosure. The National Consumer Law Center (NCLC) recommends that the agency retain the definitions contained in the 1988 final rule. It believes that the proposed definitions create a "gaping loophole" and explains its position by reference to the following scenario:

> [A] manager of an incorporated dealership or auction engaged in making false disclosures need only have another employee such as an office clerk sign the disclosure statements to avoid liability. The manager could argue that he or she was not a transferor under the first part of the new definition because the manager had no "ownership." The manager would then argue that the second part of the definition also did not apply because while he or she was admittedly an agent and it had been proven that he or she was responsible for a false disclosure, the manager did not "sign" the disclosure statement.

Therefore, NCLC suggests that the definitions be amended to include any person who, as agent, "causes to be" made or signed an odometer disclosure statement.

To assist those involved in the transfers of vehicles to more fully understand the requirements of the law and the proposed definitions, in the preamble to the March 1989 NPRM, we addressed several different scenarios and explained which parties are transferors. As noted in the scenarios, the person who actually signs the disclosure statement may depend upon the relationship between the parties. It is not NHTSA's intention to require that the transferee receive multiple disclosure statements. Therefore, we have adopted NVLA's suggestion and amended § 580.5(c) to state that only one transferor need disclose the mileage to the transferee. However, we have not adopted NVLA's suggestion to amend the definitions to read in the disjunctive as opposed to the conjunctive. If more than one party is, in fact, the transferor, the relationship between the parties determines who issues the odometer disclosure statement.

We have not adopted the proposal of the NCLC. Sections 412 and 413 of the MVICSA, 15 U.S.C. 1990b and 1990c, include as persons covered by the requirements of that Act, a person who "causes to be done" any act. The manager who "caused" the other employee to sign the disclosure statement would be in violation of statute for causing the employee, as transferor or transferee, to violate another section of the MVICSA or NHTSA's regulations. Therefore, the regulatory definitions do not need to be expanded to protect against the scenario described by the NCLC, and the original purpose of the amended definition, to close "loopholes which have limited the Government's ability to prosecute certain violations of the odometer laws because of ambiguity in the definitions", 53 FR 29465 (1988), has been met.

Record Retention

In response to a petition for reconsideration of the August 1988 final rule submitted by the National Association of Fleet Administrators, Inc. (NAFA), in the March 1989 NPRM, we proposed to place a new requirement

upon a transferee. In addition to signing the disclosure and printing his or her name, the transferee would be required to return a copy of the signed odometer disclosure statement to his or her transferor. We anticipated that this provision would ensure that transferees who obtain the title from their long-distance transferors will return a copy of the completed disclosure statement to their transferors and that these long-distance transferors will thus be able to retain the signed odometer disclosure statement, as required by § 580.8(a).

Delaware, NADA, NAFA, and NVLA support this proposal. Because we received no comments in opposition to our proposal, it is adopted as proposed.

We note that, with regard to the transferee's obligation to return a completed odometer disclosure statement, NVLA also asserts that "it is vitally important that the regulation indicate that a transferor who has sent the odometer disclosure statement to the transferee, requested that the transferee sign the statement and return a copy to the transferor and informed the transferee of potential liability for failure to return the copy should be protected against having violated the regulation in the event that the transferee does not return the copy." Therefore, NLVA suggests that § 580.8, which concerns the dealers retention requirements, be amended.

NHTSA specifically considered and rejected a similar suggestion proposed by NAFA and the PHH Group, Inc. in their petitions for reconsideration of the August 1988 final rule. As noted in the preamble to the August 1988 final rule and the March 1989 NPRM which granted, in part, those petitions, we stated that pursuant to 15 U.S.C. 1990b, in exercising its enforcement discretion NHTSA must take into account the nature, circumstances, extent, and gravity of a violation and that we cannot provide a complete listing of the circumstances in which failure to retain the required documents will be excused. We continue to believe that it would be inappropriate to include, in the regulation, what constitutes a "good faith effort" to retain the completed odometer disclosure statement. NVLA requests that we do just that by adopting its suggestion and, therefore, its request is denied.

Security of Reassignment Documents

In the March 1989 NPRM, we proposed to amend § 580.4 concerning the security of reassignment documents. Specifically, we proposed to require that in addition to being set forth by a secure printing process, reassignment documents will not be valid unless they are issued by a State. Delaware and NADA support this proposal. The American Association of Motor Vehicle Administrators (AAMVA) states that this requirement is "consistent with the language of the 1988 amendment to the Truth in Mileage Act and NHTSA's final rule which requires that secure powers of attorney be issued by the jurisdictions." AAMVA notes that some States will phase out the use of separate reassignment forms and others may contract with third-party agents for printing, issuing, and controlling secure reassignment documents. No one has commented in opposition to the proposal, and it is adopted in this final rule.

Exemptions

After publication of the August 1988 final rule, NHTSA was asked whether the lessee of a vehicle having a gross vehicle weight rating (GVWR) of more than 16,000 pounds or of a vehicle that is ten years old or older must furnish to his lessor a written statement regarding the vehicle's mileage. Because the lessor, when transferring a vehicle with a GVWR of more than 16,000 pounds or a vehicle ten years old or older, is not required to give his transferee an odometer disclosure statement, we could see no reason to require a lessee of any of these types of vehicles, or of any vehicles that are not self-propelled, to give their lessor a written statement concerning the vehicle's mileage. Accordingly, NHTSA proposed to amend § 580.6 to exempt the lessees of certain vehicles from the odometer disclosure requirements of § 580.7. Likewise, NHTSA proposed to exempt the lessors of certain vehicles from the notification requirements of § 580.7. The agency received no comments on this proposal and, accordingly, it is adopted as proposed.

The March 1989 Interim Final Rule

Security of Powers of Attorney

The PSRA provides that "consistent with the purposes of this Act and the need to facilitate enforcement thereof," if a State permits their use, power of attorney forms shall be "set forth by means of a secure printing process (or other secure process)." To implement this requirement, the interim final rule revised § 580.4, which concerns the security of title documents and reassignment documents, to require power of attorney forms to meet the security critieria applicable to reassignment documents. The August 1988 Final Rule requires that reassignment documents be set forth by "a secure process," not necessarily the same secure process used to secure title documents. The Delaware DMV commented that secure forms will entail some costs to the States, but did not oppose the provision. This aspect of the interim final rule is retained in this final rule.

Signature of Same Person as Transferor and Transferee

Since the PSRA has the effect of allowing a person to sign an odometer disclosure statement on the title as both the transferor and transferee in specified cicumstances, the interim final rule amended § 580.5(h), which prohibited a person from signing an odometer disclosure statement as both the transferor and transferee in the same transaction. This amendment to § 580.5(h) permits a person to sign an odometer disclosure statement as both the transferor and transferee if the requirements of §§ 580.13 and 580.14, which NHTSA also added in the interim final rule, have been met. No commenters opposed this amendment and it is retained in the final rule.

Elements of the Power of Attorney Form

Under § 580.13 of the interim final rule, if permitted by State law, a transferor whose motor vehicle title document is physically held by a lienholder may give his transferee a power of attorney for the purpose of making the mileage disclosure on the title document. The power of attorney must be on part A of a secure form issued by a State and must contain a space for the transferor to disclose the mileage. The disclosure required to be made by the transferor to the transferee on the power of attorney form parallels the disclosure required to be made on the title by § 580.5. In addition, when such vehicles are resold, § 580.14 of the interim final rule provides that if State law permits, the subsequent purchaser may, on part B the same form, give his power of attorney to his transferor to acknowledge the transferor's mileage disclosure. The power of attorney must also contain a space in part B for the transferor to disclose the mileage. The disclosure required to be made by the transferor to the transferee on part B of the power of attorney form also parallels the disclosure requried to be made on the title by § 580.5.

Section 580.15 of the interim final rule provides that the power of attorney form must also contain a certification in part C of the form, to be completed by the person exercising the power of attorney, that he has reviewed the title and that no discrepancies exist. While the rule sets forth the information which must be

disclosed, and the form must be separated in to parts A, B and C, each State is free to organize, in each part, the information required by the rule in any way it wishes. While the language of the required certification has been clarified, these aspects of the interim final rule are otherwise retained in this final rule.

Submission of Power of Attorney Form to the State

The PSRA provides that the "original [of the power of attorney form shall] be submitted back to the State by the person granted such power of attorney." In conformity with this requirement, and to ensure appropriate enforcement of the odometer disclosure requirements, § 580.13(f) of the interim final rule required the transferee to submit the original power of attorney form to the State that issued it with an application for title and the transferor's title. In the preamble, NHTSA identified two ways in which this might be accomplished. The transferee could submit the power of attorney form after selling the vehicle, with the old title and his purchaser's title application, provided his purchaser (and the State) permits him to apply for title on behalf of the purchaser. Alternatively, the transferee could apply for title in his own name and submit the secure power of attorney form and his transferor's title with that application.

NHTSA received several comments in opposition to this provision of the rule. These comments assert that when the subsequent purchaser is another dealer, particularly an out-of-state wholesale dealer, under the law of most states, the initial dealer (transferee) would have to adopt the second alternative and retitle vehicles in his own name. This so-called "retitling requirement," it is argued, is a misinterpretation of the statute and will "disrupt existing commercial practices" of dealers, who would otherwise reassign the old title but will now have to apply for a title themselves, and for the States, who will have to process increased numbers of title applications.

NHTSA agrees that some dealers will have to retitle in their own names, although NHTSA disagrees that it has misinterpreted the statute to "require" retitling. Rather, given our experience with State titling procedures, these appear to be the only viable methods to preserve the integrity of the paper trail and conform to the requirements of the statute.

Moreover, we do not agree that any retitling that becomes necessary will present a significant burden to dealers or to States. First, a majority of all vehicles taken in trade will not have to be retitled in the dealer's name. Second, and perhaps more important, retitling will not prevent cars from being promptly resold. In a majority of states, a vehicle may be sold without the title being present. Thus, standard commercial practice in many places has traditionally been for vehicles to be sold without the title present and for the title to "catch up" with the vehicle at a later point. Any retitling necessitated by this rule will not disturb this practice. The only difference is that the "new" title will be reassigned instead of the "old" title. At most it will add a small amount of time required for the title to "catch up" with the vehicle because dealers can often secure titles to vehicles in their own names within a day or two through existing dealer retitling arrangements with State departments of motor vehicles.

Even in the States that do require the title to be present before sale, retitling should not cause significant disruption of existing practices because dealers must already wait for the title to arrive from the lienholder, or for reissued titles to be sent from the State before they can resell vehicles. Any retitling in the dealer's name will only extend briefly the period the dealer must wait before he can resell. Thus, although there will be some retitling costs and some costs associated with delay, these costs will not be unduly burdensome. Further, in most instances, retitling will not interfere with the standard flow of commerce because vehicles will continue to be sold pending arrival of the title, as they have been in the past.

Commenters have suggested alternatives to the ones we have presented. However, these cannot be adopted because they would be inconsistent with the statute. For example, NIADA, NADA and the Iowa Department of Transportation each proposed that the dealer granted power of attorney not be required to submit the original power of attorney form back to the issuing State. They suggested that the dealer should, instead, be allowed to reassign title and the dealer/person next applying for title should be allowed to submit the form back to the issuing State. This proposal cannot be adopted because the PSRA clearly requires "the *original* [secure power of attorney form] to be submitted back to the State *by the person granted such power of attorney.*" (Emphasis added.)

Alternatively, NADA has suggested allowing the original power of attorney to be submitted with the application for title in the new titling State, whether or not that State was the issuing State. Under such an arrangement, NADA suggests that the persons granted the power of attorney could attach the original power of attorney to the old title and note or stamp "POA" in the reassignment block. There are several problems with this alternative. First, to do so would be in contravention of the statute. Not only would the dealer who exercised the power of attorney not be returning the form, but the form would not be going "back" to the issuing State. NADA has attempted to read the statute to allow for the return of the form to any State. However, we do not believe that the statutory language requiring the secure power of attorney form be issued by "the State" and "submitted back to the State" is susceptible of that interpretation. Rather, it is clear that Congress intended the secure power of attorney form to be returned to the same State that issued it by the person who was granted and exercised the power of attorney.

Moreover, submission of the power of attorney form to a State other than the one that had issued it would jeopardize the integrity of the paper trail. In contrast to the issuing State, another State would be less familiar with the forms, and therefore less likely to detect improperly completed or fraudulently submitted forms. Although certain information must be disclosed, and the power of attorney form must be organized into parts A, B, and C, each State is free to organize, in each part, the information required by the rule in any way it wishes. States may also add information or incorporate other things into the power of attorney forms. Allowing a State to receive another State's power of attorney forms would also interfere with the issuing State's ability to control the forms because the issuing State would not know whether, or to where, its forms were being returned.

It has also been suggested that the dealer be allowd to file the power of attorney form with the issuing State, either absent any other documentation or with a copy of the reassigned title that has been passed to a buyer. If the person granted power of attorney were not required to submit the power of attorney to the State with the application for title and the transferor's title, enforcement of the anti-fraud provisions of the law would be hampered. First, the integrity of the paper trail would be at risk because subsequent transferors could discard the power of attorney, forge a new one, and alter the mileage on the title. (We recognize that even with securely printed titles, some alterations have been, and may continue to be, undetected upon initial review by State Departments of Motor Vehicles.)

Additionally, the paper trail would be jeopardized if the person granted the power of attorney submitted only the power of attorney form and no title documents, particularly if the vehicle were sold to an out-of-state buyer. The title would be in one State and the power of attorney form in another; they could not easily be compared. This would create problems similar to those experienced with the current use of separate odometer statements.

Allowing the power of attorney form to be filed with the issuing State separately, even along with a copy of the reassigned original title, would also make retention of the form less likely. The States currently retain copies of all title applications and accompanying materials. Separately submitted documents are frequently disposed of by the States. Thus, if the power of attorney form is part of a title application package, a copy of the form, independent of the dealer and customer copies, will exist. Having this independent source of documentation will aid in enforcement, for although a dealer would face penalties for failure to retain the secure power of attorney form as required by § 580.8, an unscrupulous dealer might choose to face that penalty rather than risk retaining damaging paperwork. The State's records would provide the evidence to catch such an unscrupulous dealer. Further rulemaking on this issue might be appropriate if, in the future, it is determined that the States had adopted adequate methods to retain power of attorney forms submitted without title applications.

NADA has also suggested that "NHTSA also may want to consider a requirement that states which receive out-of-state power of attorney forms as part of title applications either return those forms to the states of issuance or, more reasonably, make copies available to the states of issuance upon request." This suggestion suffers from the same drawbacks as the other suggestions discussed above. First, any arrangement in which the power of attorney form is submitted to any State other than the issuing state, or is submitted to the issuing state by someone other than the person who exercised the power of attorney is inconsistent with the PSRA. Second, under this proposed arrangement, the record retention problem would continue to exist because the issuing state would be receiving the power of attorney form separately from any application for title. As discussed above, this represents an unjustified risk to enforcement.

Availability of Secure Powers of Attorney

Although the PSRA explicitly authorizes the use of powers of attorney to disclose odometer information only when the title is "physically held by a lienholder," during the floor debate in the House of Representatives, Rep. Dingell stated that he expected NHTSA to examine other situations in which the use of a power of attorney to disclose odometer information might be appropriate. *See* 134 Cong. Rec. H10080 (daily ed. Oct. 12, 1988). In response to this direction, NHTSA has considered other such instances. To facilitate commercial practices in situations where a power of attorney was used at the time the vehicle was sold to the dealer, the interim final rule authorized use of the same power of attorney form for the dealer's sale of the vehicle. Thus, § 580.14 permits, if allowed by State law, a transferee under these circumstances to give his power of attorney to his transferor (i.e., the dealer) for the purpose of reviewing title documents and any reassignment documents to determine whether there are any mileage discrepancies and, if there are no mileage discrepancies, to sign the title, acknowledging the disclosure. This power of attorney must include a disclosure from the transferor to the transferee that parallels the disclosure required to be made by the transferor to the transferee on the title document. In addition, the appointment of the transferor as the transferee's attorney-in-fact must be made on part B of the same secure power of attorney form, issued by the State, upon which the transferor was appointed the attorney-in-fact by his transferor pursuant to § 580.13. This enables purchasers to examine the previously issued power of attorney for mileage disclosure alterations, erasures or other marks, and to learn the name of the prior owner without the additional cost of a title search.

NADA and NIADA submitted comments (supported also by NAAA) criticizing the fact that the interim final rule does not allow for the use of secure powers of attorney in situations where the customer's title is not present because the customer has lost or misplaced the title. NADA and NIADA contend that this aspect of the interim final rule will cause a disruption to standard business practices because the title replacement process takes too long. When the title is replaced, it is usually mailed to the dealer, thereby requiring a return trip by the customer to make the disclosure. Moreover, even if the replacement title is mailed to the previous owner, after making the disclosure, he or she will either have to return to the dealer or send the title back to the dealer by mail. Further, NADA and NIADA maintain that the legislative history of the PSRA demonstrates Congress' intention that the use of secure powers of attorney be extended to cover lost title situations.

We do not agree that it was Congress' manifest intent that secure powers of attorney be available in lost title situations. Nevertheless, we have determined that the security of the power of attorney forms, combined with the control that the States plan to exercise over the forms, will serve to counteract the increased opportunity for fraud that will arise from allowing the use of powers of attorney in lost title situations. We are, therefore, adopting NADA's and NIADA's suggestion. This final rule allows, if State law permits, a secure power of attorney to be used for the purpose of odometer disclosure where the title is not present because it has been lost by the person to whom it was issued by the State. In order for a power of attorney to be used in the lost title situation, the transferee (i.e., the dealer) must apply for the duplicate title on behalf of the transferor. Under these conditions, the powers of attorney will be available to facilitate consumer vehicle sales transactions, but will not be available in other than consumer sales transactions where the risk of fraud is considerably greater. If experience demonstrates that this use of powers of attorney does lead to additional odometer fraud, we may decide to revise this expansion of authority.

NVLA submitted comments regarding another aspect of the limited availability of secure powers of attorney. NVLA expressed concern that, as written, the regulation prevents leasing companies, acting as transferors, from using powers of attorney to acknowledge for their purchasers the mileage disclosures they make, even when the leasing companies titles are held by their lienholders. The inability to use a power of attorney in this situation, NVLA argues, presents a problem because the "buyer may live a great distance from the lessor's place of business" and that the buyer would face a "significant hardship" in appearing to sign the lessor's disclosure on the title.

NVLA suggests that the rule be amended to permit the use of a secure power of attorney whenever the title is held by "a lienholder", rather than by the transferor's lienholder. Second, NVLA suggests allowing part B of the secure power of attorney form to be used, without the completion of part A.

Under this proposal, part A would contain only the vehicle information when the form is used for the part B power of attorney only. Finally, NVLA suggests requiring the secure power of attorney form for which part A is not completed be returned to the State with an applciation for title. These suggestions are not adopted. NVLA seems to misapprehend the intended use of secure powers of attorney under the rule. Further, the "solution" suggested by NVLA would not appear to remedy the perceived problem.

Use of a secure power of attorney was never intended in the situation where a leasing company (or other business) is seeking to sell a vehicle it owns; neither is such use necessary. The availability of a secure power of attorney is intended to facilitate consumer vehicle transactions. Often the consumer car owner is unable to present his title at the time of the sale of the vehicle because the title is held by the consumer's lienholder and the consumer cannot satisfy the lien by himself; the power of attorney arrangement enables the consumer to sell the vehicle to the dealer, who can pay off the lien, and allows the dealer to complete the required odometer disclosure on the title when the title arrives without bringing the consumer back into the transaction either through use of the mails or by having the consumer return to the dealership in person. The legislative history of the Pipeline Safety Reauthorization Act reinforces this intention: "The amendment * * * specifically refers to situations where a vehicle's title, because of financing, is held by a lienholder, such as a bank, and not the consumer. In such cases, the consumer cannot fill the mileage because he or she does not physically hold the title." (Remarks of Rep. Dingell, 134 Cong. Rec. H10079 (daily ed. Oct. 12, 1988)).

In the case of a leasing company, the leasing company would itself be paying off the lien, not the buyer. Thus, even if the title was not present at the time of sale, after the leasing company received the title from its lienholder, the company could make the disclosure, mail it to the buyer, have the buyer sign it and mail a copy back to the leasing company. Thus, no power of attorney is necessary.

Although nowhere explicitly stating so, NVLA seems concerned about the mailing of required paperwork. With the establishment in this final rule of penalties of the transferee's failure to return required paperwork, this concern should be ameliorated. Moreover, any problem presented by mailing titles would also occur when mailing the secure power of attorney form. Even under NVLA's proposal, in order for the buyer to see the leasing company's disclosure on the secure power of attorney form and to sign the power of attorney, either the buyer would have to appear at the lessor's place of business or the lessor would have to mail the form to the buyer and rely on the buyer to complete his portion of the form and mail it back. NVLA does not explain how this situation differs from having the buyer appear to sign the title, or mailing the title to the buyer, nor how the use of a power of attorney would be less burdensome. Moreover, even if NHTSA were to allow the use of secure powers of attorney where the leasing company's title was held by its lienholder, the "problem" NVLA complains of would still exist where the title was not being held by a lienholder, but by the leasing company itself. NVLA does not suggest that the use of a secure power of attorney be allowed where the leasing company already has the title to the vehicle it is selling.

In addition, NHTSA is concerned about the increased risk to enforcement resulting from extending the availability of powers of attorney to transactions like the ones outlined by NVLA. Any use of a power of attorney increases the possibility of fraud and entails some additional risk to enforcement efforts. NHTSA does not believe that the increased possibility for fraud is warranted in this situation, particularly because the use of a power of attorney in this situation would not significantly facilitate transactions that are otherwise impeded.

The Certification Requirement

To ensure that a person who exercises a power of attorney, whether under § 580.13 or both §§ 580.13 and 380.14, is fully aware of his obligations and his liability for any action that is inconsistent with the power of attorney, the interim final rule required, under § 580.15, that the person exercising the power of attorney complete, on part C of the secure power of attorney form issued by the State, a certification that he has "reviewed the title and any reassignment documents for mileage discrepancies and that no discrepancies exist." Pursuant to § 580.15(b), any mileage discrepancies would void the power of attorney.

NADA and NIADA have both objected to this certification requirement. Both groups have asserted that the requirement is neither required nor intended under the statute, and that NHTSA was, therefore, without authority to institute it. We disagree. Section 401 of the PSRA directs NHTSA to impose by rule "reasonable conditions" on the use of powers of attorney. Moreover, the statute provides that NHTSA's rules must be "consistent with the purposes of [the Cost Savings] Act and the need to facilitate enforcement thereof." The Truth in Mileage Act requries that the odometer disclosure appear on the title to enable consumers to see these disclosures on titles and the chain of ownership of the vehicle. The use of a power of attorney, although commercially useful, interferes with that aspect of the Truth in Mileage Act because, when using the secure power of attorney form, the dealer is the only person who actually gets to see the title. The certification requirement will facilitate enforcement, without imposing a significant burden on dealers, and is appropriate to carry out Congress' intention to protect the interests of consumers in connection with motor vehicle sales transactions.

Substantively, NADA's comments reflect a concern, shared by NIADA that "the certification provision * * * appears to impose a wholly new responsibility, that is, to review and attest to the validity of prior disclosures." It has never been NHTSA's intent that this certification requirement place new liabilities on dealers. Further, the dealers are not expected to verify or attest to the validity of prior disclosures. Rather, under the certification requirement, dealers must check the title and compare the disclosure on the power of attorney against the mileage on the title for discrepancies between the disclosures.

NADA points out that current common law and statutory duties already require the dealer to act in a lawful manner and that accepting and/or submitting to the State paperwork that contained discrepancies would currently subject the dealer to liability under the MVICSA and many State laws. We agree. The certification requirement is not intended to create liabilities beyond those already existing, but rather to discourage the dealer from passing on to his buyer a false disclosure received from his transferor on the secure power of attorney form, by encouraging the dealer to "look twice" before acting.

Upon reflection, we have concluded that the current language in part C of the power of attorney form requiring the dealer to certify that "there are no indications of mileage discrepancies" may not have clearly reflected our intent. Accordingly, we have decided to adopt, with minor modification, a proposal submitted by NADA and NIADA in their June 14, 1989,

supplemental comments to change the language of the certification. This final rule amends § 580.15 to provide that a person who exercises a power of attorney under §§ 580.13 and 580.14 must complete a certification that he has disclosed the mileage on the title document consistent with the mileage disclosed to him on the power of attorney form and that he has examined the title and the mileage disclosure made on the title pursuant to the power of attorney is greater than the mileage previously stated on the title.

The certification we are requiring differs from the NADA/NIADA proposal in three minor respects. First, consistent with the terms of existing § 580.15 and the purposes of the certification requirement, part C will provide that the dealer has reviewed any reassignment documents that are attached to the title as well as the title itself. Second, we are requiring that the person exercising the power of attorney certify that the mileage he enters on the title "is higher" than the mileage already appearing on the title, rather than, as was proposed, "appears higher." The number entered on the title either will or will not be higher than the mileage disclosed on the power of attorney form; thus, "appears" is not appropriate. Finally, we are requiring the person exercising the power of attorney to make his certification "upon examination" of the title, rather than "upon normal visual examination." We consider the term "examination" in this context to be self-defining. Moreover, the term "normal" is vague and its use would only likely cause confusion among dealers as to what constitutes a "normal" examination.

We are aware that at least one State has begun printing secure power of attorney forms with a part C that contains the language of the certification required under the interim final rule. Since we view the amendments to part C made in this final rule as a clarification of our prior rule, rather than a substantive change, in order to avoid hardship to that State, and any others that may have already invested in secure power of attorney forms, NHTSA will construe the certification on those forms as carrying the same meaning as if they were worded as required under this final rule. However, to avoid any possible confusion, we urge those States to switch to the current language as soon as possible.

It has been suggested that the certification requirement is most fitting to the "second sale" situation where the subsequent purchaser's only link to the title will be the dealer. We think there is merit to this argument. Thus, in this final rule, we are amending § 580.15 to provide that the certification requirement will apply only when the dealer is exercising a power of attorney for both the "first sale" and "second sale" customers, as provided for in §§ 580.13 and 580.14. If the title is present at the time of the second sale, the purchaser will be able to review the title himself to assure that the mileage is entered in accordance with the initial transferor's power of attorney and is higher than the mileage appearing on the title and reassignment documents. (As a practical matter, the mileage entered by the dealer could never be lower than the mileage already on the title, since if the power of attorney set forth a lower mileage, it would void the power of attorney, and the dealer would not be authorized to sign the disclosure on behalf of the transferor.)

Section 580.15(b) of the interim final rule provides that any mileage discrepancies void the power of attorney. NADA and NIADA have suggested that "mistakes by a grantee" should not void the power of attorney. However, we continue to believe that this provision is vital; if the mileage appearing on the title (or reassignment documents) is greater than the mileage disclosed by the first sale transferor on the power of attorney form, or if the title disclosure does not exactly match the disclosure on the power of attorney, the power of attorney should not be used to pass on inaccurate information. It is immaterial whether the discrepancy occurs through design or mistake, or whether it is caused by the grantor, grantee, or someone else. The power of attorney is voided by the existence of a discrepancy, not by an action causing a discrepancy. For these reasons, the suggestion that grantee mistakes should not void the power of attorney is rejected.

Transferee Access to Previous Title and Power of Attorney Documents

Under § 580.14(h) of the interim final rule, if the transferee who is granted a power of attorney from his transferor applies for title in his own name, the transferee must show his purchaser, upon his purchaser's request, a copy of the previous owner's title, including the odometer disclosure completed on behalf of the previous owner, and a copy of the power of attorney form completed by the previous owner. Similarly, under § 580.14(g) of the interim final rule, if a second-sale purchaser decides not to appoint his transferor (i.e., the dealer) as his attorney-in-fact pursuant to § 580.14, the transferor must show his purchaser a copy of the previous owner's title and a copy of the power of attorney form completed by the previous owner. No one commented in opposition to these provisions and they are retained in the final rule. However, for organizational clarity, these provisions have been separated out of § 580.14, and appear, renumbered, as new §§ 580.16(a) and 580.16(b).

Record Retention

Section 401 of the PSRA requires NHTSA's rules to provide for the retention of the power of attorney form. The interim final rule amended § 580.8, which concerns odometer disclosure statement retention, by adding a new paragraph (c). Under this paragraph, motor vehicle dealers and distributors who are assigned a power of attorney by their transferors are required to retain, for five years, a photostat, carbon, or other facsimile copy of each power of attorney they receive. These documents must be retained at the primary place of business of the dealer or distributor in an order that is appropriate with business requirements and that permits systematic retrieval. This paragraph is consistent with the retention requirements of the August 1988 final rule that is applicable to dealers, distributors, and lessors. Like the August rule, the storage provision of this amendment is phrased broadly to include any media by which information may be stored, provided there is no loss of information. No one has commented in opposition to this retention requirement, and it is retained unchanged in this final rule.

Miscellaneous Matters

In addition to the matters discussed above, some minor changes to the language of §§ 580.13, 580.14, and 580.15 have been made. The purpose of these changes is merely to simplify or clarify the text of the rule. No alterations of rights or duties, except to the extent already discussed above, are intended.

AAMVA asked NHTSA to provide clarification on the use of secure powers of attorney in two situations. The first question presented is whether or not the power of attorney provisions apply to the practice of "floor planning." ("Floor planning" is a practice by which a financial institution will physically hold a title as security for financing, without formally filing or recording a security interest, on a vehicle offered for sale by a dealer.) This "floor planning" arrangement does not qualify for use of the power of attorney. The PSRA allows for the use of a secure power of attorney in cases where "a transferor to whom

title to a motor vehicle has been issued by a State" does not have the title because the title is being physically held by the lienholder. Thus, because the dealer is not the person to whom the title was issued by the State, the dealer may not use a power of attorney form for purposes of mileage disclosure under these circumstances. Moreover, even in situations in which a dealer has retitled a vehicle in his own name prior to surrendering the title under a "floor planning" arrangement use of a power of attorney is not available, because the financial institution is not considered a lienholder because no formal lien has been filed and recorded with the State. Because NHTSA believes that the statutory language clearly enough settles this matter, adding qualifying language on "floor planning" to the final rule, as AAMVA has suggested, is not considered appropriate.

The second situation about which AAMVA is seeking clarification is where the lending institution that financed the vehicle's purchase is located in a state that requires the lienholder to hold the title as security, but the vehicle is registered in a different state, which allows the owner, rather than the lienholder to hold the title. Under the PSRA, the availability of secure powers of attorney is always subject to State permission. States that choose to make secure powers of attorney available for transactions in which a consumer's title is unavailable because it is held by an out-of-state lienholder may do so. In States that choose not to allow the use of a secure power of attorney, in some or all circumstances, a transferor not in possession of his or her title at the time of sale will have to return to the dealership to sign the title when it is received, or else complete the transaction by mail.

NAAA submitted comments concerning the implications of the general prohibition on the same person signing as transferor and transferee in the same transaction for auto auctions in so-called "chain-of-title" states. In most states, auto auctions are brokers between buyers and sellers, facilitating sales between interested parties. As part of the service auctions provide, many auctions regularly act as agents under a power of attorney for their sellers to complete the necessary paperwork accompanying the sale, including making the required odometer disclosure. In Arizona, California and Colorado, however, auctions have been required by law to appear in the "chain of title." In these states, NAAA notes, "auctions simultaneously take a reassignment from the seller and give a reassignment to the buyer", thereby appearing, however briefly, to own the vehicle. Hence, under the rule, in these states the seller must disclose the mileage to the auction and the auction must execute a separate disclosure to the buyer. Furthermore, the auction is prevented under § 580.8(h) from using the seller's power of attorney to make the disclosure for the seller to the auction and then signing the disclosure as transferee.

The NAAA has appealed to NHTSA to amend § 580.6 to include an exemption from the disclosure requirement for auctions which are required by State law to take reassignment from the seller and give it to the buyer, provided that the selling customer makes a disclosure to the buyer, who acknowledges it as required. NHTSA declines to adopt the suggestion of the NAAA. We understand NAAA's concerns; however, we consider the problem faced by auctions in the "chain-of-title" States essentially one to be worked out by those States and the affected auctions. We are concerned that a proliferation of exemptions to the regulatory requirements will inhibit enforcement of the statute. Therefore, NHTSA considers the creation of another category of exempted transferors inappropriate.

Finally, the Florida DMV expressed concern that the sample secure power of attorney form appearing at appendix E of the interim final rule does not empower the attorney-in-fact to actually transfer ownership of the vehicle, and that another form will be required. The sample form at appendix E represents only the minimum acceptable elements of a power of attorney for the purpose of mileage disclosure. Nothing in the interim final rule, or this final rule, prevents a State from including a space on the power of attorney form for a grant of power of attorney for the purpose of transferring title.

Federalism Assessment

In adopting the PSRA, Congress apparently found that limiting the use of powers of attorney in connection with mileage disclosure could cause an undue burden on dealers and consumers. To resolve the problem and alleviate the potential costs for dealers and consumers, the new law specifies that power of attorney may be used in certain circumstances, if otherwise permitted by State law. This final rule does not impose any requirements upon the States other than those imposed by the law. Nevertheless, this action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The States may decide not to allow the use of powers of attorney in connection with mileage disclosure and, therefore, would not be required to print conforming forms. Those States that choose to allow the use of powers of attorney will incur some costs from processing applications, maintaining records and issuing new titles resulting from the requirement that the power of attorney form be returned to the State along with a title application. However, as the States may decide not to allow the use of powers of attorney in connection with mileage disclosure, they would not be required to incur these costs. Additionally, while it is estimated that the final rule would result in additional costs to the States for printing secure title reassignment documents and power of attorney forms, the cost to each State is minimal and could easily be recouped from those who are applying for the forms.

Effective Date

Under section 553(d) of the Administrative Procedures Act, 5 U.S.C. 553(d), a substantive rule may become effective before thirty days after its publication where it relieves a restriction, or as otherwise provided for by the agency for good cause. The sections that are immediately effective are those dealing with powers of attorney. These sections, although subject to the alterations discussed herein, were already effective. Moreover, the substantive changes relieve restrictions on the use of powers of attorney and, therefore, may be made effective upon publication.

Regulatory Impacts

A. Costs and Benefits to Dealers, States, and Consumers

When it issued the interim final rule, NHTSA determined that it is neither "major" within the meaning of Executive Order 12291, nor "significant" within the Department of Transportation regulatory policies and procedures. The changes made in the interim final rule do not modify that determination. Similarly, we find that this rule is not significant. A preliminary regulatory evaluation of the impacts of the interim final rule was prepared and placed in Docket 87-09 Notice 9 at that time. A final regulatory evaluation of the impacts of this final rule has also been prepared and placed in the docket. Any interested person

may obtain a copy of these regulatory evaluations by writing to the NHTSA Docket Section, 400 Seventh Street SW., Washington, DC 20590, or by calling the Docket Section at (202) 366–4949.

The August 1988 final rule requires that reassignments be securely printed or otherwise set forth by a secure process. This rule merely requires that these documents be issued by a State. NHTSA estimates the cost of producing secure reassignments to be $1,730,000 to States, dealers, and distributors. NHTSA estimates the costs of controlling reassignment forms to be $1,500,000 to the States. In addition, NHTSA estimates the costs of copying and mailing titles containing the odometer disclosure to be $900,000. With regard to secure powers of attorney, if all States choose to adopt secure powers of attorney systems, they would incur estimated initial development costs totalling $8,700,000 and estimated recurring annual costs of $6,900,000. The net costs to dealers are estimated to be between $7,800,000 and $12,400,000. Although NHTSA estimates that dealers and States will incur higher costs under this final rule than under the interim final rule, NHTSA also estimates that this final rule will result in greater costs savings for consumers than would have been achieved under the interim final rule.

B. Small Business Impacts

The agency has also considered the impacts of this rule in relation to the Regulatory Flexibility Act. I certify that this rule will not have a significant economic impact on a substantial number of small entities. Small businesses (dealers) will need to spend the same time executing each form as large businesses (dealers). It is not possible to minimize this burden. However, since these small entities will make fewer sales than large businesses, they will spend less time on these forms. Furthermore, while the States may charge dealers for these secure power of attorney forms, the estimated cost of these documents is minimal. Accordingly, no regulatory flexibility analysis has been prepared.

C. Environmental Impacts

NHTSA has considered the environmental implications of this rule, in accordance with the National Environmental Policy Act, and determined that it will not significantly affect the human environment. Accordingly, an environmental impact statement has not been prepared.

D. Paperwork Reduction Act

The Office of Management and Budget (OMB) approved NHTSA's information collection requirements associated with the August 1988 rule that require consumers, dealers, distributors, lessors, and auction companies to disclose and/or retain odometer disclosure information. (OMB #2127–0047). The interim final rule expanded the scope of those information collection requirements, as that term is defined by OMB in 5 CFR part 1520, to include transferors who authorize their transferees to exactly restate the mileage disclosure on the title as they have disclosed it on a power of attorney form issued by the State. It also expanded the scope of the requirements to include transferees who use a secure power of attorney to authorize their transferors to review the title for discrepancies and acknowledge mileage disclosures on their behalf. Finally, the interim final rule expanded the scope of the information collection requirements to include dealers and distributors who retain a copy of the secure power of attorney form. NHTSA submitted the interim final rule to OMB for approval. However, while that approval was pending, NHTSA became aware that there were errors in that submission, as well as in the prior, approved submission. Therefore, NHTSA has submitted a revision to correct these errors. Finally, this rule has been submitted to OMB for its approval pursuant to the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* Comments on the information collection requirements associated with this final rule should be submitted to Office of Management and Budget, Office of Regulatory Affairs, Washington, DC 20503, Attention: Desk Officer for NHTSA. It is requested that comments sent to OMB also be sent to the NHTSA rulemaking docket for this final rule.

In consideration of the foregoing, 49 CFR part 580 is amended as follows:

PART 580—[AMENDED]

1. The authority citation for part 580 continues to read as follows:

Authority: 15 U.S.C. 1988; delegations of authority at 49 CFR 1.50(f) and 501.8(e)(1).

2. In § 580.3, the definitions of "transferor" and "transferee" are revised to read as follows:

§ 580.3 Definitions.

* * * * *

Transferee means any person to whom ownership of a motor vehicle is transferred, by purchase, gift, or any means other than by the creation of a security interest, and any person who, as agent, signs an odometer disclosure statement for the transferee.

Transferor means any person who transfers his ownership of a motor vehicle by sale, gift, or any means other than by the creation of a security interest, and any person who, as agent, signs an odometer disclosure statement for the transferor.

3. Section 580.4 is revised to read as follows:

§ 580.4 Security of title documents and power of attorney forms.

Each title shall be set forth by means of a secure printing process or other secure process. In addition, power of attorney forms issued pursuant to §§ 580.13 and 580.14 and documents which are used to reassign the title shall be issued by the State and shall be set forth by a secure process.

4. Section 580.5 is amended by revising paragraphs (c), (f) and (h) to read as follows:

§ 580.5 Disclosure of odometer information.

* * * * *

(c) In connection with the transfer of ownership of a motor vehicle, each transferor shall disclose the mileage to the transferee in writing on the title or on the document being used to reassign the title. This written disclosure must be signed by the transferor, including the printed name. In connection with the transfer of ownership of a motor vehicle in which more than one person is a transferor, only one transferor need sign the written disclosure. In addition to the signature and printed name of the transferor, the written disclosure must contain the following information:

(1) The odometer reading at the time of transfer (not to include tenths of miles);

(2) The date of transfer;

(3) The transferor's name and current address;

(4) The transferee's name and current address; and

(5) The identity of the vehicle, including its make, model, year, and body type, and its vehicle identification number.

* * * * *

(f) The transferee shall sign the disclosure statement, print his name, and return a copy to his transferor.

* * * * *

(h) No person shall sign an odometer disclosure statement as both the transferor and transferee in the same transaction, unless permitted by §§ 580.13 or 580.14.

5. Section 580.6 is amended by revising the introductory text and paragraph (a) and by adding a paragraph (c) to read as follows:

§ 580.6 Exemptions.

Notwithstanding the requirements of §§ 580.5 and 580.7:

(a) A transferor or a lessee of any of the following motor vehicles need not disclose the vehicle's odometer mileage:

(1) A vehicle having a Gross Vehicle Weight Rating, as defined in § 571.3 of this title, of more than 16,000 pounds;

(2) A vehicle that is not self-propelled;

(3) A vehicle that is ten years old or older; or

(4) A vehicle sold directly by the manufacturer to any agency of the United States in conformity with contractual specifications.

* * * * *

(c) A lessor of any of the vehicles listed in paragraph (a) of this section need not notify the lessee of any of these vehicles of the disclosure requirements of § 580.7.

6. Section 580.8 is amended by revising paragraph (c) to read as follows:

§ 580.8 Odometer disclosure statement retention.

* * * * *

(c) Dealers and distributors of motor vehicles who are granted a power of attorney by their transferor pursuant to § 580.13, or by their transferee pursuant to § 580.14, shall retain for five years a photostat, carbon, or other facsimile copy of each power of attorney that they receive. They shall retain all powers of attorney at their primary place of business in an order that is appropriate to business requirements and that permits systematic retrieval.

7. Section 580.13 is revised to read as follows:

§ 580.13 Disclosure of odometer information by power of attorney.

(a) If the transferor's title is physically held by a lienholder, or if the transferor to whom the title was issued by the State has lost his title and the transferee obtains a duplicate title on behalf of the transferor, and if otherwise permitted by State law, the transferor may give a power of attorney to his transferee for the purpose of mileage disclosure. The power of attorney shall be on a form issued by the State to the transferee that is set forth by means of a secure printing process or other secure process, and shall contain, in part A, a space for the information required to be disclosed under paragraphs (b), (c), (d), and (e) of this section. If a State permits the use of a power of attorney in the situation described in § 580.14(a), the form must also contain, in part B, a space for the information required to be disclosed under § 580.14, and, in part C, a space for the certification required to be made under § 580.15.

(b) In connection with the transfer of ownership of a motor vehicle, each transferor to whom a title was issued by the State whose title is physically held by a lienholder or whose title has been lost, and who elects to give his transferee a power of attorney for the purpose of mileage disclosure, must appoint the transferee his attorney-in-fact for the purpose of mileage disclosure and disclose the mileage on the power of attorney form issued by the State. This written disclosure must be signed by the transferor, including the printed name, and contain the following information:

(1) The odometer reading at the time of transfer (not to include tenths of miles);

(2) The date of transfer;

(3) The transferor's name and current address;

(4) The transferee's name and current address; and

(5) The identity of the vehicle, including its make, model year, body type and vehicle identification number.

(c) In addition to the information provided under paragraph (b) of this section, the power of attorney form shall refer to the Federal odometer law and state that providing false information or the failure of the person granted the power of attorney to submit the form to the State may result in fines and/or imprisonment. Reference may also be made to applicable State law.

(d) In addition to the information provided under paragraphs (b) and (c) of this section:

(1) The transferor shall certify that to the best of his knowledge the odometer reading reflects the actual mileage; or

(2) If the transferor knows that the odometer reading reflects mileage in excess of the designed mechanical odometer limit, he shall include a statement to that effect; or

(3) If the transferor knows that the odometer reading differs from the mileage and the difference is greater than that caused by a calibration error, he shall include a statement that the odometer reading does not reflect the actual mileage and should not be relied upon. This statement shall also include a warning notice to alert the transferee that a discrepancy exists between the odometer reading and the actual mileage.

(e) The transferee shall sign the power of attorney form, print his name, and return a copy of the power of attorney form to the transferor.

(f) Upon receipt of the transferor's title, the transferee shall complete the space for mileage disclosure on the title exactly as the mileage was disclosed by the transferor on the power of attorney form. The transferee shall submit the original power of attorney form to the State that issued it, with the application for new title and the transferor's title. If the mileage disclosed on the power of attorney form is higher than the mileage appearing on the title, the power of attorney is void and the dealer shall not complete the mileage disclosure on the title.

8. Section § 580.14 is revised to read as follows:

§ 580.14 Power of attorney to review title documents and acknowledge disclosure.

(a) In circumstances where part A of a secure power of attorney form has been used pursuant to § 580.13 of this part, and if otherwise permitted by State law, a transferee may give a power of attorney to his transferor to review the title and any reassignment documents for mileage discrepancies, and if no discrepancies are found, to acknowledge disclosure on the title. The power of attorney shall be on part B of the form referred to in § 580.13(a), which shall contain a space for the information required to be disclosed under paragraphs (b), (c), (d), and (e) of this section and, in part C, a space for the certification required to be made under § 580.15.

(b) The power of attorney must include a mileage disclosure from the transferor to the transferee and must be signed by the transferor, including the printed name, and contain the following information:

(1) The odometer reading at the time of transfer (not to include tenths of miles);

(2) The date of transfer;

(3) The transferor's name and current address;

(4) The transferee's name and current address; and

(5) The identity of the vehicle, including its make, model year, body type and vehicle identification number.

(c) In addition to the information provided under paragraph (b) of this section, the power of attorney form shall refer to the Federal odometer law and state that providing false information or the failure of the person granted the power of attorney to submit the form to the State may result in fines and/or imprisonment. Reference may also be made to applicable State law.

(d) In addition to the information provided under paragraphs (b) and (c) of this section:

(1) The transferor shall certify that to the best of his knowledge the odometer reading reflects the actual mileage;

(2) If the transferor knows that the odometer reading reflects mileage in excess of the designed mechanical odometer limit, he shall include a statement to that effect; or

(3) If the transferor knows that the odometer reading differs from the mileage and the difference is greater than that caused by a calibration error, he shall include a statement that the odometer reading does not reflect the actual mileage and should not be relied upon. This statement shall also include a warning notice to alert the transferee that a discrepancy exists between the odometer reading and the actual mileage.

(e) The transferee shall sign the power of attorney form, and print his name.

(f) The transferor shall give a copy of the power of attorney form to his transferee.

9. Section 580.15, the section heading and paragraphs (a) and (b) are revised are to read as follows:

§ 580.15 Certification by person exercising powers of attorney.

(a) A person who exercises a power of attorney under both §§ 580.13 and 580.14 must complete a certification that he has disclosed on the title document the mileage as it was provided to him on the power of attorney form, and that upon examination of the title and any reassignment documents, the mileage disclosure he has made on the title pursuant to the power of attorney is greater than that previously stated on the title and reassignment documents. This certification shall be under part C of the same form as the powers of attorney executed under §§ 580.13 and 580.14 and shall include:

(1) The signature and printed name of the person exercising the power of attorney;

(2) The address of the person exercising the power of attorney; and

(3) The date of the certification.

(b) If the mileage reflected by the transferor on the power of attorney is less than that previously stated on the title and any reassignment documents, the power of attorney shall be void.

10. Section 580.16 is added to read as follows:

§ 580.16 Access of transferee to prior title and power of attorney documents.

(a) In circumstances in which a power of attorney has been used pursuant to § 580.13 of this part, if a subsequent transferee elects to return to is transferor to sign the disclosure on the title when the transferor obtains the title and does not give his transferor a power of attorney to review the title and reassignment documents, upon the transferee's request, the transferor shall show to the transferee a copy of the power of attorney that he received from his transferor.

(b) Upon request of a purchaser, a transferor who was granted a power of attorney by his transferor and who holds the title to the vehicle in his own name, must show to the purchaser the copy of the previous owner's title and the power of attorney form.

11. The warning and part C, Certification, of the sample power of attorney form in appendix E are amended to read as follows:

Appendix E—Power of Attorney Disclosure Form

Warning: This form may be used only when title is physically held by lienholder or has been lost. This form must be submitted to the state by the person exercising powers of attorney. Failure to do so may result in fines and/or imprisonment.

* * * * *

Part C. Certification (To Be Completed When parts A and B Have Been Used)

I, _____, (person exercising above powers of attorney, Print), hereby certify that the mileage I have disclosed on the title document is consistent with that provided to me in the above power of attorney. Further, upon examination of the title and any reassignment documents for the vehicle described above, the mileage diclosure I have made on the title pursuant to the power of attorney is greater than that previously stated on the title and reassignment documents. This certification is not intended to create, nor does it create any new or additional liability under Federal or State law.

_____

(Signature)

_____

(Printed Name)

_____

Address (Street)

(City) _____ (State) ____ (ZIP Code) _____

Date _____

Jeffrey Miller,

National Highway Traffic Safety, Acting Administrator.

[FR Doc. 89-20388 Filed 8-28-89; 8:57 am]

BILLING CODE 4910-59-M

Proposed Rules

Federal Register
Vol. 54, No. 167
Wednesday, August 30, 1989

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 401

[Amdt. 42; Doc. No. 7314S]

General Crop Insurance Regulations; Corn Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Withdrawal of Notice of Proposed Rulemaking.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) publishes this notice for the purpose of withdrawing a Notice of Proposed Rulemaking (NPRM) amending the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1990 crop year, by revising and reissuing the Corn Endorsement (7 CFR § 401.111). FCIC has determined that insufficient time remains in which to publish a final rule revising and reissuing the Corn Endorsement.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: On Monday, January 23, 1989, FCIC published a Notice of Proposed Rulemaking in the **Federal Register** at 53 FR 3040 which proposed to revise and reissue the Corn Endorsement under the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1990 crop year.

In order for the Corn Endorsement to be effective for the 1990 crop year, it would be necessary to publish a final rule by December 31, 1989. There is not sufficient time in which to publish such a final rule and to file these regulations in the service offices by the required date.

For the reasons stated above, FCIC has determined that the rule published at 53 FR 3040 is hereby withdrawn.

Done in Washington, DC on August 18, 1989.

John Marshall,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 89–20377 Filed 8–29–89; 8:45 am]
BILLING CODE 3410–08–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1260

Changes to NASA Grant and Cooperative Agreement Handbook

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Grant and Cooperative Agreement Handbook (GCAHB) is amended to (1) require General Counsel review of deviations to the Handbook, (2) clarify award instrument selection criteria, (3) provide coverage for program income, and (4) revise the patent rights requirements to conform to Department of Commerce regulations.

DATE: Comments are due not later than September 29, 1989.

ADDRESS: Comments should be addressed to: W. A. Greene, Chief, Regulations Development Branch, Procurement Policy Division (Code HP), Office of Procurement, NASA, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: W. A. Greene, Telephone: (202) 453–8923.

SUPPLEMENTARY INFORMATION:

Background

The GCAHB contains NASA regulations for the award and administration of grants and cooperative agreements, including NASA implementing instructions for applicable statutes, Executive Orders, OMB Circulars and other documents of general applicability. *Ad hoc* exceptions to these regulations, where suitably justified, may be granted by the Assistant Administrator for Procurement through the deviation process at 14 CFR 1260.106. Upon recommendation of the NASA Inspector General, legal review is added as a prerequisite for a deviation (Item 4). As the bulk of the requests for deviations deal with proper use of the grant instrument, the regulations describing the selection process have been clarified and modified to explicitly exercise the substantive authority of Public Law 97–258 to award grants and cooperative agreements for research (basic and applied) and research related efforts, such as conferences but excluding "travel grants" or "equipment grants," per se (Items 5–7). The provisions of OMB Circular A–110 on program income are implemented for use, if required, with grant-supported conferences (Items 15, 16a). The coverage on patent rights is simplified and revised for consistency with Federal Acquisition Circular (FAC) 84–46, issued May 8, 1989, which implements a Department of Commerce patent regulation that appeared in the **Federal Register** (52 FR 8552) of March 18, 1987 (Items 9, 16, 17), while administrative arrangements are clarified (Item 17, Exhibit G, paragraphs (f) (5) and (1)). Items 10 and 12–14 consist of internal NASA procedural changes, while Items 2, 3, 8, and 11 are minor corrections.

Impact

This proposed rule has been reviewed by the Office of Management and Budget (OMB) under the provisions of Executive Order 12291. NASA certifies that these changes will not have a significant economic affect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This proposed rule does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act of 1980, nor does it substantially modify requirements associated with current OMB approval numbers 2700–0045 and 2700–0048.

List of Subjects in 14 CFR Part 1260

Grants.

S. J. Evans,

Assistant Administrator for Procurement.

PART 1260—[AMENDED]

1. The authority citation for 14 CFR part 1260 continues to read as follows:

Authority: Pub. L. 97–258, 31 U.S.C. 6301 et seq.

Subpart 1260.1—General

§ 1260.103 [Amended]

2. In § 1260.103, in the first sentence, the phrase "NASA policy directives," is

removed; the word "complete" is removed, and the word "detailed" is added in its place.

§ 1260.105 [Amended]

3. In paragraph (d), the word "Notice" is removed, and the words "Information Circular" are added in its place.

§ 1260.106 [Amended]

4. Section 1260.106 is amended as set forth below:

a. Paragraph (a)(9) is added to read as follows:

(a) * * *

(9) Any other action described elsewhere in this Handbook as a deviation.

* * * * *

b. In paragraph (b), the period is removed after the word "representative", and the phrase "after review by Office of General Counsel." is added at the end of the paragraph.

c. In paragraph (c), introductory text, the phrase "reviewed by local counsel," is added between the words "be" and "signed".

§ 1260.109 [Amended]

5. In § 1260.109, paragraph (d) is added to read as follows:

* * * * *

(d) Grants and cooperative agreements shall not be used as legal instruments when the primary purpose of the award is to pay the costs of travel ("Travel Grant") or for the purchase of equipment or supplies ("Equipment Grant"). (This restriction does not preclude otherwise allowable expenditures for travel, equipment or supplies in support of awards made pursuant to para. 1260.203.)

Subpart 2—Basic Policies

§ 1260.201 [Amended]

6. Section 1260.201 is amended as set forth below:

a. In paragraph (a), introductory text, the phrase "required basic research" is removed, and the phrase "required research and research related activities" is added in its place.

b. In paragraph (a)(1), the word "basic" is removed.

§ 1260.203 [Amended]

7. Section 1260.203 is amended as set forth below:

a. In paragraph (a)(1), the sentence "Instrument selection will be made on the basis of this paragraph 203, rather than on direct local interpretation of Public Law 97–258." is removed, and the following is added in its place: "As a matter of policy, NASA's use of grants, grant regulations and administrative procedures are tailored to educational institutions. Therefore, instrument selection will be made on the basis of this para. 1260.203, which accommodates both statute and policy, rather than any additional local interpretation of Public Law 97–258."

b. In paragraph (a)(3), the following sentence is added at the end of the paragraph: "A proposed award which exhibits the general characteristics set forth in para. 1260.203(b)(1) meets the above-described statutory criteria for use of the grant instrument."

c. In paragraph (b) introductory text, the second sentence, beginning "Research grants * * *" and the third sentence, beginning "Any exceptions * * *" are removed, and the following text is added in their place: "Research grants and cooperative agreements may be awarded only to nonprofit institutions of higher education or to nonprofit organizations whose primary purpose is the conduct of scientific research to support research or research-related efforts. Conferences which clearly relate to and have potential for contributing to NASA research interests are considered to be research-related. Research in any academic discipline bearing on NASA research interests normally will qualify as research-related; however, advise of counsel should be sought in unusual situations (see § 1260.301(c)). Similarly, in instances where use of the grant instrument and organizational eligibility does not clearly require a deviation, but where unusual project activities or organizational attributes are evident, advice of local counsel should be obtained. "Travel Grants" or "Equipment Grants" are not authorized as research-related. Award of grants or cooperative agreements to types of organizations or for purposes other than set forth in this § 1260.203(b) requires a deviation (see § 1260.106)."

d. In paragraph (b)(1)(i), the semicolon is removed, a comma is added in its place, and the words "and attempts to determine and exploit the potential of scientific discoveries or improvements in technology, materials, processes, methods, devices, or techniques and advance the state of the art." are added to complete the sentence.

e. Paragraph (b)(1)(vii) is added to read as follows:

* * * * *

(b) * * *

(1) * * *

(vii) The effort is research or research-related.

§ 1260.204 [Amended]

8. Section 1260.204 is amended as set forth below:

a. In paragraph (a), the abbreviation "NPD" is revised to read "NMI".

b. In paragraph (b), the letter "E" is revised to read "EPM–20".

9. Section 1260.209 is revised to read as follows:

§ 1260.209 Property rights in inventions.

(a) The disposition of rights in inventions made by small business firms and nonprofit organizations under contracts, grants and cooperative agreements (including subcontracts thereunder) for the performance of experimental, developmental or research work funded in whole or in part by NASA is governed by Chapter 18 of Title 35, United States Code (Pub. L. 95–517, Pub. L. 98–620). The disposition of rights to inventions made by other than a small business firm or nonprofit organization under contracts, grants or cooperative agreements (including subcontracts thereunder) in the performance of experimental, developmental, research, design or engineering work for NASA is governed by section 305 of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2457), and to the extent consistent with that law the Presidential Memorandum on Government Patent Policy to the Heads of Executive Departments and Agencies dated February 18, 1983, and Section 1(b)(4) of Executive Order 12591, dated April 10, 1987. The implementation of the requirements of Chapter 18 of title 35, United States Code for grants and cooperative agreements is set forth in 37 CFR 401. The implementation of the National Aeronautics and Space Act of 1956, as amended, is set forth in NASA FAR Supplement 18–27.373 (48 CFR 1827.373).

(b) In accordance with paragraph (a) of this section, Exhibit G, which is the clause required by 37 CFR 401.414 customized for NASA pursuant to 37 CFR 401.5, shall be included in all grants and cooperative agreements entered into with a nonprofit organization under the Handbook unless either:

(1) The grantee is not located in the United States or does not have a place of business located in the United States or is subject to the control of a foreign government; or

(2) The grantee is not a nonprofit organization or an alternate provision is to be used in accordance with 37 CFR 401.3.

If the circumstances in paragraph(b)(1) of this section exist, the clause "INVENTION REPORTING AND RIGHTS—FOREIGN" in NASA FAR Supplement 18–52.227–85 (48 CFR 1852.227–85) (suitably tailored to

identify the parties and the instrument) may be used as a special condition unless in consultation with installation Patent Counsel, a different provision would be more appropriate. A deviation is not required in this situation. If, in accordance with paragraph (b)(2) of this section, the grantee is not a nonprofit organization or an alternate provision is to be used, a deviation, including concurrence by installation Patent Counsel, is required.

(c) Reports required pursuant to § 1260.409(b) of this Handbook shall be submitted to the grants officer, with a copy to the installation Patent Counsel.

§ 1260.210 [Amended]

10. Section 1260.210 is revised to read as follows:

§ 1260.210 Debarment and suspension; and drug-free workplace.

Grants officers shall follow the procedures in NMI 5101.31, Delegation of Authority—Debarment and Suspension Under Grants, Cooperative Agreements and Other Nonprocurement Transactions; and Requirements for a Drug-Free Workplace (Grants), in implementation of 14 CFR 1265. Before making an award, the grants officer shall ensure that the participant's status has been verified (14 CFR 1265.505 (d) and (e)) and the certification requirements at 14 CFR 1265.510 and 14 CFR 1265.630 have been met. If the required certifications have not been submitted with the proposal, the grants officer shall obtain them before proceeding. However, NASA shall not require any particular form or format. Installations shall not impose local requirements for general submission of certifications with solicited or unsolicited proposals (except as may be otherwise authorized by this Handbook).

Subpart 3—Award of Grants and Cooperative Agreements

§ 1260.302 [Amended]

11. In § 1260.302 the words "no longer" are removed, and the word "not" is added in their place.

§ 1260.305 [Amended]

12. In § 1260.305, paragraph (b)(2), after the phrase "Third year $_____," the sentence beginning "It is the responsibility * * * " is revised to read as follows:

It is the responsibility of the awardee to request such continued support by submitting a brief proposal.

13. In § 1260.30, paragraph (a)(2) is revised to read as follows:

§ 1260.306 Numbering of instruments.

(a) * * *

(2) Sequential numbers for new Training (NGT) and Facilities (NGF) grants, if the award is otherwise authorized, are assigned by the Office of External Relations, Educational Affairs Division (Code XE).

* * * * *

14. Paragraph (b) is revised to read as follows:

§ 1260.307 Distribution of grants, cooperative agreements, and grant supplements.

* * * * *

(b) One copy, plus a copy of the grantee's proposal, will be furnished to the NASA Scientific and Technical Information Facility, P.O. Box 8757, BWI Airport, MD 21240. Attn: Acquisitions.

15. Section 1260.310 is added to read as follows.

§ 1260.310 Program income.

For conferences and awards in which there is high potential for the generation of income (other than royalties from patents or copyrights), the following special condition may be used (except with institutions participating in the Federal Demonstration Project):

PROGRAM INCOME (JUNE 1989)

Program income shall be retained by the grantee and shall be * * *

[Complete the sentence with one of the following phrases, as appropriate:
* * * added to funds already committed to the project and used to further project objectives.
* * * used to finance the non-Federal share of the program.
* * * deducted from the total project costs in determining the net costs on which NASA's share of costs will be based.]

Subpart 4—Research Grant and Cooperative Agreement Provisions

§ 1260.420 [Amended]

16. Section 1260.420 is amended as set forth below:

a. In paragraph (b), the first item in the list of clauses is revised to read "INVENTION REPORTING AND RIGHTS—FOREIGN, prescribed at para. 1260.209(b)." and the following item is added at the end of the list of clauses:

PROGRAM INCOME, prescribed at para. 1260.310.

b. Para. (h) is added to read as follows:

(h) The following provision shall be appended, as a special condition, to all grants and cooperative agreements (pending revisions to para. 1260.409 and NASA Form 1463A, Provisions for Research Grants and Cooperative Agreements):

PATENT RIGHTS—CORRECT CITATIONS (JUNE 1989)

In the NASA Provisions for Research Grants and Cooperative Agreements (NASA Form 1463A), the correct statutory citations in the "Patent Rights—Retention by Grantee" provision are "Chapter 18 Title 35, United States Code (Pub. L. 95–517, Pub. L. 98–620)."

17. Exhibit G is revised to read as follows:

EXHIBIT G—PATENT RIGHTS—RETENTION BY THE GRANTEE (JUNE 1989)

(a) Definitions.

(1) "Invention" means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code, or any novel variety of plant which is or may be protected under the Plant Variety Protection Act (7 U.S.C. 2321, et seq.).

(2) "Subject Invention" means any invention of the Grantee conceived or first actually reduced to practice in the performance of work under this grant, provided that in the case of a variety of plant, the date of determination (as defined in section 4(d) of the Plant Variety Protection Act, 7 U.S.C. 2401(d), must also occur during the period of the grant performance.

(3) "Practical Application" means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

(4) "Made" when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(5) "Small Business Firm" means a domestic small business concern as defined at Section 2 of Pub. L. 85–536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this Exhibit G, the size standards for small business concerns involved in Government procurement, and subcontracting at 13 C.F.R. 121.3–8 and 13 C.F.R. 121.3–12, respectively, will be used.

(6) "Nonprofit Organization" means a university or other institution of higher education or an organization of the type described in Section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

(b) Allocation of Principal Rights. The Grantee may retain the entire right, title, and interest throughout the world to each Subject Invention subject to the provisions of this Exhibit G and 35 U.S.C. 203. With respect to any Subject Invention in which the Grantee retains title, the Federal Government shall have a nonexclusive, non-transferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United

States the Subject Invention throughout the world.

(c) Invention Disclosure, Election of Title, and Filing of Patent Applications by Grantee.

(1) The Grantee will disclose each Subject Invention to NASA within 2 months after the inventor discloses it in writing to Grantee personnel responsible for patent matters. The disclosure to NASA shall be in the form of a written report and shall identify the grant under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding, to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological, or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to NASA, the Grantee will promptly notify NASA of the acceptance of any manuscript describing the invention for the publication or of any on sale or public use planned by the Grantee.

(2) The Grantee will elect in writing whether or not to retain title to any such invention by notifying NASA within 2 years of disclosure to NASA. However, in any case where publication, on sale or public use has initiated the one year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by NASA to a date that is no more than 60 days prior to the end of the statutory period.

(3) The Grantee will file its initial patent application on a Subject Invention to which it elects to retain title within 1 year after election of title or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after publication, on sale, or public use. The Grantee will file patent applications in additional countries or international patent offices within either 10 months of the corresponding initial patent application or 6 months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) Requests for extension of the time for disclosure, election, and filing under subparagraphs (1), (2), and (3) may, at the discretion of NASA, be granted.

(d) Conditions When the Government May Obtain Title. The Grantee will convey to NASA, upon written request, title to any Subject Invention:

(1) If the Grantee fails to disclose or elect the Subject Invention within the times specified in (c) above, or elects not to retain title; provided, that NASA may only request title within 60 days after learning of the failure of the Grantee to disclose or elect within the specified times.

(2) In those countries in which the Grantee fails to file patent applications within the times specified in paragraph (c) of this Exhibit G; provided, however, that if the Grantee has filed a patent application in a country after the times specified in paragraph (c) of this Exhibit G, but prior to its receipt of the written request of NASA, the Grantee shall continue to retain title in that country.

(3) In any country in which the Grantee decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceeding on, a patent on a Subject Invention.

(e) Minimum Rights to Grantee and Protection of Grantee Right to File.

(1) The Grantee will retain a nonexclusive, royalty-free license throughout the world in each Subject Invention to which the Government obtains title, except if the Grantee fails to disclose the Subject Invention within the times specified in paragraph (c) of this Exhibit G. The Grantee's license extends to its domestic subsidiary and affiliates, if any, within the corporate structure of which the Grantee is a party and includes the right to grant sublicenses of the same scope to the extent the Grantee was legally obligated to do so at the time the grant was awarded. The license is transferable only with the approval of NASA, except when transferred to the successor of that part of the Grantee's business to which the invention pertains.

(2) The Grantee's domestic license may be revoked or modified by NASA to the extent necessary to achieve expeditious practical application of the Subject Invention pursuant to an application for an exclusive license submitted in accordance with section 1245.210 of the NASA regulation, Licensing of NASA Inventions, 14 C.F.R. 1245.2. This license will not be revoked in that field of use or the geographical areas in which the Grantee has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of NASA to the extent the Grantee, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, NASA will furnish the Grantee a written notice of its intention to revoke or modify the license, and the Grantee will be allowed 30 days (or such time as may be authorized by NASA for good cause shown by the Grantee) after the notice to show cause why the license should not be revoked or modified. The Grantee has the right to appeal, in accordance with 14 CFR 1245.210, any decision concerning the revocation or modification of the license.

(f) Grantee Action to Protect the Government's Interest.

(1) The Grantee agrees to execute or to have executed and promptly deliver to NASA all instruments necessary to (i) establish or confirm the rights the Government has throughout the world in those Subject Inventions to which the Grantee elects to retain title, and (ii) convey title to NASA when requested under paragraph (d) of this Exhibit G, and to enable the Government to obtain patent protection throughout the world in that Subject Invention.

(2) The Grantee agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Grantee each Subject Invention made under grant in order that the Grantee can comply with the disclosure provisions of paragraph (c) of this Exhibit G, and to execute all papers necessary to file patent applications on Subject Inventions and to establish the Government's rights in the Subject Inventions. This disclosure format should require, as a minimum, the information required by subparagraph (c)(1) of this Exhibit G. The Grantee shall instruct such employees through employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) The Grantee will notify NASA of any decision not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than 30 days before the expiration of the response period required by the relevant patent office.

(4) The Grantee agrees to include, within the specification of any United States patent application and any patent issuing thereon covering a Subject Invention, the following statement: "This invention was made with Government support under (identify the grant) awarded by NASA. The Government has certain rights in this invention."

(5) The Grantee shall include a list of all Subject Inventions required to be disclosed during the preceding year in the renewal proposal or annual status report, and a complete list (or a negative statement) for the entire award period shall be included in the final report.

(g) *Subcontracts.* (1) The Grantee will include this Exhibit G, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental, or research work to be performed by a small business firm or nonprofit organization. The subcontractor will retain all rights provided for the Grantee in this Exhibit G, and the Grantee will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's Subject Inventions.

(2) The Grantee will include in all other subcontracts, regardless of tier, for experimental, developmental, research, design or engineering work the patent rights clause as required by NASA FAR Supplement 1827.373(b).

(3) In the case of subcontracts, at any tier, when the prime award with NASA was a contract (but not a grant or cooperative agreement), NASA, subcontractor, and the contractor agree that the mutual obligations of the parties created by this Exhibit G constitute a contract between the subcontractor and NASA with respect to those matters covered by this Exhibit G; provided, however, that nothing in this paragraph is intended to confer any jurisdiction under the Contract Disputes Act

in connection with proceedings under paragraph (j) of this Exhibit G.

(h) *Reporting on utilization of subject inventions.* The Grantee agrees to submit, on request, periodic reports no more frequently than annually on the utilization of a Subject Invention or on efforts at obtaining such utilization that are being made by the Grantee or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Grantee, and such other data and information as NASA may reasonably specify. The Grantee also agrees to provide additional reports as may be requested by NASA in connection with any march-in proceeding undertaken by NASA in accordance with paragraph (j) of this Exhibit G. As required by 35 U.S.C. 202(c)(5), NASA agrees it will not disclose such information to persons outside the Government without permission of the Grantee.

(i) *Preference for United States industry.* Notwithstanding any other provision of this Exhibit G, the Grantee agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any Subject Invention in the United States unless such person agrees that any products embodying the Subject Invention or produced through the use of the Subject Invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by NASA upon a showing by the Grantee or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(j) *March-in Rights.* The Grantee agrees that with respect to any Subject Invention in which it has acquired title, NASA has the right in accordance with the procedures established by NASA which are consistent with 37 CFR 401.6, Exercise of March-in Rights, to require the Grantee, an assignee, or exclusive licensee of a Subject Invention to grant a non-exclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Grantee, assignee, or exclusive licensee refuses such a request NASA has the right to grant such a license itself if NASA determines that:

(1) Such action is necessary because the Grantee or assignee has not taken, or is not expected to take, within a reasonable time, effective steps to achieve practical application of the Subject Invention in such field of use;

(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Grantee, assignee, or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations, and such requirements are not reasonably satisfied by the Grantee, assignee, or licensees; or

(4) Such action is necessary because the agreement required by paragraph (i) of this Exhibit G has not been obtained or waived or because a licensee of the exclusive right to use or sell any Subject Invention in the United States is in breach of such agreement.

(k) *Special provisions for grants with nonprofit organizations.* If the Grantee is a nonprofit organization, it agrees that:

(1) Rights to a Subject Invention in the United States may not be assigned without the approval of NASA, except where such assignment is made to an organization which has as one of its primary functions the management of inventions, provided that such assignee will be subject to the same provisions as the Grantee;

(2) The Grantee will share royalties collected on a Subject Invention with the inventor including NASA coinventors (when NASA deems it appropriate) when the Subject Invention is assigned in accordance with 35 U.S.C. 202(e) and 37 CFR 401.10;

(3) The balance of any royalties or income earned by the Grantee with respect to Subject Inventions, after payment of expenses (including payments to inventors) incidental to the administration of Subject Inventions, will be utilized for the support of scientific research or education; and

(4) It will make efforts that are reasonable under the circumstances to attract licensees of subject inventions that are small business firms, and that it will give a preference to a small business firm when licensing a subject invention if the Grantee determines that the small business firm has a plan or proposal for marketing the invention which, if executed, is equally as likely to bring the invention to practical application as any plans or proposals from applicants that are not small business firms; provided, that the Grantee is also satisfied that the small business firm has the capability and resources to carry out its plan or proposal. The decision whether to give a preference in any specific case will be at the discretion of the Grantee. However, the Grantee agrees that the Secretary of Commerce may review the Grantee's licensing program and decisions regarding small business applicants, and the Grantee will negotiate changes to its licensing policies, procedures, or practices with the Secretary of Commerce when the Secretary's review discloses that the Grantee could take reasonable steps to more effectively implement the requirements of this subparagraph (k)(4).

(l) *Communications.* A copy of all submissions or requests required by this Exhibit G, plus a copy of any reports, manuscripts, publications or similar material bearing on patent matters, shall be sent to the installation Patent Counsel in addition to any other submission requirements in the Grant provisions. If any reports contain information describing a "Subject Invention" for which the Grantee has elected or may elect title, NASA will use reasonable efforts to delay public release by NASA or publication by NASA in a NASA technical series, for six months from the date of receipt, in order for a patent application to be filed, provided that the Grantee identify the information and the "Subject Invention" to which it relates at the time of submittal. If required by the grants officer, the Grantee shall provide the filing date, serial number and title, a copy of the patent application, and a patent number and issue date for any Subject Invention in any country in which the Grantee has applied for patents.

[FR Doc. 89-20163 Filed 8-29-89; 8:45 am]
BILLING CODE 7510-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 916

Abandoned Mine Land Reclamation Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Proposed rule; Public Comment Period and Opportunity for Public Hearing on Proposed Amendment.

SUMMARY: OSMRE is announcing receipt of a proposed amendment to the Kansas Abandoned Mine Land Reclamation (AMLR) Plan (hereinafter, the "Kansas Plan") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. Sections 1201 *et seq.* The proposed amendment pertains to eligible lands and waters, project evaluation, rights of entry, liens, appraisals on private lands, project ranking and selection, organizational structure, and public participation.

This notice sets forth the times and locations that the Kansas Plan and proposed amendment to that plan are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received by 4 p.m., September 29, 1989. If requested, a public hearing on the proposed amendment will be held on September 24, 1989. Requests to present oral testimony at the hearing must be received on or before 4:00 p.m., on September 14, 1989.

ADDRESSES: Written comments should be mailed or hand delivered to Mr. William J. Kovacic at the address listed below.

Copies of the Kansas Plan, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requestor may receive one free copy of

the proposed amendment by contacting OSMRE's Kansas City Field Office.

Mr. William J. Kovacic, Director, Kansas City Field Office, Office of Surface Mining Reclamation and Enforcement, 1103 Grand Avenue, Room 502, Kansas City, MO 64106, Telephone: (816) 374-6405

Kansas Department of Health and Environment, Mining Section, Bureau of Environmental Quality, Shirk Hall, 4th Floor, 1501 S. Joplin, P.O. Box 1418, Pittsburg, KS 66762, Telephone: (316) 231-8615.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Kovacic, Director, Kansas City Field Office, at the address or telephone number listed in "ADDRESSES."

SUPPLEMENTARY INFORMATION:

I. Background

On February 1, 1982, the Secretary of the Interior conditionally approved the Kansas AMLR program. General background information, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Kansas AMLR program can be found in the June 3, 1983, Federal Register (48 FR 24876).

II. Proposed Amendment

By letter dated June 29, 1989, and pursuant to SMCRA, Kansas submitted part of a proposed amendment to its plan (Administrative Record No. AML-KS-129). Kansas submitted the proposed amendment at its own initiative. Kansas proposes to rescind and replace portions of the regulations within Kansas Administrative Regulations (K.A.R.) at K.A.R. Chapter 47, Article 16. The regulations that Kansas proposes to amend are: K.A.R. 47-16-1, Eligible Lands and Waters; K.A.R. 47-16-2, Reclamation Project Evaluation; K.A.R. 47-16-4, Entry for Studies or Exploration; K.A.R. 47-16-5, Entry and Consent to Reclaim; K.A.R. 47-16-6, Liens; K.A.R. 47-16-7, Appraisals; and K.A.R. 47-16-8, Satisfaction of Liens.

By letter dated July 26, 1989, Kansas submitted, pursuant to SMCRA, the rest of a proposed amendment to its plan (Administrative Record No. AML-KS-135). Kansas proposes to revise State policies and procedures regarding project ranking and selection, organizational structure, and public participation in the AMLR program.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSMRE is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is approved, it will become part of the Kansas AMLR Plan.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **"DATES"** or at locations other than the Kansas City Field Office will not necessarily be considered in the final rulemaking, or included in the administrative record.

Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under **"FOR FURTHER INFORMATION CONTACT"** by 4:00 p.m., c.d.t on September 14, 1989. The location and time of the hearing will be announced to those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSMRE officials to prepare adequate responses and appropriate questions.

The public hearing will start on the specified date and will continue until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSMRE representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **"FOR FURTHER INFORMATION CONTACT."** All such meetings will be open to the public and, if possible, notices of such meetings will be posted at the locations listed under **"ADDRESSES."** A written summary of each meeting will be made a part of the administrative record.

List of Subjects in 30 CFR Part 916

Coal mining, Intergovernmental relations, Surface mining, Underground mining, Abandoned Mine Land Reclamation Plans.

Dated: August 17, 1989.

Raymond L. Lowrie,

Assistant Director Western Field Operations.

[FR Doc. 89-20388 Filed 8-29-89; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 157, 164

46 CFR Parts 35, 71, 72, 78, 91, 92, 97, 107, 108, 109, 167, 189, 190, and 196

[CGD 80-136]

RIN 2115-AA53

Maneuvering Performance Standards for U.S. Flag Vessels

AGENCY: Coast Guard, DOT.

ACTION: Withdrawal of proposed rule.

SUMMARY: This action withdraws an advance notice of proposed rulemaking published in the Federal Register on September 14, 1981 (46 FR 45631) and the supplemental advance notice of proposed rulemaking published in the Federal Register on July 17, 1984 (49 FR 28893). These proposals are associated with development of maneuvering performance standards for U.S. vessels.

After evaluation of a series of projects and unsuccessful attempts at the International Maritime Organization (IMO) to achieve maneuverability standards recognized internationally, the Coast Guard has concluded that maneuvering standards cannot be developed at the present time. Work in the area of maneuverability regulations will continue after generally accepted criteria have been established at the IMO.

DATES: The ANPRM is withdrawn as of August 30, 1989.

FOR FURTHER INFORMATION CONTACT: Dr. Volf Asinovsky, Office of Marine Safety, Security and Environmental Protection, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC. 20593-0001, Telephone: (202) 267-2997.

SUPPLEMENTARY INFORMATION:

Background

Maneuvering standards are needed for the ship design industry as well as for ship operators. Without such standards there is no guarantee that maneuvering performance will receive the consideration that the Coast Guard feels is necessary during design. In the design process, maneuverability may be sacrificed for reduction of design and

construction costs. Also, due to a lack of maneuverability regulations, analysis of casualties involving rammings, groundings, and collisions seldom questions a vessel's maneuverability, but instead focuses on operator error.

On September 14, 1981 the Coast Guard published in the **Federal Register** (46 FR 45631) an Advance Notice of Proposed Rulemaking (ANPRM). This ANPRM solicited public comments and suggestions on a proposal to develop ship maneuvering performance standards and regulations for evaluation of maneuvering and stopping characteristics of new U.S. flag vessels. The ANPRM suggested a rating system for maneuverability and announced the Coast Guard's intention to develop a standard to address maneuverability of new U.S. vessels. The ANPRM offered neither criteria for the evaluation of maneuverability nor the numerical values of such criteria. The intent of the ANPRM was to solicit suggestions on the criteria and norms maneuverability from the maritime industry.

A Supplemental Advance Notice of Proposed Rulemaking (SANPRM) was published on July 17, 1984 (49 CFR 28893). The SANPRM informed the public that the Coast Guard intended to postpone the development of maneuverability regulations until the International Maritime Organization (IMO) developed recommendations on maneuvering standards. This approach was based on public comments and suggestions in response to the ANPRM of September 14, 1981. It took into account the IMO plan for the development of maneuvering standards.

Coordination of efforts with IMO is a logical approach. In doing so, the requirements applied to U.S. flag vessels would be similar to the requirements applied to the ships of other administrations.

At the time of the SANPRM, IMO had started work in the area of maneuverability standards. An Ad Hoc Working Group had been established at IMO for coordination of the maneuverability studies and "Draft Interim Guidelines for Estimating Maneuvering Performance in Ship Design" (dated 2 April 1984) had been developed. Because of these events, it was reasonable to anticipate that IMO would complete development of maneuvering standards in the near future.

In the years following publication of the SANPRM, the Coast Guard participated in and carefully tracked the developments associated with ship maneuverability at the IMO Ship Design and Equipment Subcommittee. However, development of ship maneuvering standards was not completed as originally anticipated. IMO has yet to agree on a basis for maneuvering standards.

Development of maneuverability criteria is a very complicated technical task which cannot be quickly accomplished. The difficulty in establishing international consensus criteria at IMO is a reflection of the problem's complexity.

Significant research is needed prior to determining the appropriate parameters of maneuverability to be considered in establishment of the criteria and determination of minimum acceptable values of these criteria for different vessel types. Therefore the Coast Guard has concluded that a rulemaking for maneuvering standards is premature.

Withdrawal

The proposed rules were considered "nonsignificant" under the Department of Transportation Order No. 2100.5 entitled "Policies and Procedures for Simplification, Analysis and Review of Regulations." There are no known adverse consequences associated with terminating the proposal.

For the reason stated above, this rulemaking is hereby withdrawn.

August 25, 1989.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 89-20452 Filed 8-29-89; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 6E3409/P84; FRL 3636-7]

Pesticide Tolerance for Terbufos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that the tolerance established for the combined residues of the insecticide/nematicide terbufos and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodity (RAC) bananas be converted to permanent status. This proposed regulation to establish a maximum permissible level for residues of the insecticide-nematicide in or on the commodity was requested by the American Cyanamide Co.

DATE: Comments, identified by the document control number [PP 6E409/P484], must be received on or before September 29, 1989.

ADDRESS: Written comments, identified by the document control number [PP 6E3409/P484], should be submitted to: Information Services Branch, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 246, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 246 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: William H. Miller, Product Manager (PM) 16, Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 222, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-2600.

SUPPLEMENTARY INFORMATION: EPA issued a rule in the **Federal Register** of April 27, 1988 (53 FR 15401), which announced its decision to establish a temporary tolerance for residues of the pesticide terbufos on bananas for a period extending to April 27, 1990. The Agency limted the period of time that the regulation was to be in effect because of the lack of a teratology study in a second species.

The American Cyanamid Co., P.O. Box 400, Princeton, NJ 08540, has submitted an amendment to pesticide petition (PP) 6E409 by submitting the missing teratology study and by requesting that EPA, pursuant to section 408(d)(1) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a permanent tolerance for the combined residues of the insecticide/nematicide terbufos (S-[[(1,1-dimethylethyl)thio]methy]-O,O-diethyl phosphorodithioate) and its cholinesterase-inhibiting metabolites in

or on the RAC bananas at 0.025 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purposes for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance include:

1. A 1-year dog feeding study with a lowest-observable-effect level (LOEL) of 0.015 milligram/kilogram/day (mg/kg/day) based on the inhibition of plasma cholinesterase activity.

2. A 4-week dog plasma cholinesterase study with a no-observable-effect level (NOEL) of 0.00125 mg/kg/day based on the inhibition of plasma cholinesterase activity.

3. A 1-year rat feeding study with a no-observable-effect level (NOEL) of 0.5 ppm (0.025 mg/kg) based on the inhibition of plasma and brain cholinesterase activity.

4. An 18-month mouse oncogenicity study with no oncogenic effects observed at dosage levels up to and including 12.0 ppm (1.8 mg/kg/day), which was the highest level tested.

5. A 2-year rat oncogenicity study with no oncogenic effects observed at doses up to and including 2.0 ppm (0.10 mg/kg/day).

6. A three-generation rat reproduction study with a NOEL of 0.25 ppm (0.0125 mg/kg) for reproductive effects.

7. A rat teratology study with a NOEL of 0.1 mg/kg/day for development toxicity.

8. A rabbit teratology study with a NOEL of 0.25 mg/kg/day for developmental toxicity.

9. An acute delayed neurotoxicity study in chickens, which was negative for neurotoxic effects under the conditions of the study (highest dose tested was 40 mg/kg).

10. Several mutagenicity tests which were all negative. These include a dominant lethal study in rats; an acute in vivo cytogenic assay in rats; an Ames test including metabolic activation; a DNA repair chromosomal aberration (CHO cells); CHO/GHPRT mutation assay; and a rat hepatocyte culture/DNA repair test.

Based on the plasma cholinesterase inhibition (ChE) NOEL as defined in a 4-week dog study (0.00125 mg/kg/day) and using a safety factor of 10, the acceptable daily intake (ADI) for humans is 0.000125 mg/kg/day.

The current established tolerances (including the tolerance for bananas) for residues of terbufos and its cholinesterase-inhibiting metabolites result in a theoretical maximum contribution (TMRC) of 0.000052 mg/kg/day and utilize 41.946 percent of the ADI. No feed items are involved; therefore, it is expected that no secondary residues in meat, milk, poultry, and eggs will result from the use of the pesticide on bananas.

The metabolism of the insecticide/nematicide is adequately understood, and an analytical method, gas chromatography with a flame photometric detector, is available in the *Pesticide Analytical Manual*, Vol. II (PAM II), for enforcement purposes.

There are no regulatory actions pending against continued registration of the insecticide, and no other considerations are involved in establishing the tolerance.

The pesticide is considered useful for the purpose for which the tolerance is sought. Based on the above information and data, the Agency concludes that the establishment of the regulation would protect the public health. Therefore, it is proposed that 40 CFR 180.352 be amended as set forth below.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number [PP 6E3409/P484]. All written comments filed in response to this petition will be available in the Program Management and Support Division, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

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

List of Subjects in 40 CFR Part 180

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

Dated: August 11, 1989.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

2. Section 180.352 is amended in paragraph (a) by adding and alphabetically inserting an entry for bananas and by removing paragraph (b) and designating it "[Reserved]" to read as follows:

§ 180.352 Terbufos; tolerances for residues.

(a) * * *

Commodities	Parts per million
* * * * *	
Bananas	0.025
* * * * *	

(b) [Reserved]

[FR Doc. 89-20203 Filed 8-29-89; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 186

[OPP-300199; FRL-3635-1]

Captan; Proposed Revocation of Feed Additive Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to revoke the feed additive tolerance for residues of the fungicide captan on corn seed remaining after detreatment to reduce captan residues resulting from the intended use of captan as a seed protectant. This proposed action is being initiated by EPA because data required and requested by EPA to support the continuation of the feed additive regulation have not been submitted.

DATES: Written comments, identified by the document control number [OPP-300199], must be received on or before October 30, 1989.

ADDRESSES: By mail, submit comments to: Public Docket and Freedom of Information Section, Field Operations Division (H-7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, deliver comments to: Rm. 246, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as

"Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 246 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Patricia Critchlow, Registration Division (H-7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Registration Support Branch, Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703)-557-1806.

SUPPLEMENTARY INFORMATION: In the Federal Register of November 6, 1981 (46 FR 55091), EPA issued a final rule that established a feed additive regulation (21 CFR 561.65, subsequently recodified as 40 CFR 186.500 in the Federal Register of June 29, 1988 (53 FR 24666)) for residues of the fungicide captan on corn seed at 100 ppm, remaining after detreatment of corn seed to reduce pesticide residues resulting from the intended use of captan as a seed protectant. The establishment of this regulation allowed the sale and use of the detreated captan-treated corn seed, after washing or roasting to reduce captan residues, as a cattle or swine feed up to 14 days prior to slaughter.

In March 1986, EPA issued a Registration Standard which stated, among other things, that the Agency had reevaluated the use of treated seed corn for feed use for cattle and hogs and expected to take action, in approximately a year, to revoke the feed additive regulation that permits the feed use of detreated captan-treated seed corn, unless certain concerns were resolved, as follows:

1. Residue chemistry data were needed for detreated captan-treated corn seed which had been treated at maximum label dosage and held in storage for various time periods ranging from 3 to 18 months.

2. An acceptable method for informing corn seed treaters and corn seed distributors of acceptable methods for detreating captan-treated corn seed must be proposed.

3. An acceptable handling procedure for captan-treated seed corn (to be detreated) to assure that there are no other pesticides on the seed must be proposed.

The captan feed additive regulation does not identify permitted methods for detreating the captan-treated corn seed although the Federal Register notice which established this regulation mentioned washing and roasting, thereby implying that these were acceptable methods. However, the Agency has inadequate data to support either washing or roasting when the maximum registered dosage of captan has been applied, and has no acceptable residue data to support the roasting detreatment method at any dosage or period of storage.

The data required to support the feed additive regulation have not been submitted. Therefore, EPA now proposes to revoke the feed additive tolerance for residues of captan remaining in corn seed which has been treated with captan seed protectant and subsequently subjected to a detreatment process to remove excess residues. If residue data to fulfill the requirements of the Registration Standard are submitted during the comment period of this proposed rule, the Agency will review the data before taking final action.

Interested persons are invited to submit written comments on this proposal to revoke the feed additive tolerance listed in 40 CFR 186.500 for residues of captan in detreated corn seed. Comments must bear a notation indicating the document control number, [OPP-300199]. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in reviewing the comments. All written comments filed pursuant to this proposal will be available for public inspection in Rm. 246, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, between 8 a.m. and 4 p.m., Monday through Friday, except legal holidays.

In order to satisfy requirements for analysis as specified by Executive Order 12291 and the Regulatory Flexibility Act, the Agency has analyzed the costs and benefits of this proposal. This analysis is available for public inspection in Rm. 246, at the address given above.

Executive Order 12291

Under Executive Order 12291, the Agency must determine whether a proposed regulatory action is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. The Agency has determined that this proposed rule is not a major regulatory action, i.e., it will not have an annual effect on the economy of at least $100 million, will not cause a major increase in prices, and will not have a significant adverse effect on competition or the ability of U.S. enterprises to compete with foreign enterprises.

This proposed rule has been reviewed by the Office of Management and Budget as required by E.O. 12291.

Regulatory Flexibility Act

This proposed rule has been reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96-354; 94 Stat. 1164, 5 U.S.C. 601 *et seq.*), and it has been determined that it will not have a significant economic impact on a substantial number of small businesses, small governments, or small organizations.

This regulatory action is intended to remove the existing authorization to use detreated captan-treated corn seed, with residues of captan not exceeding 100 ppm after detreatment to reduce such residues, as feed for cattle and hogs. Registrations of captan products do not expressly permit captan-treated seed corn to be detreated nor, after such detreatment, to be sold and/or used for cattle and hog feed; therefore, revocation of the feed additive regulation will have no effect on registered captan products or their labeling.

The primary economic impact expected from the revocation will be the cost to the seed industry of disposal of obsolete or excess captan-treated corn seed via some method other than pesticide detreatment and subsequent sale of the detreated corn seed for use as animal feed. Total seed corn sales currently represent about $1 billion annually. An increase in costs of $32 million, which represents the high estimate of possible increased costs, represents about 3 percent of the value of seed sales. If the seed industry absorbs these costs, a 3-percent reduction in total sales would be significant, but it would be unlikely to put any seed firm out of business. The seed corn industry has recently survived a decrease in total sales of about 15 percent, without any loss of seed firms, owing to the implementation of the 1985 Farm Bill, which took out of production about 15 percent of corn acres.

Accordingly, I certify that this regulatory action does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

List of Subjects in 40 CFR Part 186

Animal feeds, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 10, 1989.

Charles L. Elkins,

Acting Assistant Administrator for Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR part 186 be amended as follows:

PART 186—[AMENDED]

1. The authority citation for part 186 continues to read as follows:

Authority: 21 U.S.C. 348.

§ 186.500 [Removed]

2. By removing § 186.500 *Captan.*

[FR Doc. 89-19975 Filed 8-29-89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 32

[CC Docket 89-360; FCC 89-271]

Common Carrier Services; Uniform System of Accounts for Telecommunications Companies

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing to amend part 32 of its rules to incorporate the liability method of accounting for income taxes into the Uniform System of Accounts for Telecommunications Companies. This action will bring the method of accounting for income taxes in the System of Accounts in line with the generally accepted method of accounting for income taxes prescribed for the American business community.

DATES: Comments are due on or before September 18, 1989 and reply comments are due on or before October 3, 1989.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: John T. Curry, Accounting Systems Branch, Accounting and Audits Division, Common Carrier Bureau, (202) 634-1861.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking adopted August 4, 1989 and released August 18, 1989.

The full text of this Notice of Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this Notice of Proposed Rulemaking may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Notice of Proposed Rulemaking

In this Notice of Proposed Rulemaking the Commission is proposing changes to Part 32 to incorporate the new accounting procedures for income taxes prescribed in Statement of Financial Accounting Standards No. 96 (SFAS-96) and to establish new accounts that would properly implement those procedures.

Currently, Part 32 of the Commission's rules requires carriers to use the generally accepted method of accounting for income taxes that was established by Accounting Principles Board Opinion No. 11, Accounting for Income Taxes (APB Opinion No. 11). APB Opinion No. 11 prescribed the deferral method of accounting for the tax effects of tax timing differences. Tax timing differences occur when items of revenue or expense are recognized in different accounting periods for tax return purposes than for book purposes. Under the deferral method, the effects of timing differences are determined initially on the basis of tax rates in effect at the time the differences originate, and are not adjusted for subsequent changes in tax rates.

In December 1987, the FASB promulgated SFAS-96, which superseded APB Opinion No. 11. SFAS-96 prescribes the liability method of accounting for income taxes. Under the liability method, business entities estimate the future tax liability or future tax benefit that will occur as a result of differing tax and book treatment of temporary differences. The term temporary difference, as it is used in SFAS-96, would include items previously described as timing differences pursuant to APB Opinion No. 11, as well as other items the tax effects of which have never been accounted for under the deferral method.

In implementing SFAS-96, it will be necessary to adjust deferred tax balances for several factors. The major adjustments will result from the recording of the effects of (1) timing differences previousy flowed through; (2) changes in the tax rate prescribed by the Tax Reform Act of 1986; and (3) basis differences caused by unamortized investment tax credit balances.

This Notice of Proposed Rulemaking tentatively concludes that the changes in income tax accounting required by SFAS-96 can be adopted for the telecommunications industry in such a way as to make tax accounts maintained for regulatory purposes comparable to those shown in published financial statements without any impact on revenue requirements, with one possible exception. This exception would be with respect to excess deferred taxes resulting from a tax rate change which are not protected by Section 203(e) of the Tax Reform Act of 1986. For the unprotected excess deferred taxes, this Notice of Proposed Rulemaking proposes to reduce tax expenses in the year of implementation since SFAS-96 requires excess deferred taxes to be reflected in income at the time of adoption.

To incorporate the liability method of accounting for income taxes prescribed by SFAS-96 into Part 32 of the Commission's rules, this Notice of Proposed Rulemaking would add four new accounts to the Uniform System of Accounts. The new accounts are Account 1437, Recoverable tax liabilities (a regulatory asset account); Account 4341, Net noncurrent deferred tax liability adjustments; Account 4361, Deferred regulatory liability (a regulatory liability account); and Account 7251, Deferred tax liability adjustments-net. These new accounts would be employed to reflect the adjustments to deferred tax balances that are necessary as a result of adopting SFAS-96.

Finally, the Commission proposes that these four accounts be excluded from the rate base and net income determinations for regulatory purposes except for the unprotected excess deferred taxes previously mentioned. This approach would avoid adding new complexities to the rate base and net income determinations and would not subject the new accounts to the Commission's joint cost or separations rules.

Paperwork Reduction Act

The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose a new or modified information collection requirement on the public. Implementation of any new or modified requirement will be subject to approval by the Office of Management and Budget as prescribed in the Act.

Regulatory Flexibility Act

We certify that the Regulatory Flexibility Act is not applicable to the rule changes we are proposing in this

proceeding. In accordance with the provisions of Section 605 of that Act, a copy of this certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration at the time of publication of this Notice in the Federal Register. As part of our analysis of the proposal described in this Order, however, this Commission has considered the impact of the proposal on small telephone companies, *i.e.*, those serving 50,000 or fewer access lines. The action proposed herein would have a beneficial economic impact on all such telephone companies because their tax accounts for regulatory purposes would be comparable to those shown in their published financial statements.

Ordering Clauses

Accordingly, *it is ordered*, That pursuant to sections 1, 4(i), 4(j), 201–205, 218, 220, and 403 of the Communications Act of 1934, as amended, 47 USC sections 151, 154(i), 154(j), 201–205, 218, 220 and 403 and section 553 of the Administrative Procedure Act, 5 USC Sec. 553, notice is hereby given of proposed amendments to part 32 of this Commission's Rules, 47 CFR part 32 as shown below. We hereby give notice that in reaching our decisions in this proceeding we will not necessarily be limited to the comments and reply comments that may be filed, and that we may utilize other information, analyses, and reports, provided that in each such case a copy of the material relied upon will be associated with the record of this proceeding.

It is further ordered, that interested persons may file comments on the specific proposals discussed in this *Notice* on or before September 18, 1989. Reply comments shall be filed on or before October 3, 1989. In accordance with the provisions of § 1.419 of this Commission's Rules and Regulations, 47 CFR Section 1.419, an original and five (5) copies of all comments shall be furnished to the Commission. Copies of the comments will be available for public inspection in the Commission's Docket Reference Room, 1919 M Street, NW., Washington, DC.

It is further ordered, That the Secretary shall serve a copy of this Notice of Proposed Rulemaking on state regulatory commissions.

List of Subjects in 47 CFR Part 32

Reporting and recordkeeping requirements, Telephone, Uniform system of accounts.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Rule Changes

Part 32, Chapter 1 of Title 47, Code of Federal Regulations, is proposed to be amended as follows:

1. The authority citation for part 32 would continue to read as follows:

Authority: Secs. 4(i), 4(j) and 220 as amended; 47 U.S.C. 154(i), 154(j), and 220 unless otherwise noted.

2. Section 32.22 would be amended by revising paragraphs (a), (d) and (f) and removing and reserving paragraph (c) to read as follows:

§ 32.22 Comprehensive interperiod tax allocation.

(a) Companies shall apply interperiod tax allocation (tax normalization) to all book/tax temporary differences which would be considered material for published financial report purposes. Furthermore, companies shall also apply interperiod tax allocation if any item or group of similar items when aggregated would yield debit or credit entries which exceed or would exceed 5 percent of the gross deferred income tax expense debits or credits during any calendar year over the life of the temporary difference. The tax effects of book/tax temporary differences shall be normalized and the deferrals shall be included in the following accounts:

4100 Net Current Deferred Operating Income Taxes
4110 Net Current Deferred Nonoperating Income Taxes
4340 Net Current Deferred Operating Income Taxes
4350 Net Noncurrent Deferred Nonoperating Income Taxes

* * * * *

(c) [Reserved]

(d) The records supporting the activity in the deferred income tax accounts shall be maintained in sufficient detail to identify the nature of the specific temporary differences giving rise to both the debits and credits to the individual accounts.

* * * * *

(f) The tax differentials to be normalized as indicated herein shall also encompass the additional effect of state and local income tax changes on Federal income taxes produced by the provision for deferred state and local income taxes for book/tax temproary differences related to such income taxes.

* * * * *

3. Section 32.103 would be amended to add account 1437 to the list of accounts to read as follows:

§ 32.103 Balance sheet accounts for other than regulated-fixed assets to be maintained.

BALANCE SHEET ACCOUNTS

Account title	Class A account	Class B account
* * * * *		
Recoverable tax liabilities	1437	1437
* * * * *		

4. Section 32.1437 would be added to read as follows:

§ 32.1437 Recoverable tax liabilities.

This account shall include amounts of probable future revenue for the recovery of future increases in taxes payable.

5. Section 32.4000 would be amended to add accounts 4341 and 4361 to the list of accounts and the introductory text of § 32.4000 is republished to read as follows:

§ 32.4000 Instructions for balance sheet accounts—liabilities and stockholders' equity.

Liabilities and Stockholders' Equity Accounts to be Maintained by Class A and Class B telephone companies:

Account title	Class A account	Class B account
* * * * *		
Net noncurrent deferred tax liability adjustments	4341	4341
* * * * *		
Deferred regulatory liability	4361	4361
* * * * *		

6. Section 32.4100 paragraph (d) would be revised to read as follows:

§ 32.4100 Net Current deferred operating income taxes.

* * * * *

(d) The classifiation of deferred income taxes as current or noncurrent shall be based on the expected turnaround of the temporary difference.

* * * * *

7. Section 32.4110 paragraph (g) would be revised to read as follows:

§ 32.4110 Net current deferred nonoperating income taxes.

* * * * *

(g) The classification of deferred income taxes as current or noncurrent shall be based on the expected turnaround of the temporary differences.

* * * * *

8. Section 32.4340 paragraphs (a) and (d) would be revised to read as follows:

§ 32.4340 Net noncurrent deferred operating income taxes.

(a) This account shall include the balance of income tax expense related to noncurrent items for regulated operations which have been deferred to later periods as a result of comprehensive interperiod tax allocation related to temporary differnces that arise from regulated operations.

* * * * *

(d) The classification of deferred income taxes as current or noncurrent shall be based on the expected turnaround of the temporary difference.

* * * * *

9. Section 32.4341 would be added to read as follows:

§ 32.4341 Net noncurrent deferred tax liability adjustments.

(a) This account shall include the noncurrent portion of deferred income tax charges and credits pertaining to Accounts 1437, Recoverable Tax Liabilities, 4361 Deferred Regulatory Liability and 7521 Deferred Tax Liability Adjustments-Net.

(b) This account shall be used to record adjustments to the accumulated deferred tax liabilities recorded in Account 4100 for:

(1) Tax effects of temporary differences accounted for under the flow-through method or treated as permanent differences prior to January 1, 1989.

(2) Reclassifications attributable to changes in tax rates prior to January 1, 1989.

(3) The tax effects of carryforward net operating losses and carryforward investment tax credits expected to reduce future taxes payable that are reported in published financial statements.

(4) Reversals of the tax effects of carryforward net operating losses and carryforward investment tax credits previously recorded in this account at the time they become recognized as reductions in current taxable income and current taxes payable on tax returns.

10. Section 32.4350 paragraphs (a) and (g) would be revised to read as follows:

§ 32.4350 Net noncurrent deferred nonoperating income taxes.

(a) This account shall include the balance of income tax expense (Federal, state and local) that has been deferred to later periods as a result of comprehensive interperiod allocation related to nonoperating temporary differences.

* * * * *

(g) The classification of deferred income taxes as current or noncurrent shall be based on the expected turnaround of the temporary difference.

* * * * *

11. Section 32.4361 would be added to read as follows:

§ 32.4361 Deferred regulatory liability.

This account shall include amounts of probable future revenue reductions attributable to future decreases in taxes payable. As reductions occur, amounts recorded in this account shall be reduced with a debit entry and a credit entry to Account 4341, Net Noncurrent Deferred tax Liability Adjustments.

12. Section 32.6999 paragraph (b) would be amended to add account 7251 to the other income accounts listing to read as follows:

§ 32.6999 General.

* * * * *

(b) Other Income Accounts Listing.

Account title	Class A account	Class B account
* * *	*	*
Deferred tax liability adjustments-net	7251	7251
* * *	*	*

13. Section 32.7251 would be added to read as follows:

§ 32.7251 Deferred tax liability adjustment—net.

(a) This account shall be credited to record the tax effects of carryforward net operating losses and carryforward investment tax credits expected to reduce future taxes payable that have been debited to Account 4341, Net Noncurrent Deferred Tax Liability Adjustments.

(b) This account shall be debited for reversals of the tax effects of carryforward net operating losses and carryforward investment tax credits expected to reduce future taxes payable that have been debited to Account 4341, Net Noncurrent Deferred Tax Liability Adjustments.

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BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Rule To Determine the Pallid Sturgeon To Be an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine the pallid sturgeon (*Scaphirhynchus albus*) to be an endangered species under the authority of the Endangered Species Act (Act) of 1973, as amended. The pallid sturgeon is a large fish known only to occur in the Missouri River, the Mississippi River downstream of the Missouri River, and the lower Yellowstone River. The species is threatened through habitat modification and apparent lack of reproduction. Numbers of fish reported have declined dramatically in the last two decades. Past commercial utilization likely exceeded biological recruitment. Pollution may be a problem over much of its range, and significant hybridization has been documented. Listing would provide protection for preservation of the species. The Fish and Wildlife Service (Service) is requesting data and comments from interested parties on this proposal.

DATES: Comments from all interested parties must be received by October 30, 1989. Public hearing requests must be received by October 16, 1989.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Missouri River Coordinator, Fish and Wildlife Enhancement, U.S. Fish and Wildlife Service, P.O. Box 986, Pierre, South Dakota 57501. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Dr. Kent D. Keenlyne, Missouri River Coordinator, at the above address, telephone (605) 224-8693.

SUPPLEMENTARY INFORMATION:

Background

The pallid sturgeon was first described by S.A. Forbes and R.E. Richardson in 1905 from nine specimens collected from the Mississippi River near Grafton, Illinois, in June 1904

(Forbes and Richardson 19DS). Known locally as the white sturgeon, they named it *Parascaphirhynchus albus* and suggested it be considered as its own genus. Later classifications, however, placed it in the genus *Scaphirhynchus* where it has remained (Bailey and Cross 1954).

The pallid sturgeon has a flattened, shovel-shaped snout; long, slender, and completely armored caudal peduncle; and lacks a spiracle (Smith 1979). The principal features distinguishing the pallid sturgeon from the darker shovelnose sturgeon are the absence of bony plates on the belly, 24 or more anal fin rays, 37 or more dorsal fin rays, and inner barbels under the snout are much shorter than outer barbels with the inner barbels less than six times the length of the head (Pflieger 1975). As with other sturgeon, the mouth is toothless, protrusible, and far under the snout while the skeletal structure is primarily cartilaginous (Gilbraith et al. 1988). It is one of the largest fish found in the Missouri-Mississippi River drainage with specimens approaching 39 kilograms (85 pounds) being reported (Gilbraith et al. 1988).

Pallid sturgeons require large, turbid, free-flowing riverine habitat with rocky or sandy substrate (Gilbraith et al. 1988). They are well adapted to life on the bottom and inhabit areas of swifter water than does the related but smaller shovelnose sturgeon (Forbes and Richardson 1909; Carlson et al. 1985).

The range of the pallid sturgeon is primarily the Missouri River and the Mississippi River downstream of its junction with the Missouri River (Gilbraith et al. 1988). Sightings have been reported from the mouth of the Mississippi to the mouth of the Missouri (1,860 kilometers or 1,154 miles), from the mouth of the Missouri to Fort Benton, Montana (3,330 kilometers or 2,065 miles), and in the lower 320 kilometers (200 miles) of the Yellowstone River. Sightings have occasionally come from near the mouths of large tributaries to the Mississippi River (Big Sunflower River and the St. Francis River) and Missouri River (Kansas River and Platte River); however, these are rare and may be due to the fish utilizing unusual flow conditions (Cross 1967). The total length of its range is approximately 5,725 kilometers (3,550 miles) of river.

A review of the literature shows a sharp decline in pallid sturgeon observations over the range of the species and especially so in the Missouri River from Gavins Point Dam to the Fort Peck Dam. In the 1960's, 500 observations were made (i.e., an average of 50 per year); in the 1970's, 209 observations (i.e., an average of 21 per year); and in the 1980's, 56 observations (an average of about 6 per year) over the entire 5,725 kilometers (3,550 miles) of range. The decline of the species appears to correspond with expanded commercial harvest while, during the same time, recruitment began to fail. The decline, however, also follows the extensive developments of the 1950's and 1960's of the Missouri and Mississippi Rivers. Deacon et al. (1979), Kallemeyn (1983), and Gilbraith et al. (1988) all attribute the decline, either directly or indirectly, to habitat modification. Factors include physical blocking of normal movement patterns of the fish by construction of the big dams; alteration of water quality and temperature; alteration of flows which may affect reproduction, timing of reproduction, or food sources; alteration of previous spawning habitats; reduction of habitat diversity; and reduced productivity of the river systems.

Dr. Michael D. Zagata, on behalf of the National Audubon Society, petitioned the Service to list the pallid sturgeon as "threatened" in an April 17, 1978, letter. The Service responded that the petitioner djd not supply sufficient substantial evidence of the threats to permit it to move directly on the petition and informed the petitioner that it was gathering status data on this and several other species. On December 30, 1982, the Service included the pallid sturgeon in a notice of review published in the **Federal Register** (47 FR 58456). This notice addressed vertebrate species that were currently under review for listing as endangered or threatened, and indicated that substantial information was available to support the biological appropriateness of proposing to list this species as endangered or threatened. On June 16, 1988, a petition was received by the Service from the Dakotah Chapter of the Sierra Club requesting that the pallid sturgeon be listed as an endangered species throughout its range. A positive finding on this petition was made in September 1988 and subsequently published by the Service in the February 23, 1989, **Federal Register** (54 FR 7813). This notice stated that the petition was accepted and that the Service had one year from the date that the petition was received to publish its findings in the **Federal Register**. This proposal constitutes the final finding for the petitioned action.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in Section 4(a)(1). These factors and their application to the pallid sturgeon (*Scaphirhynchus albus*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Alteration of habitat has been a major factor in the decline of this species. Approximately 51 percent of its range has been channelized, 28 percent impounded, and the remaining 21 percent affected by upstream impoundments and altered flow regimes. All of these factors have adversely affected the fish by blocking movements to spawning and/or feeding areas, destroying spawning areas, altering conditions or flows of potential remaining spawning areas, reducing food sources or the ability to obtain food, or altering remaining substrates and conditions necessary for the fish's survival. Of the approximately 5,725 kilometers (3,550 miles) of former habitat for the pallid, virtually all of it has been drastically modified in one manner or another.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Since it was not described as a separate species until 1905, many of the early reports of sturgeon catches during the heyday of commercial fishing in the late 1800's, during which time many of the sturgeon populations were severely reduced, likely grouped it with the lake or shovelnose sturgeon. During the early years of the upper Missouri reservoirs (1950's and 1960's), pallid sturgeon were relatively common and were harvested commercially in both South Dakota (Gasaway 1970) and North Dakota (Carufel 1953) where they were locally called "lake" sturgeon. During this same period, however, researchers began to notice that they were unable to find reproduction of the species, even though large adults were still present (Beckman and Elrod 1971; June 1976; and Walburg 1977). By 1988, 11 of the 13 states which represent its range had classified it as a species of concern under their various programs (Gilbraith et al. 1988).

The pallid sturgeon is considered a fine eating fish, and the roe is suitable for caviar. Its large size makes it a desirable trophy sport fish (Gilbraith et al. 1988).

C. *Disease or predation.* No information is available regarding diseases of the pallid sturgeon. We are not aware of specific disease or predation problems.

D. *The inadequacy of existing regulatory mechanisms.* Adequate

regulatory mechanisms do not presently exist to protect the fish and especially so when considering that most of its range constitutes interjurisdictional waters or is connected to interstate waters. The species is presently not classified under the State listing programs in Arkansas or Mississippi and presumably may be harvested. Kentucky still allows harvest of the species. Sturgeon over 16 pounds (presumed to be a pallid sturgeon if over that weight) must be released in Montana, and sturgeon over 36 inches long (presumed to be a pallid sturgeon if longer than that length) must be released in North Dakota.

Weight and length provisions, however, do not protect young or smaller pallid sturgeons. Pallid sturgeons must be released in Iowa, Kansas, Missouri, Nebraska, and South Dakota (Gilbraith et al. 1988).

E. *Other natural or manmade factors affecting its continued existence.* Although more information is needed, pollution is a likely threat to the species over much of its range. Various fish harvest and consumption advisories exist or have existed as a result of manmade pollution from near Kansas City, Missouri, to the mouth of the Mississippi, which represents about 45 percent of the pallid sturgeon's range. Like other sturgeons, the pallid sturgeon is an opportunistic feeder that feeds on aquatic insects, crustaceans, mollusks, annelids, eggs of other fish, and sometimes other fish. Although utilizing aquatic insects, the pallid is noted as having a high incidence of fish in its diet also (Cross 1967; Kallemeyn 1983; and Carlson et al. 1985). Being a bottom feeder of aquatic forms, one would expect it to be exposed to various pollutants, if present.

Inability to document pallid sturgeon reproduction in recent years has been previously noted. Gilbraith et al. (1988) indicate that there has been no documented reproduction in a decade.

Gilbraith et al. (1988) indicate that male pallids mature at age three or four years. In extensive sturgeon studies in the late 1970's, Carlson et al. (1985) found that hybridization had occurred between the pallid sturgeon in Missouri and the much more abundant shovelnose sturgeon. In two years of study (1978 and 1979), only 11 pallid sturgeon and 12 hybrids were found. The study area comprised approximately 25 percent of the entire range of the pallid sturgeon. The small number of pallids found, the low frequency of reproduction, and the apparent lack of recruitment in the species, plus the high rate of hybridization over a significant portion of its range portends serious problems for the fish in this and other areas as well if the same phenomenon has or is occurring elsewhere in similar habitat situations.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list the pallid sturgeon as an endangered species without critical habitat. The habitat of the species has been altered through damming, channelization, altered and/or degraded water quality, and altered flows to the detriment of the fish. Past harvest for commercial purposes may have surpassed replenishment capability. Commercial harvest of sturgeon may still pose a threat in certain areas of its range. Existing regulations are inadequate to protect the species from further decline. Pollution may be a serious threat over a significant portion of its range, and hybridization is a known threat. Threatened status is not appropriate because *Scaphirhynchus albus* is in danger of extinction throughout its range due to the apparent lack of recruitment of the species for over 15 years, and current habitat threats which have brought the species to this low level are not likely to be modified to benefit the species without protection under the Act. For reasons given below, critical habitat is not proposed.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time the species is proposed to be endangered or threatened. The Service finds that designation of critical habitat is not presently determinable or prudent for this species. Critical habitat cannot be determined at this time due to the paucity of information on the species life requisites and the wide dispersal of limited sighting records in recent years. Moreover, even if it could be determined, it may not be prudent to identify critical habitat to the public. As noted in Factor "B" of the "Summary of Factors Affecting the Species," the pallid sturgeon is a large sturgeon and might be sought by sport fishermen as a trophy specimen. Furthermore, sturgeon roe may be harvested as caviar. Publication of critical habitat maps and descriptions in the Federal Register could negatively impact the species by stimulating interest in the pallid sturgeon, making it more vulnerable to take, and increasing enforcement problems. Protection of this species' habitat will be addressed through the recovery process and through the Section 7 jeopardy standard. Therefore, the Service does not propose to determine critical habitat for the pallid sturgeon at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices.

Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or destroy or adversely modify its critical habitat. If a Federal action may adversely affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Being found primarily in navigable waters of the United States and in areas of considerable Federal land ownership interests, consultation procedures could play a significant role in improving the welfare of the pallid sturgeon.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt,

shoot, wound, kill, trap, or collect, or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. In some instances, permits may be issued for a specified time to relieve undue economic hardship that would be suffered if such relief were not available. With respect to *Scaphirhynchus albus*, it is anticipated that few, if any, trade permits would ever be sought or issued, since the species is not common in the wild and is unknown in cultivation for roe.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposed rule are hereby solicited. Comments particularly are sought concerning the following:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species and the reason why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service. Such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of publication of the proposal. Such requests must be made in writing and be addressed to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited here is available upon request from the Missouri River Coordinator in Pierre, South Dakota (605/224–8693) (see Addresses above) or the Fish and Wildlife Enhancement Office, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225 (303/236–7398).

Author

The primary author of this proposed rule is Dr. Kent D. Keenlyne, Missouri River Coordinator (see ADDRESSES section).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: 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; Pub. L. 100–478, 102 Stat. 2306; Pub. L. 100–653, 102 Stat. 3825 (16 U.S.C. 1531 et seq.); Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order under Fishes, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Fishes:							
*	*	*	*	*	*	*	
Sturgeon/pallid	*Scaphirhynchus albus*	U.S.A. (AR, IA, IL, KS, KY, LA, MO, MS, MT, ND, NE, SD, TN).	Entire	E		NA	NA
*	*	*	*	*	*	*	

Dated: July 18, 1989.

Susan Recce Lamson,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 89-20397 Filed 8-29-89; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Lower Keys Rabbit and Threatened Status for the Squirrel Chimney Cave Shrimp

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine the Lower Keys rabbit (*Sylvilagus palustris hefneri*) to be an endangered species and the Squirrel Chimney cave shrimp (*Palaemonetes cummingi*) to be a threatened species pursuant to the Endangered Species Act of 1973, as amended (Act). These species are found only in Florida. The Lower Keys rabbit is restricted to a few keys in Monroe County and is endangered by loss of wetlands to residential development. The Squirrel Chimney cave shrimp is restricted to one site in Alachua County, Florida. It is threatened by potential development. This proposal, if made final, would implement the protection and recovery provisions afforded by the Act for these species. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by October 30, 1989. Public hearing requests must be received by October 16, 1989.

ADDRESSES: Comments and materials concerning this proposal should be sent to Field Supervisor, Jacksonville Field Office, U.S. Fish and Wildlife Service, 3100 University Boulevard South, Suite 120, Jacksonville, Florida 32216. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: David J. Wesley, Field Supervisor, at the above address (telephone 904/791-2580 or FTS 946-2580).

SUPPLEMENTARY INFORMATION:

Background

The Lower Keys rabbit (*Sylvilagus palustris hefneri*) is an island subspecies of the widespread marsh rabbit. The subspecies was described by Lazell in 1984, based on a specimen from Sugarloaf Key, Monroe County, Florida (Lazell 1984). The Lower Keys rabbit measures about 40 centimeters (16 inches) in total length and has brownish fur dorsally and gray fur ventrally. It differs from the marsh rabbit of peninsular Florida (*Sylvilagus palustris paludicola*) principally in skull characters.

In recent times, the Lower Keys rabbit was found on at least ten of the Lower Keys, but may now be extirpated from five of these. The rabbit does not occur east of the Seven Mile Bridge; it is replaced in the Upper Keys by the subspecies *Sylvilagus palustris paludicola*. The Lower Keys rabbit is restricted to marshes, ranging from saline to fresh water. Salt marshes in the area are typically vegetated with fringerush (*Fimbrystylis* sp.), buttonwood (*Conocarpus erectus*), cordgrass (*Spartina alterniflora*), saltwort (*Batis maritima*), glasswort (*Salicornia virginica*), sawgrass (*Cladium jamaicense*), and sea oxeye (*Borrichia frutescens*). Fresh water marshes support cattail (*Typha latifolia*), sedges (*Cyperus* sp.), and sawgrass. Marshes are very limited in the Lower Keys, since mangroves occupy many coastal areas and interior fresh water habitat is scarce. Known localities for the Lower Keys rabbit are on Federal (National Key Deer Refuge, Key West Naval Air Station), State (Florida Department of Transportation), and private lands. The primary cause of the decline of the Lower Keys rabbit is the filling of wetlands for residential, commercial, and military purposes.

The species was considered a category 2 species in the Service's notice of review published in the **Federal Register** of September 18, 1985 (50 FR 37958), and also in the notice of review published in the **Federal Register** of January 6, 1989 (54 FR 554), indicating that listing was possibly appropriate.

The Service was petitioned to list the Lower Keys rabbit as an endangered species by Ms. Joel Beardsley in a letter received April 17, 1985. Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended in 1982, requires that for any such listing petition containing substantial information, a finding be made within 12 months of receipt of the petition. The Service made a finding that the petition presented substantial information and that the requested action may be warranted on August 30, 1985 (50 FR 35272). Subsequent 1-year findings for 1986 (51 FR 29673; August 20, 1986), 1987 (53 FR 25512; July 7, 1988), and 1988 (53 FR 31723; August 19, 1988) were that the petition was warranted but precluded by other listing activities. In April 1989 the Service made a final finding, based on additional status survey information, that listing of the species was warranted. Publication of the present proposal implements that finding.

The Squirrel Chimney cave shrimp (*Palaemonetes cummingi*), a decapod crustacean of the family Palaemonidae, was described by Chase in 1954. It measures about 30 millimeters (1.2 inches) in total length and is transparent. The body and eyes are unpigmented, and the eyes are reduced in size in comparison to surface-dwelling species of *Palaemonetes.* The Squirrel Chimney cave shrimp (also known as the Florida cave shrimp) is restricted to Squirrel Chimney, a sinkhole near Gainesville, Alachua County, Florida. The site is privately owned. Squirrel Chimney is a small sinkhole which leads to a flooded cave system over 30 meters (100 feet) deep. Several other cave-dwelling invertebrates are found in Squirrel Chimney: McLane's cave crayfish (*Troglocambarus maclanei*), the light-fleeing crayfish (*Procambarus lucifugus*), the pallid cave crayfish (*Procambarus pallidus*) (a category 2 candidate for Federal listing), and Hobb's cave amphipod (*Crangonyx hobbsi*). The site supports one of the richest cave invertebrate faunas in the United States. In 1983, the site was proposed for recognition as a National Natural Landmark, but the National Park Service has not yet taken final action on the proposal.

The Squirrel Chimney cave shrimp is considered threatened by the Florida Committee on Rare and Endangered Plants and Animals, while the other four species are considered species of special concern. The Squirrel Chimney cave shrimp was classified a category 2 species in the Service's May 22, 1984, invertebrate review notice (49 FR 21664), and also in the animal notice of review published January 6, 1989 (54 FR 554). It is threatened by potential residential development and changes in land use.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in Section 4(a)(1). These factors and their application to the Lower Keys rabbit (*Sylvilagus palustris hefneri*) and the

Squirrel Chimney cave shrimp (*Palaemonetes cummingi*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* (1) Lower Keys rabbit—This species probably originally occurred in suitable habitat throughout the larger Lower Florida Keys. Lazell (1984) reported the rabbit from Lower Sugarloaf, Geiger, Saddlebunch, Boca Chica, and Big Pine Keys. He documented 13 sites from these keys (records in Florida Natural Areas Inventory, Tallahassee, Florida). Based on interviews with local residents, he believes that the species also formerly occurred on Cudjoe, Ramrod, Middle Torch, Big Torch, and Key West Keys, but has been extirpated at these sites (J.D. Lazell, The Conservation Agency, *in litt.*, 1985). Lazell (*in litt.* 1985) also provided a rough population estimate, based on pellet counts, of 259 remaining Lower Keys rabbits. Based on interviews with local residents, he believed that the Lower Keys rabbit had been locally common as recently as the 1950's.

The Refuge Manager of the Service's National Wildlife Refuge Complex in the Florida Keys (Key Deer, Key West, and Great White Heron) reviewed the annual reports of that station for information on the Lower Keys rabbit (*in litt.* 1986). The rabbit was known to be present on Refuge lands on Boca Chica, Saddlebunch, and Big Pine Keys, but not on the smaller, outer keys of these refuges. The species was not considered abundant, and was believed to be restricted to keys with available fresh water. Only a few rabbits have been seen since 1984. Howe (1988) surveyed Lazell's 13 sites, as well as additional areas, in a status survey funded by the Service and carried out by the Florida Game and Fresh Water Fish Commission. He found rabbits at 12 locations (one additional site was found following the conclusion of his survey), while they appear to have been extirpated from 4 or possibly 5 previously known sites (Howe, personal communication). Filling for development or road construction has resulted in the destruction of the rabbit's habitat at these sites. Only 6 of the 13 remaining known sites are secure from development. The species may also be extirpated from Saddlebunch Key, where most of the habitat has been destroyed. Howe estimates that 200–400 Lower Keys rabbits remain on Sugarloaf, Welles, Annette, Boca Chica, Big Pine, and Hopkins Keys in small, scattered populations.

(2) Squirrel Chimney cave shrimp—This species is known from only one sinkhole. Any detrimental change to the sinkhole or the underlying aquifer has the potential to adversely affect or even cause the extinction of the species. The property surrounding the sinkhole is currently oak hammock and pine plantation, but it may be developed for residential use (single-family houses) in the foreseeable future. The property is in an actively developing area on the outskirts of Gainesville. Septic tanks and the use of pesticides and herbicides associated with residential development have the potential to degrade water quality in the aquifer, and human activities in the vicinity of the sinkhole could damage the vegetation in and around the sink. Forestry practices have the potential to damage the sinkhole through erosion or pesticides. The current property owners intend to give The Nature Conservancy the first option to purchase the land around the sinkhole, but even if this site is acquired, the sinkhole will remain vulnerable to development in the near vicinity.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* The Lower Keys rabbit was actively hunted in the past (Lazell 1985), but it is not known whether such activity continues. The current small population size and limited distribution of this animal would make any hunting a serious threat. The Squirrel Chimney cave shrimp is restricted to one small site that could be seriously damaged by a single act of vandalism.

C. *Disease or predation.* The Lower Keys rabbit is vulnerable to predation by feral house cats, which are common on the Lower Keys. Mammalian predators such as cats are not native to the Lower Keys, and wildlife there, as on many islands, may not be well adapted to withstanding such predation. Disease or predation are not known to be affecting the Squirrel Chimney cave shrimp.

D. *The inadequacy of existing regulatory mechanisms.* No existing regulatory mechanisms apply to the Lower Keys rabbit or the Squirrel Chimney cave shrimp.

E. *Other natural or manmade factors affecting its continued existence.* The Lower Keys rabbit occurs in small, disjunct populations which may persist only due to migration among colonies. The continuing urbanization of the Lower Keys makes such movements increasingly difficult. Other natural or manmade factors are not known to be affecting the Squirrel Chimney cave shrimp.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these species in determining to propose this rule. Based on this evaluation, the preferred action is to list the Lower Keys rabbit as an endangered species and the Squirrel Chimney cave shrimp as a threatened species. The Lower Keys rabbit is in danger of extinction throughout a significant portion, if not all, of its range. While not in immediate danger of extinction, the Squirrel Chimney cave shrimp is likely to become an endangered species in the foreseeable future.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for the Lower Keys rabbit or the Squirrel Chimney cave shrimp. Publication of critical habitat maps for the Lower Keys rabbit could result in hunting or poaching of this species in its few remaining sites. Federal agencies with Lower Keys rabbits on their properties have been notified. If the rabbit is listed as an endangered species, their activities will be subject to Section 7 of the Act, as discussed under "Available Conservation Measures."

The Squirrel Chimney cave shrimp is restricted to a single known locality that could easily be damaged by vandalism (see factor "B." above). The private landowners do not desire visitors at the site. No Federal activities are known or anticipated at the site.

Publication of critical habitat descriptions would make both species more vulnerable to take or vandalism. For the above reasons, the Service has concluded that designation of critical habitat is not prudent for the Lower Keys rabbit or the Squirrel Chimney cave shrimp. All involved parties and land owners will be notified of the location and the importance of protecting the habitat of these species. Protection will be addressed through the recovery process and through the Section 7 jeopardy standard.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions

against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened, and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. For the Lower Keys rabbit, affected Federal agencies are the U.S Navy and the U.S. Army Corps of Engineers. The rabbit occurs on Key West Naval Air Station, and the Corps has jurisdiction over some of the wetlands used by the rabbit through its permitting authority pursuant to Section 404 of the Clean Water Act. The Navy currently anticipates no conflicts with its mission on Key West Naval Air Station. The Corps must now evaluate wetland permit applications for potential effects on the Lower Keys rabbit. If appropriate, the Corps must confer with the Service concerning the Lower Keys rabbit. Wetland permitting in some areas may become more restrictive.

No Federal agency involvement is anticipated for the Squirrel Chimney cave shrimp.

The Act and its implementing regulations found at 50 CFR 17.21 and 17.31 set forth a series of general trade prohibitions and exceptions that apply to endangered and threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered and threatened wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22, 17.23, and 17.32. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. For threatened species, there are also permits for zoological exhibition, educational purposes, or for special purposes consistent with the purposes of the Act.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposal are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data covering any threat (or lack thereof) to these species;

(2) The location of any additional populations of these species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range and distribution of these species;

(4) Current or planned activities in the subject area and their possible impacts on these species.

Final promulgation of the regulations on these species will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of final regulations that differ from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing to the Field Supervisor (see Addresses section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Chase, F.A., Jr. 1954. Two new subterranean shrimp (Decapoda:Caridea) from Florida and the West Indies, with a revised key to the American species. J. Wash. Acad. Sci. 44:318–324.

Howe, S.E. 1988. Lower Keys rabbit status survey. Final report of Florida Game and Fresh Water Fish Commission to Jacksonville Field Office of U.S. Fish and Wildlife Service under Cooperative Agreement 14–16–004–87–939. 10 pp.

Lazell, J.D., Jr. 1984. A new marsh rabbit (*Sylvilagus palustris*) from Florida's Lower Keys. J. Mamm. 65(1):26–33.

Author

The primary author of this proposed rule is Dr. Michael M. Bentzien (see Addresses section above).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulations Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: 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; Pub. L. 100–478, 102 Stat. 2306; Pub. L. 100–653, 102 Stat. 3825 (16 U.S.C. 1531 *et seq.*); Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order under the groups indicated, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Mammals:							
Rabbit, Lower Keys	*Sylvilagus palustris hefneri*	U.S.A. (FL)	Entire	E		NA	NA
Crustaceans:							
Shrimp, Squirrel Chimney (=Florida) cave.	*Palaemonetes cummingi*	U.S.A. (FL)	NA	T		NA	NA

Dated: July 18, 1989.

Susan Recee Lamson,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 89-20398 Filed 8-29-89; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 650

Atlantic Sea Scallop Fishery

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

ACTION: Notice of availability of an amendment to a fishery management plan and request for comments.

SUMMARY: NOAA issues this notice that the New England Fishery Management Council (Council) has submitted Amendment 3 (Amendment) to the Fishery Management Plan for Atlantic Sea Scallops (FMP) for review by the Secretary of Commerce. Written comments are invited from the public. Copies of Amendment 3 may be obtained from the address below.

DATE: Comments on the Amendment should be submitted on or before October 23, 1989.

ADDRESS: All comments should be sent to Richard Roe, Regional Director, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930. Clearly mark the outside of the envelope "Comments on Amendment 3 to the Sea Scallop FMP."

Copies of the Amendment are available upon request from Douglas G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route 1), Saugus, MA 01906.

FOR FURTHER INFORMATION CONTACT: Patricia A. Kurkul, Resource Policy Analyst, (508) 281-9331.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act) (16 U.S.C. 1801 *et seq.*) requires that each regional fishery management council submit any fishery management plan or plan amendment it prepares to the Secretary of Commerce (Secretary) for review, approval and implementation. The Magnuson Act also requires that the Secretary, upon receiving the plan or amendment, immediately publish a notice of availability for public review and comment. The Secretary considers any public comments received in determining whether to approve the plan or amendment.

Amendment 3 would require all sea scallop dredge vessels, and all vessels landing more than 5 bushels (176.2 1) of sea scallops in the shell, to offload all fish (including sea scallops) within a 12-hour time window. In addition, the Amendment would require all other vessels landing more than 40 pounds (18.1 kg) of shucked scallops to offload all sea scallops within a specified offloading window. The proposed 12-hour offloading windows are as follows:

State of offloading	Period
ME, NH, NC, SC, GA & FL	7 a.m. to 7 p.m.
MA, RI & CT	5 a.m. to 5 p.m.
NY, NJ, DE, MD, VA & PA	6 a.m. to 6 p.m.

The purpose of this Amendment is to improve compliance with the meat-count/shell-height standards of the FMP by implementing a mandatory structure for the offloading of harvested sea scallops. Amendment 3 is also designed to enhance the efficiency and effectiveness of NMFS enforcement efforts in the Atlantic sea scallop fishery.

The windows cover different periods in different states where Atlantic sea scallops are offloaded, to accommodate industry practices, which vary by state. The windows would reduce by half the amount of time, during any day, within which scallops could lawfully be offloaded from any vessel subject to the offloading windows. Offloading outside an offloading window would constitute a separate violation of the regulations—regardless of the meat-count/shell-height measurements of the scallops being offloaded.

Regulations proposed by the Council to implement this Amendment are scheduled to be published within 15 days.

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

List of Subjects in 50 CFR Part 650

Fish, Fisheries.

Dated: August 24, 1989.

David S. Crestin,

Deputy Director, Office of Fishery Conservation and Management.

[FR Doc. 89-20395 Filed 8-25-89; 11:07 am]

BILLING CODE 3510-22-M

50 CFR Part 651

RIN 0648-AC79

Northeast Multispecies Fishery

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

ACTION: Notice of availability of an amendment to a fishery management plan and request for comments.

SUMMARY: NOAA issues this notice that the New England Fishery Management Council (Council) has submitted Amendment #3 (Amendment) to the Fishery Management Plan for the Northeast Multispecies Fishery (FMP) for review by the Secretary of Commerce. Written comments are invited from the public on the Amendment and associated documents.

DATE: Comments will be accepted until October 23, 1989.

ADDRESSES: All comments should be sent to Richard B. Roe, Regional Director, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930. Clearly mark the outside of the envelope "Comments on Multispecies Amendment #3".

Copies of the Amendment, Environmental Assessment, and Regulatory Impact Review/Initial Regulatory Flexibility Analysis are available upon request from Douglas G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route 1), Saugus, MA 01906.

FOR FURTHER INFORMATION CONTACT: Jack Terrill, Resource Policy Analyst, 508–281–9252.

SUPPLEMENTARY INFORMATION: This amendment was prepared under the provisions of the Magnuson Fishery Conservation and Management Act (Magnuson Act)(16 U.S.C. 1801 *et seq.*). The Magnuson Act requires that a council-prepared fishery management plan or amendment be submitted to the Secretary of Commerce (Secretary) for review and approval or disapproval. The Magnuson Act also requires that the Secretary, upon receiving the document, immediately publish a notice of its availability for public review and comment. This amendment proposes measures for managing the multispecies finfish fisheries in the Northwest Atlantic.

The purpose of the amendment is to enable the New England Fishery Management Council, its Multispecies Committee, NMFS, and other management agencies to respond in a timely manner to protect large concentrations of juvenile, sublegal, and spawning fish. Under this system, measures ranging from mesh size restrictions to limited closed areas could be implemented. This system is intended to: 1) Enhance age-at-entry controls to enable the FMP to achieve its objectives; 2) eliminate the need for the type of emergency actions which were most recently implemented in the Northeast Multispecies fishery; and 3) be able to respond to requests from the fishing industry for timely action in a way that improves the climate for cooperation and progress between the Council and the fishing industry.

Formal review by the Secretary began August 24, 1989, and proposed regulations for this amendment will be filed within 15 days for publication.

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

Dated: August 24, 1989.

David S. Crestin,

Deputy Director, Office of Fishery Conservation and Management.

[FR Doc. 89–20394 Filed 8–25–89; 11:06 am]

BILLING CODE 3510–22–M

50 CFR Part 663

[Docket No. 90761–9161]

RIN 0648–AC82

Pacific Coast Groundfish Fishery

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

ACTION: Proposed rule.

SUMMARY: NOAA proposes two changes to the regulations implementing the fishery management plan for Pacific coast groundfish fisheries in the exclusive economic zone (3–200 nautical miles) off the coasts of Washington, Oregon, and California. The first change would require certain commercially caught groundfish species to be sorted prior to the first weighing after offloading. The second change would prohibit possession of unauthorized fixed gear on a fishing vessel. These changes would improve efficiency in enforcing fishing restrictions.

DATE: Comments on this proposed rule are invited until September 29, 1989.

ADDRESSES: Send comments to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, Bldg. 1, Seattle WA 98115; or E. Charles Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island CA 90731.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at (206) 526–6140; or Rodney R. McInnis at (213) 514–6202.

SUPPLEMENTARY INFORMATION: Under the Magnuson Fishery Conservation and Management Act (Magnuson Act), a Fishery Management Plan for the Pacific Coast Groundfish Fishery off the coasts of Washington, Oregon, and California (FMP) was prepared by the Pacific Fishery Management Council (Council) and approved by the Secretary of Commerce (Secretary). Implementing regulations are codified at Parts 620 and 663 for the domestic fishery and at Part 611 for the foreign fishery.

The Council requested two changes in the implementing regulations in order to facilitate enforcement. These changes are discussed below.

Sorting. Trip limits restrict the amount of a particular species or group of species that may be landed by a vessel from a single fishing trip. Trip limits frequently are used to prolong the fishery for certain species, thus providing a year-round supply of groundfish to the market. They also are used to minimize or prevent waste and biological stress for those species that would be unavoidably caught, and thus discarded, after a quota is reached. They have been applied to landings of Pacific ocean perch, widow rockfish, sablefish, the deepwater complex (sablefish, Dover sole, arrowtooth flounder, and thornyheads), yellowtail rockfish, and the more than 70 species of rockfish in the *Sebastes* complex.

State and Federal enforcement officials advised the Council that enforcement is difficult when species with trip limits are not sorted before weighing by the processor. The problem is particularly acute when there are large loads of mixed species, some with trip limits and some without. Enforcement officers at the scene of the unloading must estimate the poundage of each trip limit species to determine whether a violation has occurred. If, in the judgment of the officer, a violation has occurred, the processor's operation must be interrupted while each species with a trip limit is sorted and weighed. This can take 6 to 8 hours and result in a temporary shut-down of the plant's operations.

The proposal that sorting be required will not substantially increase direct or indirect costs on the fishery as a whole. Although some fishermen may find sorting to be an inconvenience, sorting helps fishermen determine when to stop fishing on a particular species and is the only way for both fishermen and enforcement agents to verify compliance with the regulations. Most fishermen already sort their catch at sea or as fish are offloaded from the vessel. Also, because processors pay different prices for different species, those species routinely are sorted according to market categories before they are weighed. Market categories often are designated for species with trip limits. The State of Washington already has a regulation requiring species with trip limits to be sorted. A Federal regulation requiring sorting would not change operating procedures for fishermen and processors in that state. The States of Oregon and California plan to institute state sorting requirements concurrent with implementation of the Federal regulation.

The Council agreed that a sorting requirement is necessary to enhance enforcement and compliance, and to reduce disruption of processing operations. However, the Council also concluded that it was unnecessary to require sorting of a total delivery smaller than 3,000 pounds. Most trip limits, or trip frequency limits (which restrict the number of landings a vessel may make in a given time period), have

not been applied below a certain level, usually 3,000 pounds or less, depending on the species involved.

Prohibiting possession of unauthorized fishing gear. The Council also recommended prohibiting possession of unauthorized fixed gear on commercial fixed gear fishing vessels. Fixed gear includes set nets, traps or pots, longlines, or commercial vertical hook-and-line gear. The definitions and regulations concerning legal fixed gear are found at 50 CFR 663.2 and 663.26 and may be modified under 50 CFR 663.25.

Presently, there is no prohibition on carrying unauthorized fixed gear, such as pots without biodegradable panels and longlines without proper marking, aboard any fishing vessel. Pulling and checking gear on the grounds by enforcement agents is time-consuming and can disrupt fishing operations. The Council's proposal was intended to facilitate enforcement by allowing enforcement agents to inspect fixed gear at the dock rather than at sea. The Council recommended that trawl vessels be exempt from this prohibition because they sometimes retrieve derelict fixed gear that does not comply with the regulations at § 663.26. Trawlers that encounter and retrieve derelict fixed gear must be able to retain it for the purpose of returning it to shore for disposal, as required by Annex V of the International Convention for the Prevention of Pollution from Ships, 1973 (Annex V of MARPOL 73/78), which prohibits the at-sea disposal of fishing gear.

NMFS, in its review of the Council's recommendation, has discovered that the Council unintentionally overlooked the fact that its recommendation might be contradictory to Annex V with regard to fixed gear vessels that also occasionally become entangled with illegal, derelict fixed gear at sea. The Council's recommendation would prohibit possession of such gear by fixed gear vessels, whereas Annex V would necessitate bringing it to shore for disposal. Furthermore, the recommendation might appear to some to discriminate against fixed gear vessels because it does not prohibit the retention of illegal fixed gear aboard other types of commercial fishing vessels such as trawlers.

Therefore, to accomplish the intent of the Council's recommendation, NMFS has revised the proposal so that the possession of illegal fixed gear is prohibited onboard all commercial fishing vessels unless such gear is the gear of another vessel which has been retrieved at sea, in which case such gear must be made inoperable or be stowed in a manner not capable of being fished. Thus all commercial fishing vessels would be able to retain, for the purpose of disposal on shore, derelict fixed gear retrieved at sea, consistent with Annex V. NMFS also intends that any vessel bound for Alaska with fixed gear onboard be exempt from this prohibition, unless the vessel also fishes for groundfish off the coasts of Washington, Oregon, or California during the same trip.

This prohibition also would not apply to the possession of unauthorized trawl gear. Authorized trawl gear differs according to the area fished and type of fishing operation. For example, legal mesh size varies depending on the type of trawl gear used (midwater, bottom, or roller trawl), and, for roller trawls, the area fished. Furthermore, fishermen are permitted to use midwater, bottom, or roller trawls during the same fishing trip. Therefore, a prohibition against possession of unauthorized trawl gear would be difficult to enforce, and moreover, could disrupt normal fishing operations.

Classification

This proposed rule is published under authority of section 305(g) of the Magnuson Act, 16 U.S.C. 1855(g), and was prepared at the request of the Council. The Assistant Administrator for Fisheries, NOAA, has determined that this proposed rule is necessary for the conservation and management of the Pacific coast groundfish fishery and that it is consistent with the Magnuson Act and other applicable law.

The Under Secretary, NOAA, before publishing a final rule, will take into account the data and comments received during the comment period.

The Assistant Administrator has determined that the proposed rule falls within a categorical exclusion from the requirements of the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.*, under NOAA Directive 02–10, because it is routine (i.e., would not result in any significant change from the status quo) and because it has limited potential for effect on the human environment. A biological benefit would accrue from discouraging the use of unauthorized fixed gear because detection would be more likely with shoreside enforcement. In particular, pots without escape panels that are lost at sea continue fishing indefinitely. If use of such fixed gear is lessened, an unquantifiable benefit would result.

The Under Secretary has determined that it is not a major rule requiring a regulatory impact analysis under Executive Order 12291. The proposed action will not have a cumulative effect on the economy of $100 million or more nor will it result in a major increase in costs to consumers, industries, government agencies, or geographical regions. No significant adverse impacts are anticipated on competition, employment, investments, productivity, innovation, or competitiveness of U.S.-based enterprises.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 603 *et seq.* While few costs are expected from the action, enforcement benefits and more efficient procedures would result from these regulations. The proposed sorting requirement involves direct or indirect costs to the industry. However, the incremental cost of this regulation would be small, because many fishermen already sort their catch according to market categories or to monitor compliance with trip limits, deliveries below 3,000 pounds would be exempt, and the State of Washington already requires sorting. As a result, a regulatory flexibility analysis was not prepared.

This proposed rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

This rule implements the FMP and amendments for which consistency determinations have previously been made under the Coastal Zone Management Act.

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

List of Subjects in 50 CFR Part 663

Fisheries, Fishing, Foreign relations.

Dated: August 24, 1989.

James E. Douglas, Jr.,

Deputy Assistant Administrator For Fisheries, National Marine Fisheries Service.

PARTS 663—PACIFIC COAST GROUNDFISH FISHERY

For the reasons set forth in the preamble, 50 CFR Part 663 is proposed to be amended as follows:

1. The authority citation for 50 CFR Parts 663 continues to read as follows:

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

2. In § 663.7, the introductory paragraph is revised to reference § 620.7, and paragraphs (l) and (m) are added as follows:

§ 663.7 Prohibitions.

In addition to the general prohibitions specified in § 620.7 of this chapter, it is unlawful for any person to:

* * * * *

(l) Fail to sort, prior to the first weighing after offloading, those groundfish species or species groups for which there is a trip limit, if the weight of the total delivery exceeds 3,000 pounds (round weight or round weight equivalent).

(m) Possess, deploy, haul, or carry onboard a fishing vessel subject to these regulations (50 CFR Part 663) a set net, trap or pot, longline, or commercial vertical hook-and-line that is not in compliance with the gear restrictions at § 663.26, unless such gear is the gear of another vessel that has been retrieved at sea and made inoperable or stowed in a manner not capable of being fished. The disposal at sea of such gear is prohibited by Annex V of the International Convention for the Prevention of Pollution From Ships, 1973 (Annex V of Marpol 73/78).

[FR Doc. 89-20393 Filed 8-25-89; 11:05 am]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 54, No. 167
Wednesday, August 30, 1989

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

DEPARTMENT OF AGRICULTURE

Forest Service

Mex Mountain Timber Sales, Clearwater National Forest, Idaho County, Idaho; Intent To Prepare an Environmental Impact Statement

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

SUMMARY: The Forest Service will analyze and disclose the environmental impacts of a proposal to harvest timber, regenerate harvested timber stands, reconstruct existing roads, and construct new roads in a portion of the Fish Creek drainage on the Lochsa Ranger District. The proposed action is located within a portion of the RARE II North Lochsa Face Roadless Area (#1307). An environmental impact statement will be prepared which will document the analysis. This EIS will tier to the Clearwater National Forest Land and Resource Managmeent Plan FEIS of September 1978, which provides overall guidance in achieving the desired future condition for the area. The primary purpose and goal of the proposed action is to help satisfy short-term demands for timber and maintain a continuous supply of timber for the future, while maintaining the high quality wildlife and fishery values of the study area.

To date, considerable scoping and analysis has been done in regard to the proposed action. During October of 1987, a letter of management intent was sent to the staff of the Clearwater National Forest, State agencies, the Nez Perce Indian Tribe, and other known local interest groups and individuals. Concurrently, notices were put in local and regional newspapers informing the public of the analysis, and seeking comment. In December 1988, an Interdisciplinary Team (IDT) was assigned to complete the analysis after receiving a number of comments during the initial scoping phase. In response to the identified issues and concerns, the IDT has so far described eight alternative management proposals for the study area. The Team has met with agencies and interest groups to explain the analysis process and the alternatives that have been developed. The Forest Service is now seeking further information and comments from Federal, State, local agencies, and other individuals or organizations who are interested in or affected by the proposed action. This additional input will be used in preparing the Draft EIS (DEIS). This process will include:

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

The agency invites written comments and suggestions on the issues and management opportunities for the area being analyzed.

DATE: Comments concerning the scope of the analysis should be received by September 31, 1989 to receive timely consideration in the preparation of the Draft EIS.

ADDRESS: Send written comments to Jon B. Bledsoe, District Ranger, Lochsa Ranger District, Rt. 1, Box 398, Kooskia, ID 83539.

FOR FURTHER INFORMATION CONTACT: Dennis Griffith, Mex Mountain Analysis Interdisciplinary Team Leader, or Jon B. Bledsoe, District Ranger, Lochsa Ranger District, Clearwater National Forest, (208–926–4275).

SUPPLEMENTARY INFORMATION: The analysis area in which the proposed management activities would occur consists of approximately 13,560 acreas of National Forest land in the northwest portion of the Fish Creek drainage on Lochsa Ranger District. The entire study area is located within the inventoried 113,662-acre North Lochsa Slope Roadless Area (#1307). The study area includes all or portions of: Sections 1, 2, 3, 4, and 10 of T.34N., R.7E.; Sections 13, 14, 15, 16, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33, 34, 35, and 36 of T.35N., R7E.; and Sections 19, 30, and 31 of T.35N., R.8E., Boise Meridian.

The Land and Resource Management Plan for the Clearwater National Forest provides the overall guidance for management activities in the potentially affected area through its goals, objectives, standards, guidelines and management area direction.

The areas of proposed timber harvest, regeneration, and associated road construction and reconstruction activities within the Mex Mountain analysis area are located in Plan management areas A6, C8S, and M2.

Management area A6 consists of a ½-mile wide corridor on either side of the Lewis and Clark National Historic Trail and the Lolo Motorway, a primitive road constructed in the mid-1930's. These cultural resources have national and regional significance, and the management goal for the corridor is to protect the intrinsic values of these resources, while providing opportunities for recreational activities oriented to traveling over them, understanding and appreciating the routes as historic travel routes across the Bitterroot Mountain range.

Management area C8S consists of lands by high value fishery streams, productive timberland, and key big-game summer range. The management goal for this area is maintenance of high quality fishery and wildlife values, while producing timber from the productive forest land.

Management area M2 consists of riparian areas including perennial streams, lakes, wetlands, and floodplains. It also includes the land within 100 feet from their margins. The management goal for these areas is to maintain them under the principles of multiple use as areas of special consideration, distinctive values, and integrated with adjacent management areas to the extent that water and other riparian-dependent resources are protected.

The analysis will consider a range of alternatives. One of these will be the "no-action" alternative in which timber harvest, timber stand regeneration, and road construction/reconstruction activities would not be implemented. Other alternatives will examine various levels and locations of timber harvest,

timber stand regeneration, and road construction/reconstruction activity. The various mixes of timber and non-timber resources values of each alternative will also be examined.

Under the alternatives that the Interdisciplinary Team has described to this point, up to 9.2 million board feet (MMBF) of timber could be harvested on 460 acres. Such an action would require the construction of 3.6 miles of new road and the reconstruction of 9 miles of existing road.

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

Public participation will be especially important at several points in the analysis. People are encouraged to visit with Forest Service officials at any time during the analysis and prior to the decision. However, two key time periods have been identified for receipt of formal comments on the analysis:

- Scoping period (now through September 31, 1969).
- Review of the Draft EIS in November 1969.

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

Since the proposed action could affect cultural resources either listed on or eligible for listing on the National Historic Register, the consultation process established in Title 36, Code of Federal Regulations, Part 800.4, will be followed during the analysis.

The DEIS is expected to be filed with the Environemental Protection Agency (EPA) and available for public review by November 15, 1989. At that time, the EPA will publish a Notice of Availability of the DEIS in the **Federal Register**. After a 45-day public comment period, the comments received will be analyzed and considered by the Forest Service in the final Environmenal Impact Statement (FEIS). The FEIS is scheduled to be completed by February, 1990. The Forest Service will respond in the FEIS to the comments received on the DEIS. The District Ranger for the Lochsa Ranger District, Clearwater National Forest, Jon B. Bledsoe, who is the reponsible official for this EIS, will make a decision regarding this proposal considering the comments, responses, environmental consequences discussed in the FEIS and applicable laws, regulations, and policies. The decision and reasons for the decision will be documented in a Record of Decision.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency published the notice of availability in the **Federal Register**. The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the enviromental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp. v. NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft enviromental impact statement may be waived or dismissed by the courts. *Wisconsin Heritages, Inc. v. Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can be meaningfully consider them and respond to them in the final enviromental impact statment.

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

Dated: August 10, 1989.

Jon B. Bledsoe,

District Ranger, Lochsa Ranger District, Clearwater National Forest.

[FR Doc. 89-20376 Filed 8-29-89; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Subcommittee on Export Administration of the President's Export Council; Closed Meeting

A closed meeting of the President's Export Council Subcommittee on Export Administration will be held Friday, September 15, 1989, 9 a.m. to 3 p.m., U.S. Department of Commerce, Herbert C. Hoover Building, Room 4830, 14th and Constitution Avenue NW., Washington, DC.

The Subcommittee provides advice on matters pertinent to those portions of the Export Administration Act, as amended, that deal with United States policies of encouraging trade with all countries with which the United States has diplomatic or trading relations, and of controlling trade for national security and foreign policy reasons.

Executive Session: 9 a.m.–3 p.m. Discussion of matters properly classified under Executive Order 12356 pertaining to the control of export for national security, foreign policy or short supply reasons under the Export Administration Amendments Act of 1979, as amended. The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on October 27, 1987, pursuant to section 10 (d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Subcomittee, dealing with the classified materials listed in 5 U.S.C. 552b (c) (1) shall be exempt from the provisions relating to public meetings found in section 10 (a) (1) and (a) (3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public. A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Washington, DC.

For further information, contact Betty Ferrell, (202) 377–2583.

Dated: August 23, 1989.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 20345 Filed 8-29-89; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

[C-549-804]

Initiation of Countervailing Duty Investigation: Certain Carbon Steel Butt-Weld Pipe Fittings From Thailand

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Thailand of carbon steel butt-weld pipe fittings (pipe fittings) as described in the "Scope of Investigation" section of this notice, receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If this investigation proceeds normally, we will make our preliminary determination on or before October 27, 1989.

EFFECTIVE DATE: August 30, 1989.

FOR FURTHER INFORMATION CONTACT: Carole Showers or Margot Paijmans, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-3217 and (202) 377-1442.

SUPPLEMENTARY INFORMATION:

The Petition

On August 3, 1989, we received a petition in proper form from the U.S. Butt-Weld Fittings Committee, filed on behalf of the U.S. industry producing carbon steel butt-weld pipe fittings. In compliance with the filing requirements of section 355.12 of the Commerce Regulations published in the Federal Register on March 28, 1989 (54 FR 12742) (to be codified at 19 CFR 355.12), the petition alleges that manufacturers, producers, or exporters of pipe fittings in Thailand receive, directly or indirectly, certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act).

Thailand is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and the merchandise being investigated is dutiable. Therefore, section 303 (a)(1) and (b) of the Act apply to this investigation. Accordingly, petitioner is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this product from Thailand materially injure, or threaten material injury to, a U.S. industry.

Petitioner has alleged that it has standing to file the petition. Specifically, petitioner has alleged that it is an interested party as defined under section 771(9)(E) of the Act and that it has filed the petition on behalf of the U.S. industry manufacturing the products that are subject to this investigation. If any interested party as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act wishes to register support of or opposition to this petition, please file written notification with the Commerce official cited in the "For Further Information Contact" section of this notice.

Initiation of Investigation

Under section 702 (c) of the Act, we must make a determination on whether to initiate a countervailing duty proceeding within 20 days after a petition is filed. Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition on behalf of an industry that: (1) Alleges the elements necessary for the imposition of a duty under section 701(a), and (2) is accompanied by information reasonably available to the petitioner supporting the allegations. We have examined the petition on pipe fittings from Thailand and have found that it meets these requirements. Therefore, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters of pipe fittings in Thailand, as described in the "Scope of the Investigation" section of this notice, receive bounties or grants. If our investigation proceeds normally, we will make our preliminary determination on or before October 27, 1989.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted to the *Harmonized Tariff Schedule* (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered or withdrawn from warehouse for consumption on or after this date is classified solely according to the appropriate HTS subheading(s). The HTS subheadings are provided for convenience and Customs purposes. The written description remains dispositive as to the scope of the product coverage.

The product covered by this investigation is carbon steel butt-weld pipe fittings, having an inside diameter of less than 360 millimeters (fourteen inches), imported in either finished or unfinished form. These formed or forged pipe fittings are used to join sections in piping systems where conditions require permanent, welded connections, as distinguished from fittings based on other fastening methods (*e.g.*, threaded, grooved, or bolted fittings). The product is classified under subheading 7307.99.30 of the *Harmonized Tariff Schedule* (HTS) and were formerly classifiable under item 610.88.00 of the *Tariff Schedules of the United States Annotated* (TSUSA).

Allegations of Bounties or Grants.

Petitioner lists a number of practices by the Government of Thailand which allegedly confer bounties or grants on manufacturers, producers, or exporters of pipe fittings in Thailand. We are initiating an investigation of the following programs:

- Export Packing Credits
- Tax Certificates for Exports
- Electricity Discount for Exporters
- Rediscount of Industrial Bills
- Export Processing Zones
- International Trade Promotion Fund
- Investment Promotion Act

— Section 28: Import Duty and Tax Exemption for Machinery
— Section 31: Income Tax Exemption
— Section 33: Goodwill and Royalties Tax Exemption
— Section 34: Tax Deduction for Dividends
— Section 36(1): Import Duty and Tax Exemption on Raw and Essential Materials
— Section 36(2): Import Duty and Tax Exemption on Imports for Re-export
— Section 36(3): Import Duty and Tax Exemption on Products for Export
— Section 36(4): Tax Deduction on Income Resulting from Increased Exports

This notice is published pursuant to section 702(c)(2) of the Act.

Dated: August 22, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-20346 Filed 8-29-89; 8:45 am]

BILLING CODE 3510-DS-M

Notice of Petitions by Producing Firms for Determinations of Eligibility to Apply for Trade Adjustment Assistance

Petitions have been accepted for filing on the dates indicated from the

following firms: (1) Big Front Manufacturing, Inc., 360 South Los Angeles Street, Los Angeles, California 900013, producer of formal wear: shirts, slacks, vests, bowties, handkerchiefs, suspenders and cumberbands (February 1, 1989); (2) United Uphostery Corporation, 1321 North Kraemer Blvd., Anaheim, California 92806, producer of upholstered sofas, chairs and tables (February 3, 1989); (3) Steffmar Industries, Inc., 8320 San Fernando Road & Reed Street, Sun Valley, California 91352, producer of pallet racks, carts, dollys and shelving systems (February 6, 1989); (4) Quantachome Corporation, 5 Aerial Way, Syosset, New York 11791, producer of microscan (February 7, 1989); (5) D'Andrea Manufacturing Company, Inc., 900 Shames Drive, Westbury, New York 11590, producer of carrying cases for musical instruments and picks (February 7, 1989); (6) Mann Edge Tool Company, P.O. Box 351, Lewistown, Pennsylvania 17044, producer of axe heads, punch bars, sledge hammers, mauls and wedges (February 7, 1989); (7) Tracy-Luckey Company, Inc., 110 N. Hicks Street, P.O. Box 188, Harlem, Georgia 30814–0850, processor of pecans (February 8, 1989); (8) Dixie Brewing Company, Inc., 2401 Tulane Avenue, New Orleans, Louisiana 70119, producer of beer (February 9, 1989); (9) Man-Sew Corporation, 6108 Sherwin Drive, Port Richey, Florida 34668, producer of industrial sewing machines, attachments and parts (February 21, 1989); (10) Fenpro, Inc., 2601 NW. Market Street, Seattle, Washington 98107, producer of aluminum framed windows (February 21, 1989); (11) Marx Manufacturing Corporation, 7000 Monroe Boulevard, Taylor, Michigan 48180, producer of stamped, metal parts for automobile bodies, steering and axle mechanisms and engines (February 21, 1989); (12) J.V. Industries, Inc., 2050 Turner Road, S.E., Salem, Oregon 97302, producer of amusement rides (February 21, 1989); (13) Standard Cellulose & Novelty Company, Inc., 99–20 Atlantic Avenue, Ozone Park, New York 11416, producer of Christmas trees, Christmas and Easter grass, wreaths and garlands, wrapping paper and picnic chests (February 22, 1989); (14) Carl Falkenstein, Inc., 2717 North Howard Street, Philadelphia, Pennsylvania 19133, producer of lamp parts (February 24, 1989); (15) Champion Auto Generator Service, Inc., Grand and High Streets, Blackwood, New Jersey 08012, producer of auto alternators, generators, starters, solenoids and armatures (February 28, 1989); (16) Stinson Manufacturing Company, 555 Harriman, San Antonio, Texas 78204, producer of computer parts (February 28, 1989); (17) Tropicana Sportswear, Inc., 826 Queen Street, Honolulu, Hawaii 96813, producer of men's shirts and women's shirts, blouses and dresses (February 28, 1989); (18) Hoffman Precision Plastics, Inc., 500 Almonesson Road, Blackwood, New Jersey 08012, producer of plastic parts for computers, toys, houseware, insulators, outlets and other misc. plastic parts (March 2, 1989); (19) Polytex Fibers Corporation, 9341 Baythorne Drive, Houston, Texas 77041, producer of polypropylene bags (March 3, 1989); (20) Stanley Woolen Company, 140 Menden Street, Uxbridge, Massachusetts 01569, producer of wool fabric (March 6, 1989); (21) Elkhorn Plastic Products, 315 South Church Street, Elkhorn, Wisconsin 53121, producer of plastic covers for barbeque grills, vacum formed hard plastic and soft plastic shapes (March 6, 1989); (22) Simmons Machine Tool Company, 1700 North Broadway, Albany, New York 12204, producer of wheel borers, railroad presses, lathes, etc. (March 7, 1989); (23) Brenner Paper Products Company, Inc., 66–31 Otto Road, Glendale, New York 11385, producer of envelopes (March 7, 1989); (24) EBY Corporation, 430 H Street, Philadelphia, Pennsylvania 19124, producer of electronic connectors (March 8, 1989); (25) George's Greenhouses, Inc., RD 3, Box 150, Newark Valley, New York 13811, flower grower (March 9, 1989); (26) George Frost Company, Leominster Road, Shirley, Massachusetts 01464, producer of belts and suspenders (March 10, 1989); (27) Marine Electric RPD, Inc., 666 Pacific Street, Brooklyn, New York 11217, producer of monitoring and alarm systems, audio systems and power suppliers (March 10, 1989); (28) Oomphies, Inc., 5 Franklin Street, Lawrence, Massachusetts 01840, producer of casual shoes and slippers (March 13, 1989); (29) Ricks Industries, Inc., 7800 NW. 32nd Street, Miami, Florida 33122, producer of men's athletic wear and women's sportswear (March 13, 1989); (30) Micro Security Systems, Inc., 4750 Wiley Post Way #180, Salt Lake City, Utah 84116–2878, producer of security keys for computers (March 16, 1989); (31) Hermell Products, Inc., 23 Britton Drive, Bloomfield, Connecticut 06002, producer of stretch bandages, knitted stockinettes, cervical collars and foam cushions (March 17, 1989); (32) Twin City Technical Castings, Inc., 750 Pelham Boulevard, St. Paul, Minnesota 55114, producer of non-fereous metal castings (March 20, 1989); (33) Waltham Clock Company, 221 Crescent Street, Waltham, Massachusetts 02154, producer of aircraft clocks, feedback controls and DEC-medical equipment (March 22, 1989); (34) Fryburger Production Company, Inc., P.O. Box 362, Clay City, Illinois 62824, producer of crude oil (March 23, 1989); (35) Extex Garment Contractor, 407 East Pico Boulevard, Suite 803, Los Angeles, California 90015, producer of men's women's and children's shorts, skirts and shirts (March 24, 1989); (36) You & Me Naturally, Inc., 916 Kaamahu Street, Honolulu, Hawaii 96817, producer of women's dresses, skirts, blouses and pants (March 24, 1989); (37) Cornish Knitgoods Manufacturing Corporation, 121 Ingraham Street, Brooklyn, New York 11237, producer of women's sweaters and skirts (March 29, 1989); (38) Upholstery West, Inc., 245 West 8600 South, Midvale, Utah 84047, producer of upholstered automotive seats (March 31, 1989); (39) Hamtronics, Inc., 65 Moul Road, Hilton, New York 14468–9535, producer of two way radios (April 4, 1989); (40) Birchwood Manufacturing Company, 38 East Messenger Street, Rice Lake, Wisconsin 54868, producer of laminated wood golf club head blanks and hardwood veeners (April 5, 1989); (41) Glasway, Inc., 865 East Stony Road Lake Mills, Wisconsin 53551, producer of fiberglass pleasure boats (April 5, 1989); (42) M.H. Rhodes, Inc., 99 Thompson Road, Avon, Connecticut 06001, producer of timers and parking meters (April 6, 1989); (43) The Ullman Company, Inc., 250 Kennedy Drive, Hauppauge, New York 11788, producer of plastic dinnerware (April 6, 1989); (44) American Polarizers, Inc., 141 South 7th Street, Reading, Pennsylvania 19602, producer of clip on sunglasses, display screens, aircraft window screens and polarized film and graphics (April 6, 1989); (45) Santa Cruz Industries, 411 Swift Street, Santa Cruz, California 95060, producer of display units (April 6, 1989); (46) P-Craft Jewelry, 12 Dunham Street, Attleboro, Massachusetts 02703, producer of costume jewelry (April 7, 1989); (47) McCormick & Baxter Creosoting Co., 6900 North Edgewater Street, Portland, Oregon 97208, producer of treated poles and railroad ties (April 7, 1989); (48) Elchar Tool Specialist, Inc., 8857 Alexander Road, Batavia, New York 14020, producer of typewriter parts, electronic plugs, IUD's and wedding cake figurines (April 7, 1989); (49) Kay-Townes, Inc., P.O. Box 593, Rome, Georgia 30161, producer of T.V. antennas and amplifiers (April 10, 1989); (50) Carriage House Meat & Provision Company, Inc. 1131 Dayton Road, Ames, Iowa 50010, procesor of meat (April 10, 1989); (51) Monroe Timer Company, Inc.,

264 East Third Street, Mount Vernon, New York 10550, producer of automobile alarms, hood locks and parts and steering column collars (April 13, 1989); (52) Aetnacraft Industries, Inc., 69 Second Avenue, Brooklyn, New York 11215, producer of tubular furniture frames and parts and display bases and parts (April 13, 1989); (53) Durham Manufacturing Co., Inc., P.O. Box 51, Ellaville, Georgia 31806, producer of dining room furniture, end tables, wall units and entertainment centers of wood (April 18, 1989); (54) Big Front Manufacturing, Inc., 360 South Los Angeles, Los Angeles, California 90013, producer of neckties, cummerbunds, handkerchiefs, shirts, vests, coats, skirts and slacks (April 14, 1989); (55) Milog, Inc., 9500 South 500 West #103, Sandy, Utah 84070, producer of computers for motor vehicles (April); (56) Fleet Line, Inc., 10950 S.W. Fifth Street, Unit 145, Beaverton, Oregon 97203, producer of container sealing machinery (May 1, 1989); (57) Personal Design Associates, 3015 South 300 West, Salt Lake City, Utah 84115, producer of picture frames and molding (May 2, 1989); (58) Rome Manufacturing Company, 208 East Second Avenue, P.O. Box 191, Rome, Georgia 30161, producer of men's pants (May 2, 1989); (59) Carleton Woolen Mills, Inc., P.O. Box 317, Winthrop, Maine 04364, producer of wool fabric (May 3, 1989); (60) Classic Elite Yarns, Inc., 12 Perkins Street, Lowell, Massachusetts 01854, producer of yarn (mohair and cotton blends) (May 5, 1989); (61) Victor-Balata Belting Company, 1118 South 25th Street, Easton, Pennsylvania 18042, producer of loop belting, vacuum hoses for swimming pools and air shafts, and machinery for the food industry (May 5, 1989); (62) Halifax Damask Mills, Inc., P.O. Box 1068, South Boston, Virginia 24592, producer of cotton damask tablecloths and napkins and woven cotton cloth (May 5, 1989); (63) Environmental Communications, Inc., 3150 Pullman Street, Costa Mesa, California 92626, producer of hybrid circuits and enclosures (May 8, 1989); (64) Durston Manufacturing Co., 1395 East Palomares Avenue, LaVerne, California 91750, producer of tool holders and racks, hand directed or controlled tools, non-electrical (May 8, 1989); (65) Lite Lab Corporation, 251 Elm Street, Buffalo, New York 14203, producer of lighting fixtures (May 8, 1989); (66) Electrografics International Corp., 1825 Stout Drive, Warminster, Pennsylvania 18974, producer of microlithographic equipment (May 8, 1989); (67) Triconic Laboratories, Inc., 7 Canal Street, Center Moriches, New York, producer of optical lenses and eyeglass frames (May 8, 1989); (68) The Mautner Company, Inc., 498 Nepperhan Avenue, Yonkers, New York 10701, producer of jewelry display cases and jewelry boxes (May 8, 1989); (69) Lewis Metal Stamping and Manufacturing Co., Inc., 393 Midland Avenue, Highland Park, Michigan 48203, producer of stamped metal brackets for automobile bodies and nonbody parts (May 8, 1989); (70) Northern Lights Enterprises, Inc., Andover Road, Wellsville, New York 14895, producer of candles (May 8, 1989); (71) City Tool & Die, Inc., of Lima, P.O. Box 1122, Lima, Ohio 45805, producer of stamped metal brackets for electric motors, air conditioning and refrigeration equipment and hot water heaters, automobile body parts, and other misc. stamped metal parts (May 10, 1989); (72) The Juvenile Shoe Corporation of America, P.O. Box 331, Aurora, Missouri 65605, producer of men's, women's & children's shoes (May 12, 1989); (73) Electro Physics Company, Inc., 3009 Central Avenue, Waukegan, Illinois 60085, producer of telephone monitoring systems and parts (May 12, 1989); (74) Brenner Paper Products Company, Inc., 66-31 Otts Road, Glendale, New York 11385, producer of envelopes (May 17, 1989); (75) Amtab Manufacturing Company, 1747 West Grand Avenue, Chicago, Illinois 60606, producer of folding wooden top tables with metal legs and fixed legs (May 18, 1989); (76) Cornish Knitgoods Manufacturing Corporation, 121 Ingraham Street, Brooklyn, New York 11237, producer of women's knit sweaters and skirts (May 18, 1989); (77) W.H. Autopilots, Inc., 655 NE. Northlake Place, Seattle, Washington, 98105, producer of autopilots (May 22, 1989); (78) Auto Accessories Manufacturing, Inc., P.O. Box 10044, New Liberia, Louisiana 70562, producer of arm and head rests for Volvos (May 24, 1989); (79) Slip-N-Snip, Inc., 1680 North 18th Avenue, Sweet Home, Oregon 97386, producer of scissors (May 24, 1989); (80) Proto Stamping Corporation, 811 Kaynyne Street, Redwood City, California 94063, producer of metal stamping parts for computers (May 30, 1989); (81) JBL International, Inc. (Paget Equipment Company Division), P.O. Box 369, Marshfield, Wisconsin 54449, producer of steel evaporator tanks and augers and conveyor belt platforms (June 1, 1989); (82) Tomco Manufacturing, Inc., 515 South Avenue E., Crowley, Louisiana 70526, producer of women's skirts, pants and shorts (June 2, 1989); (83) Beldoch Industries Corporation, 1411 Broadway, New York, New York 10018, producer of women's sweaters and skirts (June 2, 1989); (84) Rommark Handbags, Inc., C.P.O. Box 1130, Kingston, New York 12401, producer of handbags (June 2, 1989); (85) Jafan Corporation, 4627 East 50th Street, Vernon, California 90058, producer of wood office desks, credenzas, files and bookcases, beds, headboards, dressers, mirrors and nightstands (June 5, 1989); (86) Jacques deLoux, Inc., 220 N. Main Street, Sellersville, Pennsylvania 18960, producer of men's and women's sweaters (June 5, 1989); (87) San Diego Design, Inc., 9366 Abraham Way, Santee, California 92071, producer of cabinets and shelves of wood (June 6, 1989); (88) Brass Products Company, 3661 East Palmer, Detroit, Michigan 48211, producer of plug-type, shut-off values and cocks and threaded pipe fittings (June 6, 1989); (89) Farnsworth Woodworking, Inc., 9403 39th Avenue Court, S.W., Tacoma, Washington, 98499, producer of display cases (June 6, 1989); (90) Shaped Wire, Inc., 3655 East Illinois Avenue, St. Charles, Illinois 60174, producer of steel, aluminum and copper wire (June 7, 1989); (91) Concord, Inc., 2800 7th Avenue North, Fargo, North Dakota 58102, producer of pneumatic seekers and soil samplers (June 7, 1989); (92) Allegretti & Company, 9200 Mason Avenue, Chatsworth, California 91311, producer of trimmers, edgers, blowers, hedges and grinders (June 7, 1989); (93) Barnes/Sightmaster, Ltd., 6 Conduit Street, Lincoln, Rhode Island 02865, producer of dimensional fuses (June 8, 1989); (94) General Pneumatic Products Corporation, 11460 Dorsett Road, Maryland Heights, Missouri, 63043, producer of pneumatic rotary-type wrenches, sanders, grinders, hammers, drills and misc. pneumatic tools, accessories and parts (June 8, 1989); (95) L&S Products, Inc., 340 Jay Street, Coldwater, Michigan 49036, producer of garment display racks for retail stores (June 9, 1989); (96) Advance Lifts, Inc., 3537 Stern Avenue, St. Charles, Illinois 60174, producer of hydraulic scissors lifts (June 12, 1989); (97) Glomac Plastics, Inc., 432 North Franklin Street, Syracuse, New York 13204, producer of thermometer sheils, keyboard for CRT's, trash cans and patio furniture of plastic (June 12, 1989); (98) Richards and West, Inc., 1255 University Avenue, Rochester, New York 14607, producer of rings, earrings and pendants (June 12, 1989); (99) T.K. Tool & Die, Inc., 2713 Kendall Road, Holly, New York 14470, producer of brackets, hinges, washers and gauges (June 12, 1989); (100) Auto Accessories, Inc., 3325 West Admiral Doyal Drive, New Iberia, Louisiana 70562, producer of arm rest and head rests (June 12, 1989);

(101) Hobe Cie, Ltd., 138 South Columbus Avenue, Mt. Vernon, New York 10553, producer of jewelry (June 12, 1989); (102) D.A.V. Corporation, 595 Berriman Street, Brooklyn, New York 11208, producer of laboratory counter tops, baking decks and electrical switching panels (June 12, 1989); (103) HBR Partnership, Ltd., 13915 South Main Street, Los Angeles, California 90061, producer of plumbing fixtures (June 13, 1989); (104) S&S Contract Furniture, Inc., Route 1, Box 173, Marquand, Missouri 63655, producer of wood furniture (June 15, 1989); (105) EPC Laboratories, Inc., 5 Electronics Avenue, Danvers, Massachusetts 01923, producer of graphic recorders, parts and consumables (June 19, 1989); (106) McCormick & Baxter Creosoting Company, 6900 North Edgewater Street, Portland, Oregon 97208, producer treated poles, railroad ties, etc. (June 20, 1989); (107) New England Manufacturing Company, Inc., 250 Canal Steet, Lawrence, Massachusetts 01840, producer of men's and women's raincoats and overcoats (June 22, 1989); (108) Enterprise Machine & Development Corporation, 100 Fernwood Avenue, New Castle, Delaware 19720, producer of air-texturing machines and air-jet manifolds (June 23, 1989); (109) Louisville Golf Company, Inc., 2601 Grassland Drive, Louisville, Kentucky 40299, producer of gold club wood turnings, and gold club heads (June 23, 1989); (110) Farr West Fashions, 294 Anna Street, Watsonville, California 95076, producer of women's sleepwear and underwear (June 23, 1989); (111) Burdett Apparel, Inc., 3550 South West Temple, Salt Lake City, Utah 84115, producer of men's, women's and children's cotton knit and woven tops, and men's and boy's swim trunks (June 26, 1989); (112) Visionetics Corporation, 57 Commerce Road, P.O. Box 5189, Brookfield, Connecticut 06804, producer of optical inspection systems (June 28, 1989); (113) Durkee-Atwood Company, 4079 Pepin Avenue, Red Wing, Minnesota 55066, producer of V-belts, automotive rubber belts, cellular and rubber sponges, rubber stripping and rubber radiator hoses (June 29, 1989); (114) Sterling Factories, Inc., 2250 Powell Avenue, Erie, Pennsylvania 16505, producer of aluminum railings and grilles (June 30, 1989); (115) Penaloza and Sons, Inc., 214 West Crockett, San Antonio, Texas 78205, producer of jewelry (July 3, 1989); (116) Electronic Interface Company, Inc., DBA Applied Engineering, 970 Lonus Street, San Jose, California 95126, producer of linear activators (July 6, 1989); (117) Western Leather Upholstering Co., Inc., 1535 Paloma Street, Los Angeles, California 90021, producer of office chairs (July 6, 1989); (118) Eaton Farm Products, Inc., Burbank Road, Sutton, Massachusetts 01527, producer of chocolate candy (July 6, 1989); (119) Oomphies, Inc., 5 Franklin Street, Lawrence, Massachusetts 01840, producer of casual shoes and slippers (July 6, 1989); (120) Polymers, Inc., P.O. Box 151, Middlebury, Vermont 05753, producer of synthetic fibers (July 7, 1989); (121) Vern's Machine Company, Inc., P.O. Box 63, Marion, New York 14505, producer of metal shafts and rollers (July 7, 1989); (122) Cordova, Inc., 42–08 College Point Boulevard, Flushing, New York 11352, producer of gold jewelry (July 7, 1989); (123) Victor-Balata Belting Company, 1118 South 25th Street, Easton, Pennsylvania 18042, producer of machinery belts and belting, industrial vacuuming hoses and food processing machinery (July 7, 1989); (124) Clinch Tite Corporation, P.O. Box 456, Sandy Lake, Pennsylvania 16145, producer of wood pallets (July 10, 1989); (125) CDA Manufacturing, Inc., 1005 Shoecraft Road, Webster, New York 14580, producer of blowers for permanent installation, retaining rings and coordinate machines (July 10, 1989); (126) Ketchum Manufacturing Company, Inc., 1928 E. River Drive, Lake Luzerne, New York 12846, producer of ID tags for livestock and poultry (July 10, 1989); (127) Manchester Manufacturers, Inc., P.O. Box 68, Manchester, Ohio 45144, producer of men's and women's trousers and sports accessories (July 14, 1989); (128) Quantum Data, 2111 Big Timber Road, Elgin, Illinois 60123, producer of color character generators and full graphic generators (July 17, 1989); (129) Griner Engineering, Inc., 2500 North Curry Pike, Bloomington, Indiana 48109, producer of turned parts for diesel automotive engines and gas turbines (July 18, 1989); (130) The Garron Corporation, 1820 East 48th Place, Los Angeles, California 90058, producer of women's skirts, shirts, tops and slacks (July 18, 1989); (131) Eastern Jewelry Manufacturing Company, Inc., 561 Broadway, New York, New York 10012, producer of precious and semi-precious jewelry (July 21, 1989).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Public Law 93–618), as amended. Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by Certification Division, Officer of Trade Adjustment Assistance, Room 4015A, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.309, Trade Adjustment Assistance. Inasfar as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A–95 regarding review by clearinghouses do not apply.

Dated: August 24, 1989.

E.T. Baker,

Supervisory Eligibility Examiner, Certification Division, Office of Trade Adjustment Assistance.

[FR Doc. 89–20392 Filed 8–29–89; 8:45 am]

BILLING CODE 3510–DR–M

University of California, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 2841, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 89–161. *Applicant:* University of California, San Diego, CA 92121. *Instrument:* Stable Isotope Mass Spectrometer, Model Delta S. *Manufacturer:* Finnigan Corporation, West Germany. *Intended Use:* See notice at 54 FR 28458, July 6, 1989. *Reasons for this Decision:* The foreign instrument provides an automated multielement collector system with an internal precision of 0.006°/oo for CO_2 with a standard inlet.

Docket Number: 89–160. *Applicant:* Harvard University, Department of Earth and Planetary Sciences, Cambridge, MA 02138. *Instrument:* Mass Spectrometer, Model THQ. *Manufacturer:* Finnigan-MAT, West Germany. *Intended Use:* See notice at 54 FR 28458, July 6, 1989. *Reasons for this Decision:* The foreign instrument

provides an automated multiple sample magazine (13 single, double or triple filament sample) and is capable of positive and negative ion counting.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as each is intended to be used, is being manufactured in the United States. The capability of each of the foreign instruments described above is pertinent to each applicant's intended purposes. We know of no intrument or apparatus being manufactured in the United States which is of equivalent scientific value to either of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 89-20347 Filed 8-29-89; 8:45 am]

BILLING CODE 3510-DS-M

University of California, San Diego; 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 (Public Law 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 2841, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 88-061. *Applicant:* University of California, San Diego, La Jolla, CA 92093. *Instrument:* Radio Direction Finder, Model R-7DH. *Manufacturer:* Orion Electronics, Ltd., Canada. *Intended Use:* See notice at 53 FR 1811, January 22, 1988.

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 article provides RDF operation at the upper end of the HF band; selected 6-channel crystal frequency control and high azimuth resolution. National Oceanic and Atmospheric Administration advises in its memorandum dated March 31, 1988 that (1) this capability 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 instruments which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 89-20348 Filed 8-29-89; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Preliminary Determination To Approve Two Amendments to the Alaska Coastal Management Program

AGENCY: National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and Coastal Resource Management, Commerce.

ACTION: Notice of preliminary approval of amendments.

LOCATION: Northwest Arctic Borough, Alaska Bering Straits Coastal Resource Service Area, Alaska.

SUMMARY: The Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service, National Oceanic and Atmospheric Administration (NOAA) received a request from the Alaska Coastal Management Program (ACMP) to incorporate the Northwest Arctic Borough Coastal Management Program (NWABCMP) and the Bering Straits Coastal Resource Service Area Coastal Management Program (BSCMP) into the ACMP. The State's request was made pursuant to section 306(g) of the Coastal Zone Management Act of 1972, as amended (CZMA), 16 U.S.C. 1455(g), and the regulations implementing the CZMA at 15 CFR 923.81. The NWABCMP and BSCMP create new coastal boundaries for the ACMP in their respective regions and establish goals and policies for activities taking place in the Northwest Arctic Borough and Bering Straits Coastal Resource Service Area. The NWABCMP and BSCMP follow the guidelines and standards for local program development set out in the ACMP. The NWABCMP will be administered by the Borough and the State. The BSCMP will be administered by the CRSA Board and the State.

The Director, OCRM, has reviewed the amendment requests and has made a preliminary determination that the ACMP will still constitute an approvable program and that the procedural requirements of section 306(c) of the CZMA have been met.

As both amendments were submitted at the same time and are similar in content and effect, a combined Environmental Assessment (EA) was prepared. The Director has determined that approval of the proposed changes does not constitute a major Federal action having a significant effect on the environment. Therefore, approval of the proposed amendments does not require an environmental impact statement pursuant to the National Environmental Policy Act of 1969, as amended. The Director's Preliminary Determination of Approvability, as well as the Finding of No Significant Impact (FONSI), and the EA are available at the address below.

Comments on the EA, FONSI, and the Preliminary Determination to approve the Alaska amendment request should be made within 30 days from the date of this notice. Address comments to: James P. Burgess, Chief, Coastal Programs Division, Office of Ocean and Coastal Resource Management, 1825 Connecticut Avenue NW., Washington, DC 20235 (202) 673-5158.

(Federal Domestic Assistance Catalog 11.419, Coastal Zone Management Program Administration)

Dated: August 24, 1989.

Thomas J. Maginnis,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 89-20409 Filed 8-29-89; 8:45 am]

BILLING CODE 3510-08-M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

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

Action: Notice.

Title, Applicable Form, and Applicable OMB Control Number: Telecommunications Service Priority System—TSP Service Confirmation—Continuation; SF X031C; and No OMB Control Number.

Type of Request: New.

Average Burden Hours/Minutes Per Response: 90 minutes.

Frequency of Response: On Occasion.

Number of Respondents: 10.

Annual Burden Hours: 666.

Annual Responses: 400.

Needs and Uses: The Telecommunications Service Priority (TSP) System identifies leased telecommunications services vital to the National Security and Emergency Preparedness and provides the legal basis for vendor priority installation and restoration. Collected information is

used to make TSP assignments and maintain data base currency.

Affected Public: State or local governments, Businesses or other for-profit, Federal agencies or employees and Small business or organizations.

Frequency: Continuing.

Respondents Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Dr. J. Timothy Sprehe.

Written comments and recommendations on the proposed information collection should be sent to Dr. J. Timothy Sprehe at Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison.

Written request for copies of the information collection proposal should be sent to Ms. Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302.

Dated: August 24, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-20355 Filed 8-29-89; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

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

Action: Notice.

Title, Applicable Form, and Applicable OMB Control Number: Telecommunications Service Priority System—TSP Action Appeal; Standard Form X030; and No OMB Control Number.

Type of Request: New.

Average Burden Hours/Minutes Per Response: 10 hours.

Frequency of Response: On Occasion.

Number of Respondents: 5.

Annual Burden Hours: 50.

Annual Responses: 5.

Needs and Uses: The Telecommunications Service Priority (TSP) System identifies leased telecommunications services vital to the National Security and Emergency Preparedness and provides the legal basis for vendor priority installation and restoration. Collected information is used to make TSP assignments and maintain data base currency.

Affected Public: State or local governments, Businesses or other for-profit, Federal agencies or employees and Small business or organizations.

Frequency: Continuing.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Dr. J. Timothy Sprehe.

Written comments and recommendations on the proposed information collection should be sent to Dr. J. Timothy Sprehe at Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison.

Written request for copies of the information collection proposal should be sent to Ms. Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302.

Dated: August 24, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-20356 Filed 8-29-89; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

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

Action: Notice.

Title, Applicable Form, and Applicable OMB Control Number: Telecommunications Service Priority System; Standard Form X028; and No. OMB Control Number.

Type of Request: New.

Average Burden Hours/Minutes Per Response: 5

Frequency of Response: On Occasion.

Number of Respondents: 4,000.

Annual Burden Hours: 100,000.

Annual Responses: 2,000.

Needs and Uses: The Telecommunications Service Priority (TSP) System identifies leased telecommunications services vital to the National Security and Emergency Preparedness and provides the legal basis for vendor priority installation and restoration. Collected information is used to make TSP assignments and maintain data base currency.

Affected Public: State or local governments, Businesses or other for-profit, Federal agencies or employees and Small business or organizations.

Frequency: Continuing.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Dr. J. Timothy Sprehe.

Written commencts and recommendations on the proposed information collection should be sent to Dr. J. Timothy Sprehe at Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20523.

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison.

Written request for copies of the information collection proposal should be sent Ms. Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302.

Dated: August 24, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-20357 Filed 8-29-89; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

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

Action: Notice.

Title, Applicable Form, and Applicable OMB Control Number: Telecommunications Service Priority System-TSP Service Confirmation; SF X032C; And No OMB Control Number.

Type of Request: New.

Average Burden Hours/Minutes Per Response: 4 hours.

Frequency of Response: On Occasion.

Number of Respondents: 10.

Annual Burden Hours: 1,600.

Annual Responses: 400.

Needs and Uses: The Telecommunications Service Priority (TSP) System identifies leased telecommunications services vital to the National Security and Emergency Preparedness and provides the legal basis for vendor priority installation and restoration. Collected information is used to make TSP assignments and maintain data base currency.

Affected Public: State or local governments, Businesses or other for-profit, Federal agencies or employees and Small business or organizations.

Frequency: Continuing.

Respondents Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Dr. J. Timothy Sprehe.

Written comments and recommendations on the proposed information collection should be sent to Dr. J. Timothy Sprehe at Office of Management and Budget, Desk Officer, Room 3235, New Executive Officer Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison.

Written request for copies of the information collection proposal should be sent to Ms. Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302.

Dated: August 24, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense

August 24, 1989

[FR Doc. 89–20358 Filed 8–29–89; 8:45 am]

BILLING CODE 3810–01–M

Public Information Collection Requirement Submitted to OMB for Review

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

Action: Notice.

Title, Applicable Form, and Applicable OMB Control Number: Telecommunications Service Priority System-TSP Service Confirmation; SF OX29; and No OMB Control Number.

Type of Request: New.

Average Burden Hours/Minutes Per Response: 2 hours.

Frequency of Response: On Occasion.

Number of Respondents: 100.

Annual Burden Hours: 4,000.

Annual Responses: 2,000.

Needs and Uses: The Telecommunications Service Priority (TSP) System identifies leased telecommunications services vital to the National Security and Emergency Preparedness and provides the legal basis for vendor priority installation and restoration. Collected information is used to make TSP assignments and maintain data base currency.

Affected Public: State State or local governments, Businesses or other for-profit, Federal agencies or employees and Small business or organizations.

Frequency: Continuing.

Respondents Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Dr. J. Timothy Sprehe.

Written comments and recommendations on the proposed information collection should be sent to Dr. J. Timothy Sprehe at Office of Management and Budget, Desk Officer, Room 3235, New Executive Officer Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison.

Written request for copies of the information collection proposal should be sent to Ms. Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302.

Dated: August 24, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89–20359 Filed 8–29–89; 8:45 am]

BILLING CODE 3810–01–M

Public Information Collection Requirement Submitted to OMB for Review

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

Action: Notice.

Title, Applicable Form, and Applicable OMB Control Number: Telecommunications Service Priority System—TSP Service Confirmation; SF X031; and No OMB Control Number.

Type of Request: New.

Average Burden Hours/Minutes Per Response: 50 minutes.

Frequency of Response: On Occasion.

Number of Respondents: 100.

Annual Burden Hours: 1,666.

Annual Responses: 2,000.

Needs and Uses: The Telecommunications Service Priority (TSP) System identifies leased telecommunications services vital to the National Security and Emergency Preparedness and provides the legal basis for vendor priority installation and restoration. Collected information is used to make TSP assignments and maintain data base currency.

Affected Public: State or local governments, Businesses or other for-profit, Federal agencies or employees and Small business or organizations.

Frequency: Continuing.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Dr. J. Timothy Sprehe.

Written comments and recommendations on the proposed information collection should be sent to Dr. J. Timothy Sprehe at Office of Management and Budget, Desk Officer, Room 3235, New Executive Officer Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison.

Written request for copies of the information collection proposal should be sent to Ms. Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302.

Dated: August 24, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89–20360 Filed 8–29–89; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF ENERGY

Financial Assistance Award Intent To Award Grant to Gas Desulfurization Corp.

AGENCY: U.S. Department of Energy.

ACTION: Notice of Unsolicited Assistance Award.

SUMMARY: The Department of Energy announces that pursuant to 10 CFR 600.14, it is making a financial assistance award based on an unsolicited application under Grant Number DE–FG01–89CE15443 to Gas Desulfurization Corporation to assist in the development of an invention entitled "A Method for the Use of Oxygen in Vacancies in Lanthanide Oxides to Increase Their Utilization for Desulfurization of Hot Fuel Gases." The technology is a process for removing sulfidic sulfur from hot fuel gas.

Scope: This grant will aid in the performance of a series of experiments using doped and undoped cerium oxide in an existing reactor to determine the rate and amount of absorption and desorption of sulfur and the effect of many regeneration cycles on the nature of the cerium oxide sorbent. Current technology consists of zinc ferrite and mixed metal oxide processes, which have regeneration problems and do not reduce sulfide levels in fuel gases to the desired 1–5 ppm. When these levels are exceeded before burning, the resulting stack of gases, which are laden with sulfur dioxide, are expensive to clean up. The National Institute of Standards and Technology (NIST) report cities calculations by the Georgia Institute of Technology that hot gases cleanup saves about 7 percent of the energy content of the fuel gas as compared with low-temperature washing. If this technology has been used when a U-GAS gasifier was used to process 2540 tons of coal

per day, the 7 percent would have resulted in 270,000 barrels of crude oil or 65,000 tons of coal being saved annually.

Eligibility: Based on acceptance of an unsolicited application eligibility of this award is being limited to Gas Desulfurization Corporation. Mr. Williams G. Wilson, the inventor, is president of Gas Desulfurization Corporation, and has a B.S. degree in metallurgical engineering and has over 40 years experience with molybdenum and lanthaide metals.

The term of this grant shall be two years from the effective date of award.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Procurement Operations, ATTN: Rosemarie H. Marshall, MA–453.2, 1000 Independence Avenue SW., Washington, DC 20585.

Thomas S. Keefe,

Director Contract Operations, Division B Office of Procurement Operations.

[FR Doc. 89–20434 Filed 8–29–89; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. RP89–213–001]

Federal Energy Regulatory Commission

Black Marlin Pipeline Co.; Notice of Filing

August 23, 1989.

Take Notice that on August 17, 1989, Black Marlin Pipeline Company (Black Marlin), tendered for filing to become a part of Black Marlin's F.E.R.C. Gas Tariff, Original Volume No. 1:

Substitute 2nd Revised Sheet No. 215A

Substitute 2nd Revised Sheet No. 222

Black Marlin is submitting the above mentioned tariff sheets to correct an error in a portion of § 10.2 *Notice of Interruption* that was transferred to the wrong tariff sheet.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC, 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such protests should be filed on or before August 30, 1989. 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. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–20363 Filed 8–29–89; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2329–003 Maine]

Central Maine Power Co.; Availability of Environmental Assessment

August 23, 1989.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing (OHL) has reviewed the application requesting approval for nonproject use of lands and waters of the Wyman Hydroelectric Project on the Kennebec River. The staff has prepared an environmental assessment (EA) for the proposed action. In the EA, staff concludes that approval of the nonproject use of project lands and waters would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 1000, of the Commission's offices, located at 825 North Capitol Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 89–20366 Filed 8–29–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP89–143–002]

Pacific Offshore Pipeline Co; Compliance Filing

August 23, 1989.

Take notice that on August 18, 1989, Pacific Offshore Pipeline Company (POPCO) filed certain revised tariff sheets to its FERC Gas Tariff, Original Volume 1, to be effective April 1, 1989.

Original Sheet No. 9
Original Sheet No. 10
Original Sheet No. 18
Original Sheet No. 18–A

POPCO states that this filing complies with the Letter Order of July 19, 1989.

POPCO states that a copy of this filing is being served on all parties of record in this proceeding and on all jurisdictional customers and the California Public Utilities Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure [18 CFR 385.214, 385.211 (1988)]. All such protests should be filed on or before Aug. 30, 1989. 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. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–20364 Filed 8–29–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TO89–3–28–001]

Panhandle Eastern Pipe Line Co.; Notice of Proposed Changes in FERC Gas Tariff

August 23, 1989.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on August 18, 1989, tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

First Substitute Seventy-Third Revised Sheet No. 3–A
First Substitute Fiftieth Revised Sheet No. 3–B

The proposed effective date of these revised tariff sheets is September 1, 1989.

Panhandle states that on August 1, 1989 Panhandle filed with the Commission revised tariff sheets reflecting its quarterly PGA filing to be effective September 1, 1989 in the referenced docket. In that filing Panhandle stated that it had not reflected Trunkline Gas Company's (Trunkline) Interim Settlement Rates resulting from a Stipulation and Agreement in Docket No. RP88–180 which was pending Commission approval, but would make an appropriate filing should the Stipulation and Agreement become effective during the current period. On August 1, 1989, as further clarified by Letter Order dated August 10, 1989, the Commission accepted Trunkline's Interim Settlement Rates pursuant to the Stipulation and Agreement in Docket No. RP88–180. Therefore, these revised tariff sheets reflect utilization of Trunkline's revised demand charges pursuant to the aforementioned Stipulation and Agreement.

Panhandle states that copies of its filing have been served on all

jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with § 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before August 30, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-20365 Filed 8-29-89; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 89-34-NG]

CMEX Energy, Inc.; Order Granting Authorization To Import and Export Natural Gas and Liquefied Natural Gas

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of Order Granting Blanket Authorization to Import and Export Natural Gas and Liquefied Natural Gas.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that it has issued an order granting CMEX Energy, Inc. (CMEX), blanket authorization to import and/or export natural gas and/or liquefied natural gas (LNG). The order, issued in FE Docket No. 89-34-NG, authorizes CMEX to import and/or export up to a total of 76 Bcf of natural gas and/or LNG over a two-year period beginning on the date of first delivery of imported or exported natural gas or LNG.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, August 24, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89-20435 Filed 8-29-89; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 89-21-NG]

Indeck-Yerkes Energy Services, Inc., Conditional Order Granting a Long-Term Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of Conditional Order Granting Authorization to Import Natural Gas.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that it has issued a conditional order granting a long-term authorization to import natural gas from Canada to Indeck-Yerkes Energy Services, Inc. (Indeck-Yerkes). The conditional order, issued in FE Docket No. 89-21-NG, authorizes Indeck-Yerkes to import 4.5 Bcf per year of Canadian natural gas over a 15-year term to fuel a cogeneration facility to be built in Tonawanda, New York.

Final approval of this import is conditioned on DOE's completion of its responsibilities under the National Environmental Policy Act of 1969 and its reexamination at the time of this conditional order.

A copy of this conditional order is available for inspection and copying in the Natural Gas Division Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, August 24, 1989

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89-20431 Filed 8-29-89; 8:45 am]

BILLING CODE 6450-01-M

[Fe Docket No. 89-22-NG]

Indeck Energy Services of Oswego, Inc.; Conditional Order Granting a Long-Term Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of Conditional Order Granting Authorization to Import Natural Gas.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that it has issued a conditional order granting a long-term authorization to import natural gas from Canada to Indeck Energy Services of Oswego, Inc. (Indeck-Oswego). The conditional order, issued in FE Docket No. 89-22-NG, authorizes Indeck-Oswego to import 4.5 Bcf per year of Canadian natural gas over a 15-year term to fuel a cogeneration facility to be built in Oswego, New York.

Final approval of this import is conditioned on DOE's completion of its responsibilities under the National Environmental Policy Act of 1969 and its reexamination at that time of this conditional order.

A copy of this conditional order is available for inspection and copying in the Natural Gas Division Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, August 24, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89-20432 Filed 8-29-89; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 89-39-NG]

Northridge Petroleum Marketing, Inc., Application To Import and Export Natural Gas From and to Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of Application for Long-term Authorization to Import Natural Gas from and Export Natural Gas to Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on June 26, 1989, as amended on August 8, 1989, of an application filed by Northridge Petroleum Marketing, Inc. (Northridge), requesting authorization to import up to 15,000 Mcf per day of natural gas purchased or produced in the Provinces of Alberta, British Columbia or Saskatchewan, Canada, and to export back into Canada equivalent volumes of gas for a term of nine years commencing November 1, 1989, upon delivery and sale of the gas to Union Gas Limited (Union) in the Province of Ontario, Canada. Northridge proposes to use existing facilities only and asserts that none of the volumes intended for Union

would be sold in the U.S. under this proposed arrangement.

The application is filed under section 3 of the Natural Gas Act (NGA) and DOE Delegtion Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed no later than September 29, 1989.

FOR FURTHER INFORMATION:

Tom Dukes, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F–056, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9590.

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION:

Northridge is a Canadian corporation engaged in the marketing of crude oil, natural gas, and refined products, and, through a Canadian affiliate, in the production of crude oil and natural gas. Although Northridge sells gas primarily to U.S. distribution companies and end-users, the applicant also is engaged in direct sales, as evidenced here, to markets in eastern Canada.

Under Northridge's proposed long-term import/export arrangement, the gas would be transported in Canada by TransCanada Pipelines Limited (TransCanada) to a point on the international border near Emerson, Manitoba, where TransCanada's facilities interconnect with those of Great Lakes Transmission Company (Great Lakes). Great Lakes would then transport the gas to its interconnection with Michigan Consolidated Gas Company (MichCon) at Belle River Mills, Michigan. MichCon, in turn, would transport the gas to existing U.S.-Canadian border interconnections for export back into Canada and delivery to Union. On August 8, 1989, Northridge amended its application to eliminate as a possible alternate export route an interconnection between MichCon and the proposed St. Clair pipeline. Northridge anticipates MichCon would transport the gas to an existing interconnection of the facilities of Great Lakes and TransCanada at St. Clair, Michigan, but requests authority to use any existing facilities.

According to Northridge, although there would be no sale in the U.S. of gas imported under the authority requested in this proceeding, Northridge may sell volumes not taken by Union to purchasers in the United States on a short-term, interruptible basis under separate authority, including blanket import authority granted Northridge Petroleum Marketing U.S., Inc., Northridge's wholly-owned U.S. subsidiary, in DOE/ERA Opinion and Order No. 212, issued December 23, 1987, in Docket No. 87–57–NG.

In support of its application, Northridge asserts that its proposal would encourage competition and diversity of supply in the North American natural gas market, thereby benefitting the public and conforming to DOE policy goals. The applicant notes that a major reason that the Great Lakes pipeline was built to ensure that Canada has access to its own gas, i.e., from sources in western Canada to markets in eastern Canada.

This application will be reviewed pursuant to section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204–111 and 0204–127. The decision on whether the proposed arrangement is in the public interest will be based upon matters deemed to be appropriate by FE, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. In addition, since the long-term arrangement being considered in this proceeding concerns sales of Canadian gas to Canadian customers, DOE's focus relates to the potential domestic impact of transporting the Canadian gas through the U.S. pipeline facilities. Parties that may oppose this application should address the foregoing matters in their comments. All parties should be aware that if the requested import/export is approved, the authorization would be conditioned on the filing of quarterly reports providing by each month the volumes imported and exported.

NEPA Compliance

The DOE has determined that compliance with the National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.*, can be accomplished by means of a categorical exclusion. On March 27, 1989, the DOE published in the **Federal Register** (54 FR 12472) a notice of amendments to its guidelines for compliance with NEPA. In that notice, the DOE added to its list of categorical exclusions the approval or disapproval of an import/export authorization for natural gas in cases not involving new construction. Application of the categorical exclusion in any particular case raises a rebuttable presumption that the DOE's action is not a major Federal action under NEPA. Unless the DOE receives comments indicating that the presumption does not or should not apply in this case, no further NEPA review will be conducted by the DOE.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs, Fossil Energy, Room EF–056, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585. They must be filed no later than 4:30 p.m., e.d.t. September 29, 1989.

A decisional record on the application will be developed through responses to this notice by parties, including the parties used as necessary to achieve a complete understanding of facts and issues. A party seeking intervention may request that additional presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are actual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Northridge's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address. The docket room is open between the hours of 8:00 a.m., and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, August 24, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs Office of Fossil Energy.

[FR Doc. 89–20430 Filed 8–29–89; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 89–35–NG]

Potomac Energy Corp.; Order Granting Blanket Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of Order Granting Blanket Authorization to Import Natural Gas from Canada.

SUMMARY: The Office of Fossil Energy of the Department of energy gives notice that it has issued an order granting Potomac Energy Corporation (Potomac Energy) blanket authorization to import natural gas. The order issued in FE Docket No. 89–35–NG authorizes Potomac Energy to import up to 75 Bcf of Canadian natural gas over a two-year term beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, August 24, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs Office of Fossil Energy.

[FR Doc. 89–20433 Filed 8–29–89; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–3637–1]

Battlefield Parkway Site; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement.

SUMMARY: Under section 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), The Environmental Protection Agency (EPA) has agreed to settle claims for past response costs at the Battlefield Parkway Site, Fort Oglethorpe, Georgia with the United States Department of Defense. EPA will consider public comments on the proposed settlement for thirty days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or consideraitons which indicate the proposed settlement is inappropriate, improper or inadequate. Copies of the proposed settlement are available from: Ms. Carolyn McCall, Investigation Support Assistant, Investigation and Cost Recovery Unit, Site Investigaiton and Support Branch, Waste Management Division, U.S. EPA, Region IV, 345 Courtland Street NE., Atlanta, GA 30365. (404) 347–5059.

Written comments may be submitted to the person above by 30 days from date of publication.

Dated: August 17, 1989.

Patrick M. Tobin,

Director, Waste Management Division, EPA Region IV.

[FR Doc. 89–20440 Filed 8–29–89; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59273A; FRL–3637–2]

Certain Chemicals; Approval of a Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated this application as TME–89–19. The test marketing conditions are described below.

EFFECTIVE DATE: August 21, 1989.

FOR FURTHER INFORMATION CONTACT: Miriam G. Wiggins-Lewis, New Chemicals Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Room E–613, 401 M Street SW., Washington, DC 20460, (202) 382–2440.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME–89–19. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, use, and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME–89–19. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the applicant shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. Records of the quantity of the TME substance produced and the date of manufacture.

2. Records of dates of the shipments of each customer and the quantities supplied in each shipment.

3. Copies of the bill of lading that accompanies each shipment of the TME substance.

TME–89–19

Date of Receipt: July 18, 1988.

Notice of Receipt: August 11, 1989 (54 FR 33071).

Applicant: Confidential.

Chemical: (G) Aminosilane.

Use: (G) Film Coating.

Production Volume: Confidential.

Number of Customers: Confidential.

Test Marketing Period: Six months, commencing on first day of manufacture.

Risk Assessment: EPA identified possible concerns for toxicity to aquatic organisms and for lung toxicity to workers; however, due to the low levels of environmental release and worker inhalation exposure, the test market substance will not present an unreasonable risk of injury to the environment or to human health.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information that comes to its attention which casts significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: August 21, 1989.

John W. Melone,

Director, Chemical Control Division, Office of Toxic Substances.

[FR Doc. 89-20439 Filed 8-29-89; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51738; FRL-3637-3]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the Federal Register of May 13, 1989 (48 FR 21722). This notice announces receipt of 40 such PMNs and provides a summary of each.

DATES: Close of Review Periods:

P 89-914, October 18, 1989.
P 89-915, October 16, 1989.
P 89-916, October 18, 1989.
P 89-917, October 21, 1989.
P 89-918, 89-919, 89-920, 89-921, 89-922, 89-923, October 18, 1989.
P 89-924, 89-925, October 21, 1989.
P 89-927, October 18, 1989.
P 89-928, 89-929, 89-930, 89-931, 89-932, October 22, 1989.
P 89-933, 89-934, 89-935, October 23, 1989.
P 89-936, 89-937, 89-938, 89-939, 89-940, October 25, 1989.
P 89-941, 89-942, 89-943, October 28, 1989.
P 89-944, 89-945, 89-946, October 29, 1989.
P 89-947, 89-948, 89-949, 89-950, 89-951, October 30, 1989.
P 89-952, 89-953, 89-954, October 31, 1989.

Written comments by:

P 89-914, September 18, 1989.
P 89-915, September 16, 1989.
P 89-916, September 18, 1989.
P 89-917, September 21, 1989.
P 89-918, 89-919, 89-920, 89-921, 89-922, 89-923, September 18, 1989.
P 89-924, 89-925, September 21, 1989.
P 89-927, September 18, 1989.
P 89-928, 89-929, 89-930, 89-931, 89-932, September 22, 1989.
P 89-923- 89-934, 89-935, September 23, 1989.
P 89-936, 89-937, 89-938, 89-939, 89-940, September 25, 1989.
P 89-941, 89-942, 89-943, September 28, 1989.
P 89-944, 89-945, 89-946, September 29, 1989.
P 89-947, 89-948, 89-949, 89-950, 89-951, September 30, 1989.
P 89-952, 89-953, 89-954, October 1, 1989.

ADDRESS: Written comments, identified by the document control number "(OPTS-51738)" and the specific PMN number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, 401 M Street SW., Room L-100, Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. EB-44, 401 M Street SW., Washington, DC 20460 (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 89-914

Importer. Ciby-Geigy Corporation.

Chemical. (G) Substituted pyrazol azo metal complex dye.

Use/Import. (S) Liquid and powder dye. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (Rat). Skin irritation: negligible species (Rabbit). Mutagenicity: negative.

P 89-915

Importer. Confidential.

Chemical. (G) Poly(styrene-co-acrylonitrile) resin.

Use/Import. (G) Adhesive. Import range: Confidential.

P 89-916

Importer. Confidential.

Chemical. (S) Poly(oxy-1,2-ethanediyl), d-(carboxmethyl)-W-(2 togoctadecenyloxy)-,(2)- acid.

Use/Import. (B) Cosmetic cleansing formulations. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD > 5,000 mg/kg species (Rat).

P 89-917

Importer. Ilford Photo Corporation.

Chemical. (S) Glycine N,N-bis(2-bis(carboxymethyl) amino)ethyl dipotassium iron III salt.

Use/Import. (G) Cosmetic cleansing formulation. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (Rat).

P 89-918

Manufacturer. Chem-Elast Coatings, Inc.

Chemical. (G) Aliphatic caprolactone urethane prepolymer.

Use/Production. (G) Polyruethane prepolymer crosslinking agent for polyols and amines used in the construction industry. Prod. range: Confidential.

P 89-919

Manufacturer. Confidential.

Chemical. (S) Polymer of isophorone disocyante, 2-hydroxyethy carylate, and silicone surfactant.

Use/Production. (S) Coating binder for industrial use. Prod. range: 1.200-4,000 kg/yr.

P 89-920

Importer. Confidential.

Chemical. (G) Modified bisphenol A polycarbonate.

Use/Import. (S) Thermoplastic article production. Import range: Confidential.

P 89-921

Importer. Confidential.

Chemical. (G) Modified polycarbonate.

Use/Import. (S) Thermoplastic article production. Import range: Confidential.

P 89-922

Importer. Confidential.

Chemical. (G) Alkyl methacrylate polymer.

Use/Import. (G) Coating materials. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Mutagenicity: negative.

P 89–923

Manufacturer. Confidential.
Chemical. (G) Partially fluorinated polyamic acid.
Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 89–924

Manufacturer. Confidential.
Chemical. (G) Terpene hydrocarbon di(maleic anhydride) adduct.
Use/Production. (S) Curing agent for epoxy resins used in electrical applications with prolonged exposure to high temps. Prod. range: Confidential.

P 89–925

Importer. Ilford Photo Corporation.
Chemical. (S) Glycine N,N-bis(2-bis(carboxymethyl)amino)ethyl) dipotassium iron iii salt.
Use/Iport. (S) Oxiding agent in a photographic processing solution. Import range: 500–700–900 kg/yr.

P 89–927

Importer. Polysar Inc.
Chemical. (G) Substituted aromatic amide.
Use/Import. (G) Open, nondispersive use. Import range: Confidential.

P 89–928

Manufacturer. E.I. du Pont de Nemours and Co., Inc.
Chemical. (G) Ethylene copolymer.
Use/Production. (G) Plastics additive. Prod. range: Confidential.

P 89–929

Importer. Basf Corporation.
Chemical. (G) Polyester polyol.
Use/Import. (S) Polyurethane foam. Import range: Confidential.

P 89–930

Manufacturer. Basf Corporation.
Chemical. (G) Trisubstiuted heteropolycyclic mixed salt.
Use/Production. (S) Paper dye. Prod. range: Confidential.

P 89–931

Manufacturer. Confidential.
Chemical. (G) Amine, reaction products with fatty polycarboxylic acid and dodecyl benzene sulfonic acid.
Use/Production. (S) Corrosion inhibitor for oil and gas wells. Prod. range: 50,000 kg/yr.
Toxicity Data. Skin irritation: moderate species (Rabbit). Mutagenicity: negative.

P 89–932

Manufacturer. Exxon Chemical Company.
Chemical. (G) Thio-amino hydrocarbons.
Use/Production. (S) Oilfield corrosion inhibitor. Prod. range: Confidential.
Toxicity Data. Skin irritation: moderate species (Rabbit). Mutagenicity: negative.

P 89–933

Manufacturer. Ciba-Geigy Corporation.
Chemical. (G) Cyanoalkyl amine.
Use/Production. (S) Hardener for protective coatings. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Eye irritation: slight species (Rabbit). Skin irritation: slight species (Rabbit).

P 89–934

Manufacturer. Confidential.
Chemical. (G) Dimer acids, polymer with a dicarboxylic acid, diamines and ethylenediamines.
Use/Production. (S) Hot melt adhesive. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 15 g/kg species(Rat).

P 89–935

Importer. Ciba-Geigy Corporation.
Chemical. (G) Substituted bis(quinazoline)dye.
Use/Import. (G) Dye for paper. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species(Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species(Rat). Eye irritation: None species(Rabbit). Skin irritation: negligible species(Rabbit). Mutagenicity: negative.

P 89–936

Importer. Confidential.
Chemical. (G) Substituted naphthalene disulfonic acid.
Use/Import. (G) Colorant. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species(Rat). Eye irritation: Slight species(Rabbit). Skin irritation: negligible species(Rabbit). Mutagenicity: negative.

P 89–937

Importer. Confidential.
Chemical. (G) Substituted naphthalene disulfonic acid.
Use/Import. (G) Colorant. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 species(Rat). Eye irritation: Slight species (Rabbit). Skin irritation: negligible species(Rabbit). Mutagenicity: negative.

P 89–938

Importer. Confidential.
Chemical. (G) Substituted naphthalene disulfonic acid.
Use/Import. (G) Colorant. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species(Rat). Eye irritation: Slight species(Rabbit). Skin irritation: negligible species(Rabbit). Mutagenicity: negative.

P 89–939

Manufacturer. Basf Structural Materials, Inc.-Quantum.
Chemical. (G) Epoxy bulk molding compound.
Use/Production. (S) Bulk molding compound. Prod. range: Confidential.

P 89–940

Importer. Confidential.
Chemical. (G) High heat styrene acrylonitrile polymer.
Use/Import. (S) Extrusion and injection molding of plastic articles. Import range: Confidential.

P 89–941

Importer. Confidential.
Chemical. (G) Poly(ethylene-ethyl acrylate-glycidyl ethacrylate).
Use/Import. (G) Impact modifier for plastic materials and more specifically pet and fillers. Import range: Confidential.

P 89–942

Manufacturer. Confidential.
Chemical. (G) Substituted triazinylaminophenyl azo substituted heterocycle, salt.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 89–943

Importer. Basf Corporation.
Chemical. (G) Diazo-substituted carbomonocyclic.
Use/Import. (S) Leather dye. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 < 5,000 mg/kg species(Rat). Inhalation toxicity: LC50 5.2 mg/1 species(Rat). Mutagenicity: Position. Skin sensitization: negative species(Guinea pig).

P 89–944

Importer. Basf Corporation.
Chemical. (G) Bis[(pentasubstituted polycarbocyclicamino)disubstituted non heterocyclic amine)monocarbocyclic, sodium sale.
Use/Import. (S) Textile dye. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species(Rat). Eye irritation: Slight species(Rabbit). Skin irritation: slight species(Rabbit).

P 89-945

Manufacturer. Confidential.
Chemical. (G) Alkyd resin.
Use/Production. (G) Resin for industrial coatings. Prod. range: Confidential.

P 89-946

Manufacturer. Confidential.
Chemical. (G) Polyurethane acrylate.
Use/Production. (G) Printing ink resin. Prod. range: Confidential.

P 89-947

Importer. Hoechst Celanese Corporation.
Chemical. (G) Modified phenolic resin.
Use/Import. (S) Resin for lacquer (wire coating and packing inlets). Import range: 15,000-50,000 kg/yr.

P 89-948

Manufacturer. Confidential.
Chemical. (G) Isocyanate terminated urethane polymer.
Use/Production. (G) Urethane adhesive. Prod. range: Confidential.

P 89-949

Importer. Sherex Chemical Company, Inc.
Chemical. (G) Aromatic amidoamine.
Use/Import. (G) Epoxy curing agent. Import range: Confidential.

P 89-950

Importer. Sherex Chemical Company, Inc.
Chemical. (G) Fatty acid amidoamine.
Use/Import. (G) Epoxy curing agent. Import range: Confidential.

P 89-951

Manufacturer. Sherex Chemical Company, Inc.
Chemical. (G) Alkyl substituted propanenitrile.
Use/Production. (G) Intermediate for polyamine. Prod. range: Confidential.

P 89-952

Manufacturer. Confidential.
Chemical. (G) Aliphatic polyester polyurethane.
Use/Production. (S) Modifier for coatings, adhesives, and inks. Prod. range: Confidential.

P 89-953

Manufacturer. Confidential.
Chemical. (G) Polymer of hexanedioic acid, 1,3 benzenedicarboxylic acid, hexanediol, trimethylolpropane and a diisocyanate.
Use/Production. (G) Intermediate for product of polyurethane polymer. Prod. range: 100,000-200,000 kg/yr.

P 89-954

Manufacturer. Confidential.
Chemical. (G) Polyurethane/urea of hexanedioic acid 1,3 benzenedicarboxylic acid, hexanediol diisocyanate and mixed aliphatic amines.
Use/Production. (G) Component of a sizing compound. Prod. range: 175,000-350,000 kg/yr.

Dated: August 17, 1989.

Steven Newbury-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 89-20438 Filed 8-29-89; 8:45 am]
BILLING CODE 6560-50-M

[FRL-3636-9]

Proposed Determination To Restrict the Specification of Leonard Pond and Its Wetlands as Disposal Sites

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Regional Administrator of EPA's Region I proposes to restrict the filling of Leonard Pond and its surrounding wetlands in Agawam, Massachusetts because he believes it could have an unacceptable adverse effect on wildlife. Section 404(c) of the Clean Water Act authorizes EPA to prohibit or restrict filling of wetlands and other waters of the United States whenever it determines, after notice and opportunity for public hearing, that the discharge of dredged or fill materials into such an area would have an unacceptable adverse effect on municipal water supplies, shellfish beds, fishery areas, wildlife, or recreation areas. EPA seeks comment on several aspects of the Regional Administrator's proposed determination described below.

DATES: Any interested party may comment on this proposal and/or request that a public hearing be held. All comments should be received at the address listed below on or before October 16, 1989. Should EPA decide to hold a public hearing on this issue, it will be announced at least 30 days in advance and the deadline for comments will be extended to 15 days from the date of the hearing.

ADDRESSES: Comments should be sent to Virginia Laszewski, Wetland Protection Section, U.S. Environmental Protection Agency, WPS-1900, JFK Federal Building, Boston, MA 02203-1911. Comments submitted to EPA and the record supporting this proposed determination may be reviewed at the same address; reasonable charges may be made for reproduction.

FOR FURTHER INFORMATION CONTACT: Pamela Shields, at the above address or at (617) 565-4421.

SUPPLEMENTARY INFORMATION:

I. The 404(c) Process and Criteria

The Clean Water Act, 33 U.S.C. § 1251 *et seq.*, prohibits the discharge of pollutants, including dredged and fill material, into the waters of the United States (including wetlands) except in compliance with, among other things, section 404. Section 404 establishes a federal permit program to regulate the discharge of dredged or fill material subject to the requirements of environmental guidelines developed by EPA in conjunction with the Department of the Army.[1] The U.S. Army Corps of Engineers (Corps) may, except as provided in section 404(c), issue permits authorizing dredged and fill material discharges into waters and wetlands if they comply with, among other things, the 404(b)(1) guidelines. Section 404(c) authorizes EPA, after providing notice and opportunity for hearing, to prohibit or restrict the use of a site for disposal of dredged or fill material, where it determines that such use would have an unacceptable adverse effect on municipal water supplies, shellfish beds, fishery areas (including spawning and breeding areas), wildlife, or recreational areas. EPA can exercise 404(c) to "veto" a permit the Corps has decided to issue or, as here, to protect valuable aquatic areas in advance of any specific permit decision.

The regulations implementing 404(c) are published at 40 CFR 231 and define "unacceptable adverse effect" as:

> Impact on an aquatic or wetland ecosystem, which is likely to result in significant degradation of municipal water supplies (including surface or ground water) or significant loss of or damage to fisheries, shellfishing, or wildlife habitat or recreation areas. In evaluating the unacceptability of such impacts, consideration should be given to the relevant portions of the section 404(b)(1) guidelines (40 CFR part 230).

The 404(c) regulations also establish the procedures to be followed by EPA in exerting section 404(c) authority. Whenever the Regional Administrator believes that the filling of a site may have an unacceptable adverse effect on the values listed above, he may begin

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[1] The pertinent regulations, set forth at 40 CFR part 230 and often referred to as the section 404(b)(1) guidelines, contain several strong provisions which prohibit issuance of a permit for activities which would cause avoidable or significant impacts to wetlands.

the process by notifying the Corps of Engineers and landowners that he intends to issue a proposed determination under section 404(c). Unless within 15 days the landowners or the Corps persuade(s) the Regional Administrator that unacceptable adverse impacts will not occur, the Regional Administrator publishes a notice in the Federal Register proposing to prohibit or restrict use of the site for the discharge of dredged or fill material and soliciting public comment on the action. Today's notice represents this step in the process.

Following close of the comment period (and the public hearing if one is held), the Regional Administrator decides either to withdraw the proposed determination or prepare a recommended determination. If he chooses the latter option, he then forwards it and the administrative record compiled in the Region to the Assistant Administrator for Water at EPA's headquarters for a final decision affirming, modifying or rescinding the recommended determination.

II. The Leonard Pond Site

Leonard Pond is located in Agawam, Massachusetts, west of and adjacent to South West Street, south of Johnson Corner, and roughly one mile north of Suffield, Connecticut. Approximately seven acres of palustrine scrub-shrub swamp, primarily to the north and south, and three acres of palustrine emergent marsh surround the six acre pond. A 33 acre tract of predominantly palustrine forested wetland drains into the pond from the north and west. Drainage also enters the pond via a long strip of forested wetland extending to the south for over a half mile. Water leaves the pond through an outlet into Still Brook.

The wetlands support diverse vegetation with over 70 plant species identified at the site. Red maple (*Acer rubrum*) dominates the canopy of the wooded swamps found throughout the area. Highbush blueberry (*Vaccinium corymbosum*), Northern arrowwood (*Viburnum recognitum*), and spicebush (*Lindera benzoin*) populate the understory of the wooded swamps while jewelweed (*Impatiens capensis*), skunk cabbage (*Symplocarpus foetidus*), and cinnamon, royal, and sensitive ferns (*Osmunda cinnamomea, O. regalis,* and *Onoclea sensibilis*) comprise some of the many species found in the herbaceous layer. Broad-leaved cattail (*Typha latifolia*) and members of the Cyperaceae and Juncaceae families dominate the emergent wetlands onsite. Scrub-shrub community dominants include buttonbush (*Cephalanthus occidentalis*), silky dogwood (*Cornus amomum*), steeplebush (*Spirea tomentosa*), and willows (*Salix* spp.).

The soils of the site are mostly poorly or very poorly drained. Shallow mucks, Scantic Variant silt loam, and Saco Variant silt loam constitute the bulk of the hydric soils present, as mapped in the Hampden County, Massachusetts Soil Conservation Service Soil Survey.

The Agawam Historical Society records indicate that while Leonard Pond was created or enhanced to provide water supply/power for a gristmill, the pond existed prior to 1869 and was known even then as a "wildlife and waterfowl stop-over." Present day surrounding land uses include residences on both sides of South West Street, tree farming primarily to the north, a large agricultural field/vegetable field to the west, a gas transmission right-or-way to the south, and undeveloped upland on Provin Mountain to the west. Heavily agricultural for most of the Town's history, much of the land in Agawam has reverted to forest or been developed for residential and commercial purposes.

A substantial body of scientific research has conclusively demonstrated that our nation's wetlands possess a wide range of biological, hydrological, and societal values; indeed, this is why the Clean Water Act's Section 404 program emphasizes their protection. Recent investigation by EPA and U.S. Fish and Wildlife Service staff combined with the work of others clearly shows the importance of the Leonard Pond wetlands to wildlife. Over 100 bird species have been observed in the area including waterfowl such as black, wood, ringnecked, and mallard ducks, green-winged teal, hooded and common mergansers, and great blue and green-backed herons. Raptors observed include red-tailed, red-shouldered, and broadwinged hawks, goshawk, osprey and turkey vultures. A panoply of migratory songbirds have been observed here also, including the northern yellowthroat, Louisiana waterthrush, and parula warbler. A wide range of mammals, reptiles, and amphibians probably use the site also. For example, red fox have been observed in the area. Sign of white-tailed deer, beaver, rabbit, raccoon, and muskrat have all been observed; coyote and spotted turtle (*Clemys guttata*), a "state rare" species listed by the Massachussetts Heritage Program, have been reported in the area.

The interspersion of vegetative cover types creates numerous "edge" habitats favored by wildlife. Surrounding uplands include hardwoods, old field, and agricultural areas which also enhance this edge effect for the adjacent wetlands. The high vegetation density throughout all the cover types of the site, and the presence of vertical sub-communities (e.g., canopy, sub-canopy, shrub, and herbaceous layers present in the red maple swamps) create structural heterogenity of the habitat for wildlife. These characteristics allow the site to support many types and numbers of wildlife. While bisected by an unpaved farm road on an east-west axis immediately north of the pond proper, the area has been minimally disturbed, other than by South West Street to the east. In summary, Leonard Pond and its wetlands represent outstanding wildlife habitat, a resource which continues to shrink in south-central Massachusetts with its long history of settlement and continuing urbanization.

These wetlands do more than provide habitat for wildlife. The area provides flood storage, although the extent of this function is uncertain. In addition, given the extensive herbaceous vegetation combined with irregular and braided stream channels through much of the swamp, these wetlands probably cleanse the water released to Still Brook downstream of the pond. This wetland function may be particularly important at the site in light of the application of fertilizers and pesticides that occurs in the surrounding agricultural and nursery areas. In addition, the pond supports a warm-water fishery likely including bass, pickerel and bluegill. Since the 19th century, townspeople and others have used the area for passive recreation, most notably birdwatching. Furthermore, the wetlands provide open space, an increasingly rare commodity in a landscape which continues to change as the region's population expands.

III. Impacts From Potential Filling Activities

For over a decade the Massachusetts Department of Public Works (DPW) has planned to upgrade and realign Massachusetts Route 57 through the town of Agawam. During the fall of 1985, meetings were held between the DPW, the Corps, the Fish and Wildlife Service and EPA to discuss DPW's proposed road alignment, which bisected the site from east to west. After receiving opinions from EPA, the Fish and Wildlife Service and the Corps that the road location did not comply with the 404(b)(1) guidelines, DPW delayed its section 404 permit application in order to investigate alternatives to reduce or avoid wetland impacts. At this time, EPA understands that DPW continues to evaluate at least one alternative in addition to its original proposal. This

alternative alignment considered by DPW would fill 2.21 acres of forested/scrub shrub wetlands at the northern end of the site. This 404(c) action would prohibit construction of both alignments as currently being considered by DPW.

While the original DPW proposal provided the impetus for this 404(c) action, EPA reasonably expects other development pressures to threaten the area eventually. Agawam has experienced significant growth during the past five years. For example, 102 building permits for new residential units were issued by the Town for 1981 and 1982. For the two year period 1986–1987, the Town issued 514 such permits. The areas surrounding Leonard Pond have not escaped this increased development. Moreover, should DPW proceed to relocate and upgrade Route 57 in the vicinity, it would increase the attractiveness of the site for residential and commercial development (e.g., the intersection with South West Street would be at grade). As noted above, surrounding land uses include residential development, agriculture and silviculture; any of these activities may encroach upon the wetlands in the future. In fact, a subdivision plan is on file with the town planning board for a portion of the contiguous wetlands north of Leonard Pond.

EPA believes that placing fill in this excellent aquatic habitat could have an unacceptable adverse effect on the environment by significantly and irreversibly diminishing the value of the area for wildlife. All wetland values would be destroyed under the footprint of the fill. Indirect impacts—disruption of drainage and flow patterns, reduction of edge habitat, introduction of contaminants—might also be severe. While the direct impacts of a fill generally increase with its size, even small fills can cause significant indirect impacts. In all likelihood, wetland vegetation and slow moving animals would perish under any fill. More mobile species would attempt to relocate in nearby habitats; however, if these habitats are at or near carrying capacity, the displaced animals probably would not survive. While the precise magnitude of the adverse impacts depends on the particular aspects of any given proposal, EPA believes nearly any filling would destroy valuable wetland habitat with a concomitant loss of wildlife value. Adverse impacts of filling woud be particularly intense in an area such as Leonard Pond because it has become an increasingly important refuge for wildlife as development consumes surrounding upland habitats. In addition to wildlife impacts, fill projects would degrade other wetland values as well. Fill in the wetland displaces water storage volume and could create or aggravate downstream flooding. Filling also reduces the wetlands' ability to maintain water quality while at the same time increasing the input of pollutants into the system. Loss of habitat and degradation of water quality could adversely affect the fish that use the pond and wetlands.

IV. Proposed Determination

The preamble to the section 404(c) regulations explains that one of the basic functions of section 404(c) is to police application of the section 404(b)(1) guidelines (see Part I above). In formulating this proposed determination, EPA has considered the purpose and key provisions of the section 404(b)(1) guidelines. Those sections which presume that wetland losses can be avoided for certain types of projects and which prohibit significant impacts to the aquatic environment are especially important in this case.

EPA proposes to restrict the extent of filling activities that may occur on the site. For purposes of this proposal, the site consists of Leonard Pond and its adjacent wetland within the following area: West of South West Street; north of the Teneco gas transmission line; east of Provin Mountain; and south of the dirt road that serves as the entrance to Boglisch and Sons nursery (because this road extends only part way to Provin Mountain, for purposes of this action the boundary will extend directly west from the end of this road to Provin Mountain). In addition, there are two small wetland areas that are located north of this boundary which are to be included as part of the site. The first is a red maple swamp directly north of this dirt road; the second is an emergent wetland area north of the irrigation pond just east of Provin Mountain.

We considered several factors in determining these boundaries. First, and most important, is the ecological value of these wetlands. All the wetlands within the boundary are integrally connected and provide valuable wildlife habitat. We have not included all hydrologically connected wetlands especially to the south and east, because to do so would encompass disturbed areas not as valuable for wildlife. In addition, we believe to expand this action significantly in these directions would make it administratively unwieldy and result in a complex and difficult to follow boundary for the public. We remain concerned about the wetlands not included within the proposed boundary; discharges of dredged and fill material in these areas would still require section 404 authorization and will be closely scrutinized by EPA.

The proposed restriction would, except as noted below, prevent the discharge of dredged or fill material into the Leonard Pond site for nonwater dependent purposes. A nonwater dependent fill project is one which does not require acess or proximity to water or wetlands to fulfill its basic purpose (e.g., housing, roadway, and most types of agriculture).

Water dependent activities (e.g., boat ramps, aquaculture projects) would not be prohibited by this proposal but may still require a section 404 permit from the Corps. Some water dependent activities may result in significant impacts or otherwise not comply with the section 404 requirements and, therefore, would be denied a permit. In addition, we recognize that some nonwater dependent fills may be sufficiently minor so as not to result in unacceptable impacts either individually or cumulatively. Therefore, this 404(c) action would not apply to discharges currently authorized by certain nationwide general permits issued by the Corps of Engineers. Specifically, this proposal would not affect the applicability of relevant nationwide permits 1–25 codified at 33 CFR 330.5(a).[2] These permits authorize, subject to certain restrictions and conditions, specific activities such as fish and wildlife harvesting devices, bank stabilization work, backfill and bedding for utility lines, and dredge and fill discharges which do not exceed 10 cubic yards. We propose, however, to override nationwide permits #21 and #26 at the site since these nationwide permits could, under certain circumstances, allow fills which would cause unacceptable adverse impacts.

EPA proposes this approach after considering the environmental values of the site, its sensitivity to disruption and the obvious harm most fill projects would cause. Moreover, our experience is that alternatives usually exist for nonwater dependent activities since, by definition, they do not have to be located in or near water. EPA believes, therefore, that such filling activities could have unacceptable adverse impacts on the aquatic ecosystem.

EPA believes this proposal would properly utilize the section 404(c) authority to prevent unacceptable

[2] Specifically, nationwide permit numbers 3, 6, 7, 12–18, 20, 22, 23, and 25. Other nationwide permits authorize activities under section 10 of the Rivers and Harbors Act and do not appy to this site.

adverse impacts from occurring at the Leonard Pond site. The types of activities proposed for restriction, nonwater dependent fill projects, as a class comprise the most environmentally destructive and the most frequently avoidable types of discharge. The 404(b)(1) guidelines contain a strong presumption against permitting such discharges. Moreover, in light of the outstanding value of the site for wildlife, nonwater dependent projects would likely violate the guidelines by causing or contributing to significant degradation. Therefore, by this proposal we intend to enforce the requirements of the section 404(b)(1) guidelines, a function envisioned by the section 404(c) regulations.

V. Solicitation of Comments

EPA solicits comments on all issues raised by this proposed determination. In particular, we are interested in receiving information pertaining to the environmental values of the Leonard Pond area and any current or proposed threats to these aquatic resources. We also are interested in receiving comments on the boundary of the 404(c) action and the activities affected (and not affected) by the proposal. Specifically, (1) whether placing dredged or fill material into Leonard Pond and its wetlands would have an unacceptable adverse effect on fish and wildlife habitat; (2) existence of any endangered or threatened species at the site; (3) cumulative impacts that may result from filling these wetlands; (4) whether the geographic limit of this action is reasonable and appropriate; (5) what, if any, type of filling activity could occur without individually or cumulatively causing unacceptable adverse impacts, and (6) whether the relocated Route 57, which would fill wetlands at the site, would cause significant loss or damage to wildlife.

Comments should be sent within 45 days from the date of publication of this **Federal Register** notice to the person listed above under **ADDRESSES**. If the Regional Administrator finds a significant degree of public interest in this announcement or that it would be otherwise in the public interest to hold a hearing, a hearing will be held. All comments received, as well as any hearing record will be fully considered by the Regional Administrator in making the decision to prepare a recommended determination to prohibit or restrict filling Leonard Pond and its wetlands or to withdraw this proposed determination.

Paul G. Keough,

Acting Regional Administrator, Region I.

[FR Doc. 89-20441 Filed 8-29-89; 8:45 am]

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[FRL-3637-4]

Proposed NPDES General Permits for the Oil and Gas Extraction Point Source Category, Onshore Subcategory—States of Louisiana, New Mexico, Oklahoma, and Texas

AGENCY: Environmental Protection Agency.

ACTION: Notice of Four Proposed NPDES General Permits.

SUMMARY: The Regional Administrator of Region 6 (the "Region") is today proposing to issue four National Pollutant Discharge Elimination System (NPDES) general permits for facilities in the Onshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR Part 435, Subpart C). These proposed general permits implement the no discharge requirement of the Onshore Subcategory regulations for oil and gas facilities conducting exploration drilling, development drilling, well completion, production and well treatment operations. These proposed permits are being issued as a Best Professional Judgement (BPJ) determination of Best Available Technology Economically Achievable (BAT) and Best Conventional Pollutant Control Technology (BCT) levels of pollution control. These permits, when issued, will prohibit discharges from oil and gas facilities in the Onshore Subcategory located in the States of Louisiana, New Mexico, Oklahoma, and Texas.

All four permits are proposed in one notice to take advantage of permit language that is common to all four permits.

DATE: Comments must be received by October 16, 1989.

ADDRESS: Comments should be sent to the Regional Administrator Region 6, U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202-2733.

FOR FURTHER INFORMATION CONTACT: Ms. Ellen Caldwell, Region 6, U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202-2733. Telephone: (214) 655-7190.

SUPPLEMENTARY INFORMATION:

Legal and Regulatory Authority

These general onshore permits have been prepared pursuant to sections 301(b) and 304(b) of the Clean Water Act. Section 301(b)(1) requires attainment of effluent limitations based on the application of "best practicable control technology currently available" (BPT) by July 1, 1977. Section 305(b) provides for the promulgation of regulations defining a technology as "best practicable control technology currently available" and specifies the factors to be considered in defining BPT. This effluent limitation has been promulgated for the oil and gas industry as the Oil and Gas Extraction Point Source Category, final and interim final Rules at 44 FR 22069 (April 13, 1979) and amended at 47 FR 31554 (July 21, 1982). The Federal Regulations governing the Onshore Subcategory are codified at 40 CFR Part 435, Subpart C.

The Environmental Protection Agency has issued a report entitled "Development Document for Interim Final Effluent Limitations Guidelines and Proposed New Source Performance Standards for the Oil and Gas Extraction Point Source Category" (41 FR 44942, October 13, 1976) which was prepared in support of the initial interim final BPT limitations promulgated in the Federal regulations cited above. This document discussed the oil and gas industry, available waste treatment technology and the results of the technical study which resulted in the limitations contained in the regulations (40 CFR Part 435). Additionally, a supplementary report on the possible economic impacts of the regulations was issued at that time.

Since publication of the interim final regulations, interested parties have submitted comments and new data for the consideration by the Agency. The promulgated regulations are based on the analyses of these comments and data. For the most part, the analysis merely clarified the interim final regulations. In applying the BPT limitations of these permits, the Region cannot estabish limitations less stringent than those already defined in the Federal regulations.

Many owners and operators of oil and gas facilities located in the Onshore Subcategory have applied for a NPDES permit; however, no such individual permits have been issued because priorities for NPDES permit issuance did not include these facilities. The permits proposed here will apply to all Onshore Subcategory oil and gas facilities

located in Louisiana, New Mexico, Oklahoma, and Texas whether or not an application has been previously filed with EPA. In effect, these permits implement the effluent guidelines for the Onshore Subcategory at 40 CFR 435.30, and thereby prohibit the discharge of any pollutants from these facilities into waters of the United States.

A permittee may request to be excluded from coverage of these permits by applying for an individual permit within 90 days after publication of these permits in the **Federal Register** (40 CFR 122.28(b)(2)(iii). In this case however the Region cannot foresee any case where the reasons cited by the owner or operator will be adequate to support a discharge since the Onshore Subcategory regulation has required no discharge for over 10 years. Applying for an individual permit does not authorize the discharge, and no discharges will be allowed after the effective date of this permit.

General Applicability

These proposed general permits apply to facilities in the Onshore Subcategory of the Oil and Gas Extraction Point Source Category within the States of Louisiana, New Mexico, Oklahoma, and Texas (as defined at 40 CFR Part 435.40 Subpart C and as amended at 47 FR, 31554 (July 21, 1982).

These permits do not apply to those facilities which are located inland from the inner boundary of the territorial seas in areas classified as Coastal as defined at 40 CFR 435.40 Subpart D and as amended at 47 FR, 31554. Likewise, these permits do not apply to "stripper" wells as defined at 40 CFR 435.60 and which are so classified before the effective date of these permits; nor do they apply to some exploration or producing facilities located west of the 98th meridian as defined at 40 CFR Part 435, Subpart E (Agricultural Wildlife Water Use Subcategory) which discharge potentially beneficial produced waters.

Facility location determines the applicable subcategory in 40 CFR Part 435, and pollutant discharges which are prohibited at the location of the facility may not be discharged at other locations.

Applicability Specified

Geographic Limits: These permits, based on Federal regulations, apply to the Onshore Subcategory as defined at 40 CFR 435.30. The Onshore Subcategory geographically also applies to an area that in part is also covered by the Coastal Subcategory as defined at 40 CFR 435.40, except as amended at 47 FR 31554 (July 21, 1982). The seaward boundaries of both subcategories are defined as the inner margin of the territorial seas and both extend inland with the inner or landward boundary of the Coastal Subcategory including any body of water landward of the territorial seas or any wetlands adjacent to such waters. The Coastal Subcategory is not geographically defined and, as promulgated, it applies to facilities operating in lakes, rivers, and streams. Oil and gas operations in the Coastal Subcategory are, on this basis, excluded from these permits; they will be regulated under separate general permits.

Onshore oil and gas operations located west of the 98th meridian in the states of New Mexico, Oklahoma or Texas and which qualify for coverage under 40 CFR 435.50 (Agricultural and Wildlife Water Use Subcategory) are likewise not included in these general onshore permits because the allowed use of produced waters for purposes defined in the subcategory requires evaluation of applicable water quality standards and criteria. Facilities in the Agricultural and Wildlife Water Use Subcategory will therefore be covered under separate general permits.

Location: Location of the oil and gas facility is determinate and discharges at other locations is prohibited. In taking this position, it is the Agency's intent that the location of the well head shall be the determining factor in defining within which subcategory a permittee is operating. It is also the Agency's intent that geographic location is also to determine the conditions under which discharges may or may not occur. Since discharges are meant to refer to the surface release of pollutants to waters of the United States, disposal by other methods approved by State Agencies, such as subsurface injection, is not prohibited by these permits.

Other Exemptions: "Stripper" wells as defined at 40 CFR 435.60, Subpart F, and which are classified as "stripper" prior to the date of this permit are not included in these general onshore permits. This subcategory, which applies to wells which produce 10 barrels of oil per day or a well with greater than 15,000 cubic feet of gas per barrel of oil per day, applies to single wells or fields wherein, as is the Agency's intention, production limits shall apply to an average expressed on a per well basis. See 44 FR 22073 (April 13, 1979).

Wells which become classified as "stripper" after the effective date of this permit are covered by this permit. Although no specific limitations have otherwise been promulgated for the Stripper Subcategory at this time, the proper classification of this source as a separate subcategory is regarded significant since it does exclude the source from other subcategories, allowing the establishment of more directly applicable limitations under section 402(a)(1) of the Clean Water Act. Effluent limitations regarding the Stripper Subcategory will be considered as separate general permits.

Consideration of Technology

These permits are based on the Agency's promulgated interim final effluent limitations which are based on the application of "best practicable control technology currently available" (BPT) for the Onshore Subcategory of the Oil and Gas Extraction point source Category. See 44 FR 22069 (April 13, 1979); 40 CFR Part 435, Subpart C. The Federal regulations applying to this subcategory incorporate terms based on comments received after publication of the interim final regulations and the Agency's stipulated agreements in litigation. In the absence of other guidelines for the onshore area, the Agency has taken the position that since the Federal regulations prohibit the discharge of pollutants from any source in the subcategory, that on the basis of best professional judgment (BPJ), the best conventional pollutant control technology (BCT) equals best available technology economically achievable (BAT) and that this equals the best practicable control technology (BPT) applied in the Onshore Subcategory. The no discharge limitation on onshore activities associated with the exploration and production of oil and gas is therefore in accord with the Federal regulations at 40 CFR Part 435, Subpart C, wherein the discharge of waste pollutants from any source related to oil and gas exploration and production activities in the Onshore Subcategory is prohibited. In applying the no discharge limitation in this permit, the Agency cannot establish limitations that are less stringent than those limitations defined in the Federal regulations.

Ultimate Disposal of Wastes

These proposed permits prohibit the direct discharge of pollutants to waters of the United States from oil and gas wells in the Onshore Subcategory and their appurtenant facilities, e.g., mud pits, reserve pits, oil/water separators. They do not, however, apply to the ultimate disposal of wastes derived from oil and gas activities. If such disposal involves a discharge a pollutants to waters of the United States, the disposal facility must obtain an individual NPDES permit prior to commencing the discharge. Generally, State permits are also required for such discharges.

Moreover, disposal of wastes from oil and gas operations through methods which do not involve discharges to waters of the United States, e.g., land farming, backfilling, subsurface injection, is also regulated by state agencies. Although other state agencies may also have jurisdiction, EPA suggests that parties desiring approval for such disposal methods contact the Louisiana Department of Environmental Quality (surface disposal), the Louisiana Department of Natural Resources (Subsurface disposal), the New Mexico Conservation Division, the Oklahoma Corporation Commission, or the Railroad Commission of the State of Texas, as appropriate.

Other Legal Requirements

State Certification: Section 301(b)(1)(C) of the Clean Water Act requires that NPDES permits contain conditions which ensure compliance with applicable State water quality standards or limitations. Under section 401(a)(1) of the Act, EPA may not issue a permit until the State grants or waives certification to ensure compliance with appropriate requirements of the Act and State law. The proposed permits, in not allowing discharges into waters of the United States, is in conformity with existing Federal regulations.

The Endangered Species Act: The Endangered Species Act (ESA) and its implementing regulations (50 FR CFR Part 402) requires that each Federal Agency ensure that its actions, such as permit issuance, do not jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of their critical habitats. In view of the fact that these permits will not allow discharges into the waters of the United States and are therefore unlikely to effect changes in the environment, EPA has concluded that their issuance is unlikely to adversely affect any of the listed species or their critical habitats. It is seeking concurrence in this determination from the U.S. Fish and Wildlife Service.

Economic Impact (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. The economic and inflationary effects of the regulations (40 CFR Part 435) upon which this permit is based have been evaluated in accordance with Executive Orders 11821 and 12044.

The Paperwork Reduction Act: EPA has reviewed the requirements imposed on regulated facilities in these general permits under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et. seq. The information collection requirements of these permits have been approved by the Office of Management and Budget in submissions made for the NPDES permit program under provision of the Clean Water Act.

The Regulatory Flexibility Act: EPA does not anticipate that these general permits will have a significant impact on the majority of the parties, including those with greater than and those with less than 500 employees, due to the fact that the no discharge limitations proposed are in effect in the form of existing State and Federal regulations.

After review of the facts presented in the notice printed above, I hereby certify pursuant to the provisions of 5 U.S.C. 605(b) that these general NPDES permits will not have a significant impact on a substantial number of small entities. Moreover, the permits reduce a significant administrative burden of applying for individual permits, on regulated sources.

Date: August 22, 1989.

Robert E. Layton Jr.,

Regional Administrator, Region 6.

General NPDES Permit for the Oil and Gas Extraction Point Source Category, Onshore Subcategory

Permit No. LAG320000—State of Louisiana
Permit No. NMG320000—State of New Mexico
Permit No. OKG320000—State of Oklahoma
Permit No. TXG320000—State of Texas

This permit, issued under the provisions of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq: The "Act"), prohibits the discharge of pollutants from any onshore oil and gas wells and facilities as defined in 40 CFR Part 435, Subpart C (Onshore Subcategory) and modified at 47 FR, 31554, July 21, 1982. It does not apply to wells or facilities in the Agricultural and Wildlife Use Subcategory (as defined at 40 CFR 435, Subpart E). Likewise, it does not apply to existing wells which, at the time of permit issuance, fall within the Stripper Subcategory as defined at 40 CFR 435, Subpart F, but later wells in which production falls below 10 barrels per day shall remain subject to this permit. This permit also does not apply to those wells or appurtenant facilities whose well heads are located in any body of water or adjacent wetlands (as defined at 40 CFR 435, Subpart D).

To the extent that applicability of this permit is based on the geographical location of wells or facilities, the location of the wellhead shall be determinative, i.e., pollutant discharges which are prohibited at the location of the well head may not be discharged at other locations.

This permit prohibits the discharge of any pollutant from wells or facilities subject to its terms. Said pollutants include (but are not limited to):

Drilling Fluids
Drill Cuttings
Produced water
Produced sand
Deck and Rig Floor Drainage
Blowout Preventer fluid
Well Treatment Fluids

Further description of said pollutants, as well as monitoring, reporting, and other requirements are set forth in Parts I, II, and III of this permit.

This permit shall become effective when issued, and expire at midnight on *(five years after final permit effective date).*

Myron O. Knudson,

Director, Water Management Division EPA Region 6.

Part I

(Applicable to LAG320000, NMG 320000, OKG320000, TXG320000)

Section A. General Permit Coverage

General Permit Limits

(Applicable to LAG320000)

This permit prohibits discharges into waters of the United States as defined in 40 CFR Part 435. The disposal of waters and waste resulting from oil and gas exploration and producing activities in manners other than by discharges into waters of the United States are limited by the Department of Natural Resources, Office of Conservation of the State of Louisiana according to Amendment to Statewide Order No. 29–B and the water quality standards of the Louisiana Department of Environmental Quality (Louisiana Revised Statute, L.R.S. 30:1091–1096).

(Applicable to NMG320000)

This permit prohibits discharges into waters of the United States as defined in 40 CFR Part 435. The disposal of waters and waste resulting from oil and gas exploration and producing activities in manners other than by discharges into waters of the United States are otherwise limited by the New Mexico Oil Conservation Division (NMOCD) Rules 01 through 1304 and regulations of the State Oil and Gas Act (Sections 70–2–1– through 70–2–38 NMSA, 1978) and as may be amended, and the water quality standards of the New Mexico Health and Environment Department, Environmental Improvement Division,

Sections 1–100 to 3101 and as explained in Water Quality and Water Pollution Control in New Mexico (1988), and as may be amended.

(Applicable to OKG320000)

This permit prohibits discharges into waters of the United States as defined in 40 CFR Part 435. The disposal of waters and waste resulting from oil and gas exploration and producing activities in manners other than by discharges into waters of the United States are otherwise limited by the Oklahoma Corporation Commission according to Rules of Practice 1 through 26 (1988) and the water quality standards of the Oklahoma Water Resources Board, Water Quality Division, Sections 1 through 8 and as appended (1985) and as may be amended.

(Applicable to TXG320000)

This permit prohibits discharges into waters of the United States as defined in 40 CFR Part 435. The disposal of waters and waste resulting from oil and gas exploration and producing activities in manners other than by discharges into waters of the United States are otherwise limited by the Railroad Commission of the State of Texas according to Rules 79 through 85 (1987) and the water quality standards of the Texas Water Commission (12 TexReg 3642, 13 TexReg 1776).

Section B. NPDES Individual versus General Permit Applicability

The Regional Administrator may require any person authorized by this permit to apply for and obtain an individual NPDES permit when:

1. The discharge(s) is a significant contributor of pollution;

2. The discharger is not in compliance with the conditions of this permit;

3. A change has occurred in the availability of the demonstrated technology or practices for the control or abatement of pollutants applicable to point sources;

4. A Water Management Plan containing requirements applicable to such a point source is approved;

5. The point source(s) covered by this permit no longer:

(a) involves the same or substantially similar types of operations,

(b) is no longer limited to the same types of wastes,

(c) requires the same effluent limitations or operating conditions, or

(d) in the opinion of the Regional Administrator, is more appropriately controlled under an individual permit than under a general permit.

Operators required to apply for an individual permit shall be notified in writing by the Regional Administrator.

A source excluded from coverage under this general permit solely because it already has an individual permit may request that its individual permit be revoked. Upon revocation of the individual permit, this general permit shall apply to the source.

Part II

(Applicable to LAG320000, NMG320000, OKG320000, TXG320000)

Section A. Effluent limitations and Monitoring Requirements, Onshore Subcategory

(Applicable to LAG320000)

The oil and gas exploration and production activities covered by this permit apply to the onshore area of the State of Louisiana as defined in Part I.

(Applicable to NMG320000)

The oil and gas exploration and production activities covered by this permit apply to the onshore area of the State of New Mexico as defined in Part I.

(Applicable to OKG320000)

The oil and gas exploration and production activities covered by this permit apply to the onshore area of the State of Oklahoma as defined in Part I.

(Applicable to TXG320000)

The oil and gas exploration and production activities covered by this permit apply to the onshore area of the State of Texas as defined in Part I.

1. Drilling Fluids

(a) Applicability

Permit conditions apply to all drilling fluids (muds), whether oil, mineral oil or water based, and include fluids adhering to drill cuttings, used as the result of activities associated with the exploration and the production of oil and gas.

(b) Prohibitions

The discharge of drilling fluids into waters of the United States is prohibited.

(Applicable to LAG320000)

Best management practices (BMP) shall be used in accordance with the treatment and disposal criteria of the State of Louisiana, Department of Natural Resources, Office of Conservation (Statewide Order 29–B) to ensure that receiving pits will not allow discharge or seepage of drilling fluids into waters of the United States.

(Applicable to NMG320000)

Best management practices (BMP) shall be used in accordance with the rules and regulations of the New Mexico Oil Conservation Division (Rules and Regulations) to ensure that receiving pits will not allow discharge or seepage of drilling fluids into waters of the United States.

(Applicable to OKG320000)

Best management practices (BMP) shall be used in accordance with the rules and regulations of the Oklahoma Corporation Commission, Oil and Gas Conservation Division (General Rules and Regulations, 1988) to ensure that receiving pits will not allow discharge or seepage of drilling fluids into waters of the United States.

(Applicable to TXG320000)

Best management practices (BMP) shall be used in accordance with the treatment and disposal criteria of the Railroad Commission of Texas (Statewide rules for Oil, Gas and Geothermal Operations, RRCT, 1987) to ensure that receiving pits will not allow discharge or seepage of drilling fluids into waters of the United States.

2. Drill Cuttings

Special note: The permit prohibitions and limitations that apply to drilling fluids also apply to cuttings as well as to the fluids that adhere to them. Any permit condition that applies to the drilling fluid system therefore also applies to cuttings.

3. Produced water

(a) Applicability

This permit applies to all formation waters recovered during activities associated with the exploration and production of oil and gas, including those recovered during production tests.

(b) Prohibitions

The discharge of produced water or produced water associated with oil is prohibited.

(Applicable to LAG320000)

Produced water, whether from well drilling, production or workover operations, as well as waste waters from storage tanks, separators, saltwater or brine pits are prohibited from being discharged into waters of the United States. Best management practices (BMP) shall be used in accordance with the treatment and disposal criteria of the Louisiana Department of Natural Resources, Office of Conservation (Statewide Order 29–B) to ensure that receiving pits will not

allow discharge or seepage of drilling fluids into waters of the United States.

(Applicable to NMG320000)

Produced water, whether from well drilling, production or workover operations, as well as waste waters from storage tanks, separators, saltwater or brine pits are prohibited from being discharged into waters of the United States. Best management practices (BMP) shall be used in accordance with the treatment and disposal criteria of the New mexico Oil Conservation Division (Rules and Regulations) to ensure that receiving pits will not allow discharge or seepage of drilling fluids into waters of the United States.

(Applicable to OKG320000)

Produced water, whether from well drilling, production or workover operations, as well as waste waters from storage tanks, separators, saltwater or brine pits are prohibited from being discharged into waters of the United States. Best management practices (BMP) shall be used in accordance with the treatment and disposal criteria of the Oklahoma Corporation Commission, Oil and Gas Conservation Division (General Rules and Regulations, 1988) to ensure that receiving pits will not allow discharge or seepage of drilling fluids into waters of the United States.

(Applicable to TXG320000)

Produced water, whether from well drilling, production or workover operations, as well as waste waters from storage tanks, separators, saltwater or brine pits are prohibited from being discharged into waters of the United States. Best management practices (BMP) shall be used in accordance with the treatment and disposal criteria of the Railroad Commission of Texas (Statewide Rules for Oil, Gas and Goethermal Operations, RRCT, 1987) to ensure that receiving pits will not allow discharge or seepage of drilling fluids into waters of the United States.

4. Produced Sand

Special note: The prohibitions and limitation that apply to drill cuttings, drilling fluids, well completion fluids and fluids that adhere to cuttings also apply to produced sand.

5. Deck or Rig Floor Drainage

(a) Applicability

This permit applies to material or fluid spillage, including drilling muds (oil, mineral oil or water based), wash-down water, grease, waste oil, lubricants, or hydraulic fluids resulting from activities associated with the exploration and production of oil and gas.

(b) Prohibitions

The discharge of rig floor or deck drainage into waters of the United States is prohibited.

(Applicable to LAG320000)

Best management practices (BMP) shall be used in accordance with the treatment and disposal criteria of the State of Louisiana, Department of Natural Resources, Office of Conservation (Statewide Order 29–B) to ensure that rig floor or deck drainage will not discharge, seep or otherwise be released into waters of the United States.

(Applicable to NMG320000)

Best management practices (BMP) shall be used in accordance with the treatment and disposal criteria of the New Mexico Oil Conservation Division (Rules and Regulations) to ensure that rig floor or deck drainage will not discharge, seep or otherwise be released into waters of the United States.

(Applicable to OKG320000)

Best management practices (BMP) shall be used in accordance with the treatment and disposal criteria of the Oklahoma Corporation Commission, Oil and Gas Conservation Division (General Rules and Regulations, 1988) to ensure that rig floor or deck drainage will not discharge, seep or otherwise be released into waters of the United States.

(Applicable to TXG320000)

Best management practices (BMP) shall be used in accordance with the treatment and disposal criteria of the Railroad Commission of Texas (Statewide rules for Oil, Gas and Geothermal Operations, RRCT, 1987) to ensure that rig floor or deck drainage will not discharge, seep or otherwise be released into waters of the United States.

6. Blowout Preventer Fluid

(a) Applicability

This permit applies to all oil or hydraulic fluids used in blowout preventer mechanisms used in activities associated with the exploration and production of oil and gas.

(b) Prohibition

The discharge of blowout preventer fluids are prohibited.

7. Well Treatment Fluids, Completion Fluids, Workover Fluids

(a) Applicability

This permit applies to well treatment fluids, including well completion fluids, workover fluids well stimulation fluids or fluids resulting from well tests used in activities related to the exploration and production of oil and gas.

(b) Prohibition

The discharge of well treatment, completion, well testing and workover fluids, as well as discharges from production test, flare, completion or otherwise designated temporary storage pits, into waters of the United States is prohibited.

(Applicable to LAG320000)

Best management practices (BMP) shall be used in the disposal of these wastes shall be in accordance with the treatment and disposal criteria of the State of Louisiana, Department of Natural Resources, Office of Conservation (Statewide Order 29–B) to ensure that there will be no discharges into waters of the United States.

(Applicable to NMG320000)

Best management practices (BMP) shall be used in the disposal of these wastes shall be in accordance with the treatment and disposal criteria of the New Mexico Oil Conservation Division (Rules and Regulations) to ensure that there will be no discharges into waters of the United States.

(Applicable to OKG320000)

Best management practices (BMP) shall be used in the disposal of these wastes shall be in accordance with the treatment and disposal criteria of the Oklahoma Corporation Commission, Oil and Gas Conservation Division (General Rules and Regulations, 1988) to ensure that there will be no discharges into waters of the United States.

(Applicable to TXG320000)

Best management practices (BMP) shall be used in the disposal of these wastes shall be in accordance with the treatment and disposal criteria of the Railroad Commission of Texas (Statewide Rules for Oil, Gas and Geothermal Operations, RRCT, 1987) to ensure that there will be no discharges into waters of the United States.

Part III.

(Applicable to LAG320000, NMG320000, OKG320000, TXG320000)

Section A. General Conditions

1. Introduction. In accordance with the provisions of 40 CFR Part 122.41 et seq., this permit incorporates by reference ALL conditions and requirements applicable to NPDES permits set forth in the Clean Water Act, as amended (hereinafter known as the "Act") as well as ALL applicable CFR regulations.

2. Duty to Comply. The permittee must comply with all conditions of this permit. Any permit non-compliance constitutes a violation of the Clean Water Act and is grounds for enforcement action and/or for requiring a permittee to apply for and obtain an individual NPDES permit.

3. Permit Flexibility. This permit may be modified, revoked and reissued, or terminated for cause, in accordance with 40 CFR 122.62–64. The filing for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

4. Property Rights. This permit does not convey any property rights of any sort, or any exclusive privileges nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

5. Duty to Provide Information. The permittee shall furnish to the Regional Administrator, within a reasonable time, any information which the Regional Administrator may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish the Regional Administrator, upon request, copies of records required to be kept by this permit.

6. Criminal and Civil Liability. Except as provided in permit conditions on "Bypassing" and "Upsets", nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. Any false or materially misleading representation or concealment of information required to be reported by the provisions of the permit, the Act or applicable CFR regulations which avoids or effectively defeats the regulatory purpose of the Permit may subject the permittee to criminal enforcement pursuant to 18 Section 1001.

7. Oil and Hazardous Substance Liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee may be subject under Section 311 of the Act.

8. State Laws. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Clean Water Act.

9. Severability. The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstances is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

Section B. Proper Operation and Maintenance

1. Need to Halt or Reduce Not a Defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

2. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

3. Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed and used by the permittee to achieve compliance with the conditions of this permit. This provision requires the operation of backup or auxiliary facilities of similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

4. Bypass of Facilities.

(a) Definitions

(1) "Bypass" means the intentional diversion of waste streams from any portion of a facility.

(2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities that causes them to be inoperable, or substantial and permanent loss of natural resources than can reasonably be expected to occur in the absence of bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) Notice

(1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

(2) Unanticipated bypass. The permittee shall, within 24 hours, submit notice of an unanticipated bypass as required in Part III.D.2.

(c) Prohibition of Bypass

(1) Bypass is prohibited, and the Regional Administrator may take enforcement action against a permittee for bypass, unless:

(a) Bypass was unavoidable to prevent loss of life, personal injury or severe property damage;

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(c) The permittee submitted notices as required by Part III.B.4.(b).

(2) The Regional Administrator may approve an anticipated bypass, after considering its adverse effects, if the Regional Administrator determines that it will meet three conditions listed at Part III.B.4.(c)(1).

5. *Upset Conditions.* (a) Definition

"Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed facilities, inadequate facilities, lack of preventive maintenance, or careless or improper operation.

(b) Effects of an Upset. An upset constitutes an affirmative defense of an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of Part III.B.5.b. are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

(c) Conditions necessary for a demonstration of upset. The permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed,

contemporaneous logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the cause(s) of the upset;

(2) The permitted facility was at the time being properly operated;

(3) The permittee submitted notice of the upset as required by Part III.D.2; and

(4) The permittee complied with Part III.B.2.

(d) Burden of Proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

6. *Removed Substances.* Solids, sludges, filler backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollution from such materials from entering waters of the United States.

Section C. Monitoring and Records

The permittee shall allow the Regional Administrator, or an authorized representative, upon the presentation of credentials and other documents as may be required by law to:

1. Enter upon the permittee premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under this permit; and

4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

Section D. Reporting Requirements

1. *Anticipated Noncompliance.* The permittee shall give advance notice to the Regional Administrator of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

2. *Twenty-Four Hour Reporting.* The permittee shall report any noncompliance with this permit, bypass or upset. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or plans to reduce, eliminate, and prevent reoccurrence of the noncompliance. The Regional Administrator may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

3. *Other Information.* Where the permittee becomes aware that it failed to submit any relevant facts in any report to the Regional Administrator, it shall promptly submit such facts or information.

4. *Changes in Discharges of Toxic Substances.* The permittee shall notify the Regional Administrator as soon as it knows or has reason to believe:

(a) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, or any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the "notification levels" described in 40 CFR 122.42(a)(1).

(b) That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the "notification levels" described in 40 CFR 122.42(a)(2).

5. *Signatory Requirements.* All applications, reports, or information submitted to the Regional Administrator shall be signed and certified as follows:

(a) All permit applications shall be signed as follows:

(1) For a corporation. By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:

(a) A president, secretary, treasurer, or vice-president of the corporation in charge of a principle business function, or decision making functions for the corporation, or

(b) The manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(c) For a partnership or sole proprietorship. By a general partner or the proprietor, respectively.

(d) For a municipality, State, Federal or other public agency. Either a principle executive office or ranking elected official. For purposes of this section, a principle executive officer of a Federal agency includes:

(1) The chief executive officer of the agency, or

(2) A senior executive officer having responsibility for the overall operations of a principle geographic unit of the agency.

(3) Alternatively, all reports required by the permit and other information requested by the Regional Administrator may be signed by a person described above or by a duly authorized representative only if:

(a) The authorization is made in writing by a person described above;

(b) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or oil field, superintendent, or position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either an individual or an individual occupying a named position; and

(3) The written authorization is submitted to the Regional Administrator.

(c) Certification. Any person signing a document under this section shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for the gathering of the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

6. *Availability of Reports.* Except for applications, effluent data, and other data specified in 40 CFR 122.7, any information submitted pursuant to this permit may be claimed confidential by the submitter. If no claim is made at the time of submission, information may be made available to the public without further notice.

Section E. Penalties for Violations of Permit Conditions

1. Criminal

(a) *Negligent Violations.* The Act provides that any person who negligently violates permit conditions implementing Section 301, 302, 306, 307, or 308 of the Act is subject to a fine of

not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

(b) *Knowing Violations.* The Act provides that any person who knowingly violates permit conditions implementing Section 301, 302, 306, or 308 of the Act is subject to a fine of not less than $5,000 per day of violation nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or both.

(c) *Knowing Endangerment.* The Act provides that any person who knowingly violates permit conditions implementing Section 301, 302, 306, 307, or 308 of the Act and who knows at the time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than $250,000, or by imprisonment for not more than 15 years, or both.

(d) *False Statements.* The Act provides that any person who knowlingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring devise or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than $10,000 per day, or by imprisonment for not more than 2 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such a person under this paragraph, punishment shall be by a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or by both (See Section 309.c.4. of the Clean Water Act).

2. *Civil Penalties.* The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307 or 308 of the Act is subject to a civil penalty not to exceed $25,000 per day for each violation.

3. *Administrative Penalties.* The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed $25,000 per day for each violation.

(a) Class I Penalty

Not to exceed $10,000 per violation nor shall the maximum amount exceed $25,000.

(b) Class II Penalty

Not to exceed $10,000 per day for each day during which the violations continues nor shall the maximum amount exceed $125,000.

Section F. Definitions

All definitions in Section 502 of the Act shall apply to this permit and are incorporated herein by reference. Unless otherwise specified in this permit, additional definitions words or phrases used in this permit are as follows:

1. "Act" means the Clean Water Act (33 U.S.C. 1251 et. seq.) as amended.

2. "Applicable effluent standards and limitations" means all state and Federal effluent standards and limitations to which a discharge is subject under the Act, including, but not limited to, effluent limitations, standards of performance, toxic effluent standards and prohibitions, and pretreatment standards.

3. "Applicable water quality standards" means all water quality standards to which a discharge is subject under the Act and which have been (a) approved or permitted to remain in effect by the Administrator following submission to him/her, pursuant to Section 303(a) of the Act, or (b) promulgated by the Administrator pursuant to section 303(b) or 303(c) of the Act.

4. "Blowout preventer fluid" means a fluid used to actuate the hydraulic blow out preventer at the well site.

5. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

6. "Coastal" means any body of water landward from the inner margin of the territorial seas; the term includes marine waters located landward from the inner margin of the territorial seas as well as inland rivers, streams and lakes and any wetlands adjacent to such bodies of waters.

7. "Deck drainage" means all waste resulting form platform washings, runoff from curbs, gutters, and drains including spillage of drilling muds, waste from drip pans and rig floor wash down and fluids derived from wash areas.

8. "Drill cuttings" means particles generated by drilling into subsurface geologic formations and which are carried to the surface with the drilling fluids.

9. "Drilling fluid" means any fluid sent down-hole, including muds and any specialty products, from the time the well is begun until the final cessation of drilling.

10. "Environmental Protection Agency" means the U.S. Environmental Protection Agency.

11. "Formulation test fluids" means fluids brought up from wells as the result of testing the productivity of potentially economic oil or gas from geologic formations encountered during drilling.

12. "National Pollutant Discharge Elimination System" means the national program for issuing, revoking and reissuing, teminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 318, 402 and 405 of the Act.

13. "Produced sand" means particulate matter, sands, produced along with oil, gas and water during the production of oil and gas.

14. "Regional Administrator" means the Administrator of the U.S. Environmental Protection Agency, Region 6.

15. "Severe property damage" means substantial physical damage to property, damage to treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of bypass. Severe property damage does not mean economic loss caused by delays in production.

16. "Territorial Seas" means the seas falling seaward of a line of ordinary low water along that portion of the coast which is in direct contact with the open ocean and the line marking the seaward limit of the inland waters, extending seaward a distance of 3 miles (CWA Section 502).

17. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

[FR Doc. 89-20437 Filed 8-29-89; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Louisiana; Amendment to Notice of a Major Disaster Declaration

[FEMA-835-DR]

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Louisiana (FEMA-835-DR), dated July 18, 1989, and related determinations.

DATE: August 23, 1989.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3614.

NOTICE: The notice of a major disaster for the State of Louisiana, dated July 18, 1989, is hereby amended to add the Public Assistance program and amend the parish designations as follows:

The parishes of Beauregard, Grant, Natchitoches, Vernon, Webster, and Winn for Public Assistance.

Sabine Parish for Individual Assistance and Public Assistance.

Grant C. Peterson,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

[FR Doc. 89–20391 Filed 8–29–89; 8:45 am]

BILLING CODE 6718–02–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, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200057–002

Title: Tampa Port Authority Lease Agreement

Parties: Tampa Port Authority and Garrison Stevedoring, Inc.

Synopsis: The Agreement permits Garrison Stevedoring, Inc. to assign, transfer and convey all its rights, titles and interest in and to its lease agreeement with Tampa Port Authority (Agreement No. 224–200057) to Tampa Bay International Terminals, Inc. Agreement No. 224–200057 authorizes the lease of approximately ten acres of waterfront property in Hillsborough County, Florida for use in connection with stevedoring and terminal operations.

Agreement No.: 224–200280

Title: Port of Seattle Terminal Agreement.

Parties: Port of Seattle and Clipper Navigation, Inc.

Synopsis: The Agreement provides for a 20 year lease of Pier 69, Port of Seattle for a passenger vessel service between Seattle and Victoria, B.C., Canada as well as to points other than Victoria. It also provides for the use of the facility for harbor tours and dinner excursions. Rental charges are based upon a square foot minimum and per passenger fees. The Agreement allows certain adjustments to the base rent and passenger charges.

By Order of the Federal Maritime Commission

Dated: August 25, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89–20399 Filed 8–29–89; 8:45 am]

BILLING CODE 6730–01–M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 212–011213–009

Title: Spain-Italy/Puerto Rico Island Pool Agreement

Parties: Nordana Line AS Compania Trasatlantica Espanola, S.A. Sea-Land Service, Inc.

Synopsis: The proposed modification would delete Nordana Line AS as a party to the Agreement.

By Order of the Federal Maritime Commission.

Dated: August 24, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89–20349 Filed 8–29–89; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate [Casualty] to Carnival Cruise Lines, Inc.

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89–777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Carnival Cruise Lines, Inc., 5225 N.W. 87th Avenue, Miami, Florida 33166.

Vessel: Ecstasy

Dated: August 24, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89–20369 Filed 8–29–89; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance) to Carnival Cruise Lines, Inc.

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification for Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89–777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR part 540):

Carnival Cruise Lines, Inc., 5225 N.W. 87th Avenue, Miami, Florida 33166.

Vessel: Ecstasy.

Dated: August 24, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89–20370 Filed 8–29–89; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (80 Stat. 1357, 1358)

and Federal Maritime Commission General Order 20, as amended (46 CFR part 540):

Renaissance Cruises Inc. and Yacht Ship Italy 2 s.r.l., 110 E. Broward Blvd., #1801 Fort Lauderdale, Florida 33301.

Vessels: Renaissance 1 and Renaissance 2.

Dated: August 25, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89-20400 Filed 8-29-89; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

First State Bancorp 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 the 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 September 20, 1989.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *First State Bancorp,* Howell New Jersey; to acquire 9.9 percent of the voting shares of First Washington State Bank, Washington Township, New Jersey, a *de novo* bank.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *F & M Financial Services Corporation,* Menomonee Falls, Wisconsin; to acquire 100 percent of the voting shares of St. Francis State Bank, St. Francis, Wisconsin.

2. *L.B.T. Bancorporation,* West Des Moines, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of Liberty Bank & Trust, Lake Mills, Iowa.

Board of Governors of the Federal Reserve System, August 24, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-20389 Filed 8-29-89; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control Notice; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 13, 1989.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Klaus Peter Ulrich,* Kingwood, Texas, to acquire 5.15 percent of the common stock; Heinz Klinckwort, Calz Del Las Brujas, Mexico, to acquire 20.05 percent of the common stock; Inge. Ramon E. Beteta De Cou, Guadarajara, Mexico, to acquire 13.36 percent of the common stock; and Luis Mendez Jiminez, Prolongacion, Mexico, to acquire 58.48 percent of the common stock of Sun Belt Bancshares Corporation, Conroe, Texas, and thereby indirectly acquire National Bank of Conroe, Conroe, Texas.

Board of Governors of the Federal Reserve System, August 24, 1989.

Jennifer J. Johnson,

Associated Secretary of the Board.

[FR Doc. 89-20390 Filed 8-29-89; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 89F-0335]

Mitsui Petrochemical Industries, Ltd.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Mitsui Petrochemical Industries, Ltd., has filed a petition proposing that the food additive regulations be amended to provide for changes in certain specifications applicable to 4-methylpentene-1 copolymers for use in articles or components of articles intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 9B4160) had been filed by Mitsui Petrochemical Industries, Ltd., Kasumigaseki Bldg., P.O. Box 90, 2-5 Kasumigaseki 3-chome, Chiyoda-KU, Tokyo 100, Japan, proposing that § 177.1520 *Olefin polymers* (21 CFR 177.1520) be amended to provide for changes in the specifications applicable to 4-methylpentene-1 copolymers for use as articles or components of articles intended for use in contact with food. Changes in specifications in the table in § 177.1520(c), entry 3.3, would include

(1) Lowering the minimum acceptable melting point from 235 °C to 220 °C as determined by the American Society for Testing Material (ASTM) method 3418-82;

(2) Deleting the specification for maximum extractable fraction in *n*-hexane and maximum soluble fraction in xylene.; and

(3) Establishing a specification for minimum intrinsic viscosity of 1.0, as determined by ASTM method D1601-78.

The potential environmental impact of this section is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: August 18, 1989.

Fred R. Shank,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-20354 Filed 8-29-89; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meetings: The following advisory committee meetings are announced:

Blood Products Advisory Committee

Date, time, and place. September 14 and 15, 1989, 8 a.m., Conference Rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, September 14, 1989, 8 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 3 p.m.; closed committee deliberations, 3 p.m. to 4 p.m.; open committee discussion, 4 p.m. to 4:30 p.m.; open committee discussion, September 15, 1989, 8:30 a.m. to 9:30 a.m.; closed committee deliberations, 9:30 a.m. to 10:30 a.m.; open committee discussions, 10:30 a.m. to 12 m.; Linda A. Smallwood, Center for Biologics Evaluation and Research (HFB-400), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301-496-4396.

General function of the committee. The committee reviews and evaluates available data on the safety, effectiveness, and appropriate use of blood products intended for use in the diagnosis, prevention, or treatment of human diseases.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the contact person.

Open committee discussion. On the morning of September 14, 1989, the committee will discuss donor education materials, maximum allowable limits for red cell loss in apheresis procedures, and anti-thrombin III, and in the afternoon the committee will discuss the report on *Trypanosoma cruzi* infection in blood donors and sit as a medical device panel to recommend premarket approval for one test kit for the detection of antibody to hepatitis B core antigen. On September 15, 1989, the committee will discuss the safety and indications for use of fluosol.

Closed committee deliberations. The committee will discuss trade secret or confidential commercial information relevant to: (a) Premarket approval for a test kit for the detection of antibody to hepatitis B core antigen; and (b) may discuss data pertaining to fluosol. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Orthopedic and Rehabilitation Devices Panel

Date, time, and place. September 22, 1989, 8 a.m., Ballroom, Gaithersburg Marriott Hotel, 620 Lake Forest Blvd., Gaithersburg, MD.

Type of meeting and contact person. Open public hearing, 8 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 11:45 a.m.; closed presentation of data, 11:45 to 11:55 a.m.; open committee discussion, 1:30 p.m. to 2:50 p.m.; closed presentation of data, 2:50 p.m. to 3 p.m.; open committee discussion, 3:15 p.m. to 4:35 p.m.; closed presentation of data, 4:35 p.m. to 4:45 p.m.; Marie A. Schroeder, Center for Devices and Radiological Health (HFZ-410), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1036.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or reviews, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before September 15, 1989, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss premarket approval applications for a diagnostic ultrasound device, a bone growth stimulator, an intra-articular prosthetic knee ligament, and an antibiotic bone cement.

Closed presentation of data. The committee may discuss trade secret and/or confidential commercial information regarding materials, design, and/or manufacturing information for the bone growth stimulator, the intra-articular prosthetic knee ligament, and the antibiotic bone cement. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Circulatory System Devices Panel

Date, time, and place. September 25, 1989, 8:30 a.m., Rm. 503A/529A. Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open public hearing, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 2:30 p.m.; closed committee deliberations, 2:30 a.m. to 4 p.m.; Keith Lusted, Center for Devices and Radiological Health (HFZ)-450), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1205.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of medical devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before September 11, 1989, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss premarket approval applications (PMA's) for percutaneous transluminal coronary angioplasty catheters.

Closed committee deliberations. The committee will discuss trade secret and/or confidential commercial information regarding the PMA's above. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved

for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI–35), Food and Drug Administration, Rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: August 26, 1989.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 89–20562 Filed 8–29–89; 3:48 pm]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–00–4120–10]

Powder River Regional Coal Team Activities: Public Meeting Announcement

ACTION: Public notice.

SUMMARY: The Powder River Regional Coal Team (RCT) will hold a public meeting on October 31, 1989, to (1) assess the need to resume Federal coal leasing in the Powder River Region; (2) develop a recommendation whether or not to totally or partially decertify the Powder River Coal Region and thereby allow for coal leasing on application in any regional areas that are decertified; and (3) review Federal coal management issues of regional concern. The full agenda and other details for this RCT meeting are set out below.

DATE: The RCT will meet at 8:30 a.m. on October 31, 1989.

ADDRESS: The RCT meeting will be held at the Holiday Inn of Sheridan, 1809 Sugarland Drive, Sheridan, Wyoming, 82801; telephone (307) 672–8931.

FOR FURTHER INFORMATION CONTACT: Don Brabson, Wyoming State Office, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming, 82001; telephone (307) 772–2571 or (FTS) 328–2571.

SUPPLEMENTARY INFORMATION: One primary purpose of this meeting will be to develop a recommendation for the Secretary of the Interior on whether or not to partially or totally decertify the Powder River Coal Region. By **Federal Register** notice published February 9, 1989, the ramifications of regional

decertification were explained and public comments were requested on partial decertification of the region by removing Musselshell, Yellowstone, and Golden Valley Counties, Montana from the region, or decertification of the entire region. Since then, the RCT has identified another partial decertification option which is the removal of all Montana counties from the region. In summary, any portion (i.e., a 3 county portion, all of the Montana portion, or the entirety) of the region which is decertified would become subject to coal leasing-by-application pursuant to 43 CFR 3425. Any coal leasing-by-application would be subject to RCT review, oversight, and guidance. Generally, coal lease applications can be processed to lease sale in approximately 1 year, whereas regional coal lease activity planning, which is now the current leasing mechanism for the region, necessitates approximately 3 years to result in a coal lease sale.

As of the publication of this notice, the RCT has received public comments on total decertification; decertification of Musselshell, Yellowstone, and Golden Valley Counties, Montana; and no decertification. Since decertification of all Montana Counties has been identified as a fourth decertification option, the RCT would like comments on this option as well. Accordingly, those commenters to the previous notice may wish to revise their comments to address total Montana decertification. Comments from additional parties are welcome on any of the four decertification options. By October 12, 1989, comments are to be received by the State Director (925), Wyoming State Office, Bureau of Land Management, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, WY 82001.

Public comments on the decertification will be reviewed by the RCT during the meeting of October 31, 1989. The public may acquire copies of those written comments received to date from Don Brabson at the above address and telephone number.

The RCT will also review the need for regional leasing. Provided that the RCT does not recommend total regional decertification and thereby make the regional leasing issue moot, the RCT will develop a recommendation to either continue to defer or resume regional coal lease activity planning. The primary basis for this recommendation will be current market conditions and limited recent leasing interest, as well as public inputs. Any party interested in providing input about the need for regional leasing may do so by writing to the State Director (925), Wyoming State Office, Bureau of Land Management, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, WY 82001, by October 12, 1989, or by addressing the RCT with his or her concerns about the meeting on October 31, 1989.

Another key RCT action which will occur during this meeting will be the RCT's guidance of the preparation of the Powder River Coal Region Round I Supplemental Final Environmental Impact Statement (EIS). This supplemental final EIS will be prepared based on public comments to the supplemental draft EIS, which was released for public review on July 18, 1989. The comment period on this supplement draft EIS closes on September 26, 1989. The RCT will review those public comments during this meeting in order to develop its guidance for the supplemental final EIS preparation. This supplemental final EIS will address the social, economic, and cultural impacts to the Northern Cheyenne and Crow Indian Reservations. It will serve as a means for the RCT to recommend for Secretarial consideration whether or not the Round I leases in Montana should have been sold in 1982, and if so, what mitigation measures of Indian Reservation impacts should be added to those leases. This supplemental final EIS and the RCT/Departmental review of Montana lease issuance and attendant Reservation mitigation is warranted in response to the May 18, 1985, decision of the U.S. District Court for the District of Montana and the *Northern Cheyenne Tribe vs. Hodel* litigation.

The meeting will also serve as a forum for public discussion on Federal coal management issues of regional concern. If appropriate, the RCT may develop additional regional coal management recommendations for Secretarial consideration.

Public input opportunities will be provided on all agenda items. The agenda for this meeting is as follows:

1. Introductions
2. Approval of Minutes of December 15, 1988, RCT Meeting
3. Regional Coal Activity Status
   a. Current production
   b. Preference Right Lease Applications
   c. Exchanges
   d. Other activity
4. Round I Montana Leases
   a. Status of development
   b. Draft Supplemental EIS comment review
   c. RCT guidance to Final Supplemental EIS preparation
5. Decertification Comments
   a. Review of written comments
   b. Hearing additional comments
6. RCT Decertification Recommendation
   a. No decertification
   b. Decertification of Musselshell, Yellowstone, and Golden Valley Counties, Montana
   c. Decertification of all of Montana
   d. Decertification of the entire region
7. Review of Market Conditions
8. Review of Historic Leasing Interests
9. Public Comments on Need for Regional Leasing
10. RCT Activity Planning Recommendation
    a. Resumption or deferral of activity planning
    b. Establish leasing schedule, if necessary
11. Other Regional Issues
12. Adjourn

David J. Walter,

Acting State Director.

[FR Doc. 89-20442 Filed 8-29-89; 8:45 am]

BILLING CODE 4310-22-M

[CO-030-09-4410-13-1784]

Montrose District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with 43 CFR Subpart 1784, that a meeting of the Montrose District Advisory Council will be held September 12 and 13, 1989 in Montrose, Colorado.

DATES: The meeting is scheduled for September 12 and 13, 1989.

ADDRESS: For further information contact Kate Kitchell, Bureau of Land Management (BLM), Montrose District Office, 2465 S. Townsend Avenue, Montrose, CO 81401; Telephone (303) 249-7791.

SUPPLEMENTARY INFORMATION: The Council will convene at the Montrose District Office at 9:00 a.m. September 12. Agenda items will include the following:

(1) Report of 1989 activities,

(2) Summary of upcoming programs,

(3) Updates on The Uncompahgre Basin and Gunnison Resource Management Plans,

(4) Reports on National Park Service studies of a new Anasazi National Monument and expansion of Black Canyon of the Gunnison National Monument.

On September 13, the Council will tour BLM lands being studies for inclusion in the expansion of the Black Canyon of the Gunnison National

Monument. The tour will begin at 9:00 a.m. at the Montrose District Office.

District Advisory Council meetings are open to the public.

Dated: August 23, 1989.

Jerry Jones,

Acting District Manager.

[FR Doc. 89-20554 Filed 8-29-89; 8:45 am]

BILLING CODE 4310-JB-M

Realty Actions; Sales, Leases, etc: California

AGENCY: Bureau of Land Management, Interior.

ACTION: CA CA-23622, Correction of Notice of Realty Action; sale of public lands in Plumas County, California.

SUMMARY: In reference to case serial number CA CA 23622 in the **Federal Register** notice of July 27, 1989 (54 FR 31257), there was an error in the legal description in the 10 acres to be sold to the Portola Cemetery District under the R&PP Act as published. The correct legal description is as follows:

T.22N., R.14E., M.D.M, California section 23, SWSESWSW, SESWSWSW; section 26, NWNENWNW, NENWNWNW;

ADDRESS: Eagle Lake Area Manager, Bureau of Land Management, 2545 Riverside Drive, Susanville, California 96130.

Richard H. Stark, Jr.,

Area Manager.

[FR Doc. 89-20383 Filed 8-29-89; 8:45 am]

BILLING CODE 4310-40-M

[CO-942-09-4730-12]

Colorado; Filing of Plats of Survey

August 21, 1989.

The plats of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 a.m., August 21, 1989.

The plat representing the dependent resurvey of the south boundary, T. 34 N., R. 6 W., New Mexico Principal Meridian, Colorado, Group No. 861, was accepted August 1, 1989.

This survey was executed to meet certain administrative needs of the Bureau of Indian Affairs and the Forest Service.

The plat representing the dependent resurvey of a portion of the subdivisional lines and the subdivision of certain sections, T. 3 N., R. 84 W., Sixth Principal Meridian, Colorado, Group No. 895, was accepted August 1, 1989.

This survey was executed to meet certain administrative needs of the Forest Service.

The protraction diagram of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 a.m., October 9, 1989.

Protraction Diagram No. 48, prepared to delineate the remaining unsurveyed public lands in T. 37 N., R. 2 E., New Mexico Principal Meridian, Colorado, was approved July 25, 1989.

This diagram was prepared to meet certain administrative needs of this Bureau.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215.

Darryl A. Wilson,

Acting Chief, Cadastral Surveyor for Colorado.

[FR Doc. 89-20384 Filed 8-29-89; 8:45 am]

BILLING CODE 4310-JB-M

Fish and Wildlife Service

Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: The Peregrine Fund, Inc., PRT-740811, Boise, ID

The applicant requests a permit to export nine captive hatched Mauritius kestrels (*Falco punctatus*) to the Mauritius Wildlife Appeal Fund, Port Louis, Mauritius, for release to the wild.

Applicant: Cincinnati Zoo, PRT-740910, Cincinnati, OH

The applicant requests a permit to sell in foreign commerce one captive-bred female snow leopard (*Panthera uncia*) from the Howletts and Port Lympne Zoo, England to Thrigby Hall Wildlife Gardens, England for the purpose of propagation and education.

Applicant: International Crane Foundation, PRT-740924, Baraboo, WI

The applicant requests a permit to import one captive-hatched male Manchurian crane (*Grus japonensis*) from the North of England Zoological Society, Caughall Road, Upton-by-Chester, United Kingdom, for captive propagation purposes.

Applicant: Paul Johnson, PRT-741076, Holmes Beach, FL

The applicant requests a permit to purchase captive-hatched female scarlet-chested parakeets (*Neophema splendida*) from Mr. Finest Van, Finest Bird Farm, Tulane, California, for the purpose of captive propagation.

Applicant: Louis R. Raimo, PRT-741079, E. Hanover, NJ

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) to be culled from the captive herd maintained by Mr. Faan Hartzer, Fairland, Republic of South Africa, for the purpose of enhancement of survival of the species.

Applicant: Dr. Thomas Frank Harbin, Jr., PRT-741088, Manchester, TN

The applicant requests a permit to purchase captive-hatched Indian pythons (*Python molurus molurus*) from Herpetofauna, Inc., Ft. Myers, Florida, for captive breeding purposes.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 432, 4401 N. Fairfax Dr., Arlington, VA 22203, or by writing to the Director, U.S. Office of Management Authority, P.O. Box 3507, Arlington, Virginia 22203-3507.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Date: August 24, 1989.

R. K. Robinson,

Chief, Branch of Permits, U.S. Office of Management Authority.

[FR Doc. 89-20379 Filed 8-29-89; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

[FES 89-20]

Gulf of Mexico Region; Availability of the Final Environmental Impact Statement Regarding Proposed Central and Western Lease Sales 123 and 125

The Minerals Management Service has prepared a final Environmental Impact Statement (EIS) relating to proposed 1990 Outer Continental Shelf (OCS) oil and gas lease sales in the Central and Western Gulf of Mexico (GOM). The proposed Central Gulf Sale 123 will offer for lease approximately 30.3 million acres, and the Western Gulf Sale 125 will offer approximately 28.0 million acres. Single copies of the draft EIS can be obtained from the Minerals Management Service, Gulf of Mexico

Region, Attention: Public Information Office, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana 70123. Copies of the final EIS will also be available for review by the public in the following libraries: Austin Public Library, 402 West Ninth Street, Austin, Texas; Houston Public Library, 500 McKinney Street, Houston, Texas; Dallas Public Library, 1513 Young Street, Dallas, Texas; Brazoria County Library, 410 Brazoport Boulevard, Freeport, Texas; LaRatama Library, 505 Mesquite Street, Corpus Christi, Texas; Texas Southmost College Library, 1825 May Street, Brownsville, Texas; Rosenburg Library, 2310 Sealy Street, Galveston, Texas; Texas State Library, 1200 Brazos Street, Austin, Texas; Texas A & M University, Evans Library, Spence and Lubbock Streets, College Station, Texas; University of Texas, Lydon B. Johnson School of Public Affairs Library, 2313 Red River Street, Austin, Texas; The University of Texas at Dallas Library, 2601 North Floyd Road, Richardson, Texas; Lamar University, Gray Library, Virginia Avenue, Beaumont, Texas; East Texas State University Library, 2600 Neal Street, Commerce, Texas; Stephen F. Austin State University, Steen Library, Wilson Drive, Nacogdoches, Texas; Unversity of Texas, 21st and Speedway Streets, Austin, Texas; University of Texas Law School, Tarlton Law Library, 727 East 26th Street, Austin, Texas; Baylor University Library, 13125 Third Street, Waco, Texas; University of Texas at Arlington, 701 South Cooper Street, Arlington, Texas; University of Houston-University Park, 4800 Calhoun Boulevard, Houston Texas; University of Texas at El Paso, Wiggins Road and University Avenue, El Paso, Texas; Abilene Christian University, Margaret and Herman Brown Library, 1600 Campus Court, Abilene, Texas; Texas Tech University Library, 18th and Boston Street, Lubbock, Texas; University of Texas at San Antonio, John Peace Boulevard, San Antonio, Texas; Tulane University, Howard Tilton Memorial Library, 7001 Freret Street, New Orleans, Louisiana; Louisiana Tech University, Prescott Memorial Library, Everet Street, Ruston, Louisiana; New Orleans Public Library, 219 Loyola Avenue, New Orleans, Louisiana, Louisiana State Library, 760 Riverside Road, Baton Rouge, Louisiana, Lafayette Public Library, 301 W. Congress Street, Lafayette, Louisiana, Calcasieu Parish Library, 411 Pujo Street, Lake Charles, Louisiana; McNeese State University, Luther E. Frazar Memorial Library, Ryan Street, Lake Charles, Louisiana; Nicholls State University, Nicholls State Library, Leighton Drive, Thibodaux, Louisiana; University of Southwestern Louisiana, Dupre Library, 302 East St. Mary Boulevard, Lafayette, Louisiana; LUMCON, Library, Star Route 541, Chauvin, Louisiana; Harrison County Library, 14th and 21st Avenues, Gulfport, Mississippi; Gulf Coast Research Lab., Gunter Library, 703 East Beach Drive, Ocean Springs, Mississippi; Auburn University at Montgomery, Library, Taylor Road, Montgomery, Alabama; University of Alabama Libraries, 809 University Boulevard East, Tuscaloosa, Alabama; Mobile Public Library, 701 Government Street, Mobile, Alabama; Montgomery Public Library, 445 South Lawrence Street, Montgomery, Alabama; Gulf Shores Public Library, Municipal Complex, Route 3, Gulf Shores, Alabama; Dauphin Island Sea Lab, Marine Environmental Science Consortium, Library, Bienville Boulevard, Dauphin Island, Alabama; University of South Alabama, University Boulevard, Mobile, Alabama; University of Florida Libraries, University Avenue, Gainesville, Florida; Florida A & M University, Coleman Memorial Library, Martin Luther King Boulevard, Tallahassee, Florida, Florida Atlantic University, Library, 20th Street, Boca Raton, Florida; University of Miami Library, 4600 Rickenbacker Causeway, Miami, Florida; University of Florida, Holland Law Center Library, Southwest 25th Street and 2nd Avenue, Gainesville, Florida; St. Petersburg Public Library, 3745 Ninth Avenue North, St. Petersburg, Florida; West Florida Regional Library, 200 West Gregory Street, Pensacola, Florida; Florida Northwest Regional Library System, 25 West Government Street, Panama City, Florida; Leon County Public Library, 127 North Monroe Street, Tallahassee, Florida; Lee County Library, 3355 Fowler Street, Fort Myers, Florida; Charlotte-Glades Regional Library System, 2280 NW Aaron Street, Port Charlotte, Florida; Tampa-Hillsborough County Public Library System, 800 North Ashley Street, Tampa, Florida; Key Largo Public Library, 99551 No. 3 Overseas Highway, Key Largo, Florida; Selby Public Library, 1001 Boulevard of the Arts, Sarasota, Florida; Monroe County Public Library, 700 Fleming Street, Key West, Florida.

Dated: August 23, 1939.

Carolita L. Kallaur,

Acting Associate Director for Offshore Minerals Management, Minerals Management Service.

Approved:

Jonathan P. Deason,

Director, Office of Environmental Project Review.

[FR Doc. 89-20444 Filed 8-29-89; 8:45 am]

BILLING CODE 4320-MR-M

National Park Service

Concession Contract Negotiation; Bushkill Gulf Service Station

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Public notice is hereby given that the National Park Service proposes to negotiate a concession contract with Raymond A. Steele and Jean Q. Steele authorizing them to provide automobile service station facilities and services for the public at Bushkill Gulf Service Station, Delaware Water Gap National Recreation Area, Pennsylvania for a period of ten (10) years from January 1, 1990, through December 31, 1999.

EFFECTIVE DATE: September 29, 1989.

ADDRESS: Interested parties should contact the Chief, Concessions Management, Mid-Atlantic Region, 143 South Third Street, Philadelphia, Pennsylvania 19106, for information as to the requirements of the proposed contract.

SUPPLEMENTARY INFORMATION: This contract renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expires by limitation of time on December 31, 1989, and therefore pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), is entitled to be given preference in the renewal of the permit and in the negotiation of a new contract as defined in 36 CFR 51.5.

The Secretary will consider all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Dated: August 22, 1989.

James W. Coleman, Jr.,

Regional Director, Mid-Atlantic Region.

[FR Doc. 89-20401 Filed 8-29-89; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Determination of Valid Existing Rights Within the Wayne National Forest

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of reopening of record and invitation for interested parties to participate.

SUMMARY: OSM has decided to initiate reconsideration of OSM's December 23, 1988, determination that Belville Mining Company (Belville) has valid existing rights (VER) to surface mine coal on five tracts within the Wayne National Forest in Ohio. By this notice, OSM is inviting interested parties to participate in the proceeding and to submit relevant material on the matter. OSM intends to develop a complete administrative record, and will then render a final agency decision on whether Belville has VER.

DATES: OSM will accept written materials on all issues except those pertaining to the "McMullen tract" (as explained below) until 5:00 p.m. eastern time on September 29, 1989.

OSM will accept written materials on issues pertaining to the "McMullen tract" until 5:00 p.m. eastern time on September 14, 1989.

ADDRESSES: Hand deliver written materials to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131L, 1100 L Street, NW., Washington, DC or mail written materials to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131L, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240. Documents contained in the Administrative Record at the address identified are available for public review.

FOR FURTHER INFORMATION CONTACT: Dr. Annetta Cheek, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240, or telephone Dr. Cheek at (202) 343–5241 (Commercial or FTS).

SUPPLEMENTARY INFORMATION: By letter dated December 23, 1988, the Office of Surface Mining Reclamation and Enforcement (OSM) notified Belville Mining Company (Belville) that, pursuant to Section 522(e) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Belville had valid existing rights (VER) to conduct surface mining activities on five properties involving 5,440 acres of Federal land within the Wayne National Forest in Ohio. This decision reversed a December 3, 1986, determination by OSM that Belville's earlier submissions were insufficient to establish VER for the five properties in question. By letter dated August 15, 1988, Belville had asked OSM to reconsider its prior determination.

During the course of a review of recent OSM actions concerning VER, OSM has concluded that the administrative record of the past Belville VER determination was inadequate to determine whether the decision was correctly made. Accordingly, OSM has decided to reopen the matter and to suspend OSM's Belville VER determination of December 23, 1988. A letter has been sent to Belville specifying the reasons for OMS's reconsideration. W. Hord Tipton, OSM's Acting Deputy Director for Operations and Technical Services, has been directed to supervise the development of a sufficient administrative record capable of supporting a final determination as to whether Belville has VER.

Reconsideration will cover all five tracts, with expedited treatment to be given to the "McMullen tract," the 78-acre parcel for which permit application No. D0733–1 is currently pending with the Ohio state regulatory authority and for which the mineral reservation will expire in March 1990.

The effect of the decision to reopen the record is to stay the December 23, 1988, determination during the period of further consideration. Such a stay, which is effective immediately, is necessary to preserve the status quo by precluding surface disturbance in the Wayne National Forest, pending full agency consideration of the VER question. Reopening of this issue is not intended to reinstate OMS's December 3, 1986, decision which initially denied Belville's request for VER.

OSM will make a final decision on Belville's VER request as soon as is practicable following completion of the administrative record.

Dated: August 24, 1989.

Harry M. Snyder,

Director, OSM.

[FR Doc. 89–20387 Filed 8–29–89; 8:45 am]

BILLING CODE 4310–05–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31461]

Federal Industries Ltd.; Control Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption

SUMMARY: The acquisition by Federal Industries Ltd., a noncarrier, Canadian holding company that controls a railroad and six motor carriers, of control of Tri-Line Expressways Ltd., a motor carrier, is exempt under 49 U.S.C. 10505 from the requirements of 49 U.S.C. 11343, *et seq.*, subject to standard employee protection conditions.

DATES: The exemption will be effective on September 29, 1989. Petitions for stay must be filed by September 11, 1989. Petitions for reconsideration must be filed by September 19, 1989.

ADDRESSES: Send pleadings referring to Finance Docket No. 31461 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

and

(2) Petitioners' representatives: John C. Kirtland and Eric L. Hirschhorn, Bishop, Cook, Purcell & Reynolds, 1400 L Street NW., Washington, DC 20005–3502.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245 [TDD for hearing impaired: (202) 275–1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 275–1721].

Decided: August 22, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners André, Lamboley, and Philips.

Noreta R. McGee,

Secretary.

[FR Doc. 89–20361 Filed 8–29–89; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB-52 (Sub 58X)]

The Atchison, Topeka and Santa Fe Railway Co.; Abandonment Exemption in Buchanan County, MO

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, the abandonment by The Atchison, Topeka and Santa Fe Railway Company of 1.6 miles of rail line in Buchanan County, MO, subject to standard labor protective conditions and a salvage consultation condition.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on October 3, 1989. Formal expressions of intent to file an offer [1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by September 11, 1989, petitions to stay must be filed by September 18, 1989, and petitions for reconsideration must be filed by September 28, 1989.

ADDRESSES: Send pleadings referring to Docket No. AB-52 (Sub-No. 58X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

and

(2) Petitioner's representative: Michael W. Blaszak, The Atchison, Topeka and Santa Fe Railway Company, 80 East Jackson Boulevard, Chicago, IL 60604.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245 [TDD for hearing impaired: (202) 275-1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, of pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. [Assistance for the hearing impaired is available through TDD service (202) 275-1721.].

Decided: August 22, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

[FR Doc. 89-20362 Filed 8-29-89; 8:45 am]

BILLING CODE 7035-01-M

[1] *See Exempt. of Rail LIne Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

DEPARTMENT OF LABOR

Office of the Secretary

Advisory Council on Employee Welfare and Pension Benefit Plans; Extension of Announcement of Vacancies to September 30, 1989; Request for Nominations

Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 88 Stat. 895, 29 U.S.C. 1142, provides for the establishment of an "Advisory Council on Employee Welfare and Pension Benefit Plans" (the Council) which is to consist of 15 members to be appointed by the Secretary of Labor (the Secretary) as follows: Three representatives of employee organizations (at least one of whom shall be representative of an organization whose members are participants in a multiemployer plan); three representatives of employers (at least one of whom shall be representative of employers maintaining or contributing to multiemployer plans); one representative each from the fields of insurance, corporate trust, actuarial counseling, investment counseling, investment management, and accounting; and three representatives from the general public (one of whom shall be a person representing those receiving benefits from a pension plan). Not more than eight members of the Council shall be members of the same political party.

Members shall be persons qualified to appraise the programs instituted under ERISA. Appointments are for terms of three years.

The prescribed duties of the Council are to advise the Secretary with respect to the carrying out of his/her functions under ERISA, and to submit to the Secretary recommendations with respect thereto. The Council will meet at least four times each year, and recommendations of the Council to the Secretary will be included in the Secretary's annual report to the Congress on ERISA.

The terms of five members of the Council expire on Tuesday, November 14, 1989. The groups or fields represented are as follows: Accounting field, employee organizations, employers, insurance field, and the general public (pensioners).

Accordingly, notice is hereby given that any person or organization desiring to recommend one or more individuals for appointment to the ERISA Advisory Council on Employee Welfare and Pension Benefits Plans to represent any of the groups or fields specified in the preceding paragraph, may submit recommendations to the Secretary of Labor, Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Recommendations must be delivered or mailed on or before September 30, 1989. Recommendations may be in the form of a letter, resolution, or petition, signed by the person making the recommendation, or, in the case of a recommendation by an organization, by an authorized representative of the organization. Each recommendation shall identify the candidate by name, occupation or position, telephone number and address. It shall include a brief description of the candidate's qualifications and shall specify the group or field which he or she would represent for the purposes of section 512 of ERISA, the candidates' political party affiliation, and whether the candidate is available and would accept.

Signed at Washington, DC, this 25th day of August, 1989.

William E. Morrow,

Executive Secretary.

[FR Doc. 89-20404 Filed 8-29-89; 8:45 am]

BILLING CODE 4510-29-M

Pension and Welfare Benefits Administration

[Application Nos. D-2788, L-7834, et al.]

Proposed Exemptions; Ameritrust Company National Association, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Pension

and Welfare Benefits Administration, Office of Regulations and Interpretations, Room N-5671, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-5507, 200 Constitution Avenue NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the Federal Register. Such notice shall include a copy of the notice of pendency of the exemption as published in the Federal Register and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Ameritrust Company National Association (Ameritrust) Located in Cleveland, Ohio

[Application Nos. D-7833 and L-7834]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406 (b)(2) or (b)(3) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(F) of the Code shall not apply to the proposed receipt of fees by Ameritrust from the Financial Reserves Fund (the Fund), an open-ended investment company for which Ameritrust performs services, in connection with the investment of funds through a daily automated sweep arrangement, of certain employee benefit trusts (the Keogh or Keoghs) sponsored by certain incorporated and unincorporated businesses. Ameritrust acts either: (1) As an investment manager, directed trustee, or custodian for the Keoghs or (2) as an agent for other banks affiliated with Ameritrust (the Affiliated Banks) which act as investment managers, trustees, or custodians for such Keoghs.[1]

Summary of Facts and Representations

1. Ameritrust, a subsidiary of Ameritrust Corporation, is a national banking association, located at 900 Euclid Avenue, Cleveland, Ohio, authorized to do business under the banking laws of the United States. Ameritrust has established a prototype Keogh plan which provides for rollovers of distributions received by individuals from qualified plans. The individuals adopt the Keoghs, roll over their distributions, and generally make additional contributions based on self employment income.

In addition, Ameritrust represents that it and the Affiliated Banks also act as discretionary trustees or investment managers of Keoghs in which common law employees participate and which are considered "employee benefit plans" for the purpose of coverage under Title I of the Act.

2. The individuals (the Account Holders) who adopt the Keoghs or those who partcipate in Keoghs adopted by employers have the right to direct the investment of the assets held therein. However, this right can be waived wherein Ameritrust assumes discretionary authority over the investment of Keogh assets. If accounts Holders do not waive the right to direct the investment of assets in the Keoghs, Ameritrust represents that it does not have discretionary control or responsibility with respect to the investment of the Keoghs' assets, nor does it render any investment advice with respect to those assets. With respect to such non-discretionary Keoghs, Ameritrust and the Affiliated Banks charge a custodial fee based on a range of .1% to .3% of the market value of the assets held in such Keoghs.

3. With respect to any of the Account Holders who waive the right to direct the investment of assets in the Keoghs, even if Ameritrust or the Affiliated Banks have discretionary responsibility and control over the assets of these Keoghs, such Account Holders still retain the right to direct the investment of cash accumulating in the Keoghs on a temporary basis. As to Keoghs for which such a waiver is in effect, Ameritrust charges a fee for its investment management services. The investment management fee is based on a range of .475% to .85% of the market value of the funds under management and includes the fee for custodial services, as well as, management services provided to the Keoghs over which Ameritrust or the Affiliated Banks have discretionary authority and control.

4. The Fund is a diversified open-end investment company established as a Massachusetts business trust and is designed to meet short-term investment requirements by providing for the investment of cash in a professionally managed portfolio of domestic money market instruments. Such short-term investments include certificates of deposit, banker's commercial paper, obligations issued by the government of the United States or any agency or instrumentality thereof, short-term (one-year or less) corporate obligations, and qualified repurchase agreements.

5. Fidelity Management and Research Company (FMR), located in Boston, Massachusetts, is the Fund's investment adviser and manager. Shares of the Fund are distributed by Fidelity Distribution Corporation (FDC), a subsidiary of FMR which is registered as a broker-dealer under the Securities Exchange Act of 1934. The applicant represents that neither FMR nor FDC is a fiduciary, as defined in section 3(21) of the Act, or an interested person, as defined in section 3(14) of the Act, with respect to any of the Keoghs. There is no ownership, connection, or affiliation, direct or indirect, between Ameritrust and FMR or FDC.

6. Ameritrust, however, is the administrator for the Fund and performs services for the Fund as custodian of Fund assets. Ameritrust acts also as the servicing agent with respect to transfers from the Fund and distribution of dividends to shareholders. For these services which it renders to the Fund, Ameritrust receives a monthly fee at an

[1] For purposes of this proposed exemption the references made to provisions of Title I of the Act, unless otherwise specified, shall be deemed to include parallel provisions of the Code. In addition, the Department is providing no exemptive relief herein for those transactions covered by section 408(b)(2) of the Act and § 2550.408b-2 of the regulations.

annual rate of .25% of the average daily net assets of the Fund. Ameritrust represents that it receives no other consideration or benefits from the Fund.

7. Shares of the Fund may be purchased or redeemed on a daily basis. A purchaser does not pay any sales charge or redemption fee to the Fund or Ameritrust upon purchase or redemption of Fund shares. Such prospective purchasers receive a prospectus from the Fund and are entitled to vote all Fund shares held by them.

8. The applicant represents that Keoghs for which Ameritrust or the Affiliated Banks exercise investment discretion cannot participate in Ameritrust's short term collective investment fund for retirement trusts (the STIF). The STIF is part of a collective investment fund established in accordance with 12 CFR section 9.18(a)(2). The STIF provides the primary vehicle for temporary investment and for a daily sweep for most employee benefit trusts held by Ameritrust or the Affiliated Banks acting as full-power trustee and/or investment manager. However, the applicant represents that the Keoghs cannot participate in the STIF, because the exemption from registration for sales of interests to employee benefit trusts under section 3(a)(2) of the Securities Act of 1933 is not available for sales of interests to the Keoghs.

Ameritrust has made available to the Keoghs an automated cash management system using a daily sweep into a General Motors Acceptance Corporation (GMAC) master note, a commercial paper investment. However, Ameritrust believes that the Fund provides a better cash management vehicle for the Keoghs. The GMAC note is an unsecured promissory note of the issuer. The Fund, by contrast, is a money market fund comprised of approximately fifty different issues of money market instruments.

Further, it is represented that use of the Fund as the sweep vehicle would enable the Keoghs to avoid the risk of future credit ratings reductions with General Motors. Also, General Motors limits the amount of participation it makes available, making participation potentially unavailable on some occasions. On the other hand, it is represented that the Fund provides unlimited participation for eligible accounts. If the exemption proposed herein is granted, Ameritrust intends to make the availability of the Fund known to the Account Holders of the Keoghs and let them choose their cash management vehicle.

9. Ameritrust represents that the decision to invest is made solely by the Account Holders of the Keoghs and Account Holders must sign an authorization letter which indicates that they have received and read the most recent prospectus of the Fund, are aware of the fee schedule, and authorize the use of the Fund for cash management in their Keoghs. Any of the Account Holders of Keoghs which elect to participate in the Fund will have cash in a Keogh automatically swept into the Fund, down to a zero balance, on a daily basis, in order to have all of the Keogh's funds invested at all times. However, Ameritrust has no discretion with respect to the timing within the day of the sweep either into or out of the Fund.

Once invested in the Fund, the Account Holder must notify Ameritrust or its Affiliated Banks in writing of its intention to withdraw from the Fund's automated cash management sweep. Ameritrust states that there is no penalty for withdrawing and withdrawals would be effective immediately upon receipt of the notice to withdraw. For the Keoghs' assets invested in the Fund, Ameritrust will continue to receive its standard custodial fees and will not offset such custodial fees against the amount it receives from the Fund. However, Ameritrust represents that it will receive no additional fee from the Keoghs as a result of this investment.

With respect to those Keoghs for which the Account Holders have waived the right to direct investments, Ameritrust will reduce its investment management fee (see paragraph no. 3, above) by offsetting an amount equal to an annual fee of .25% of assets managed with respect to Keoghs' assets invested in the Fund for the entire period of such investment. Accordingly, Ameritrust will reduce its management fee for the Keoghs by an amount equal to the fee it receives as a service provider to the Fund (see paragraph no. 6, above.)

10. The applicant states that any increases in fees paid to Ameritrust by the Fund would be disclosed in a new prospectus issued by the Fund and supplied to all Fund participants prior to additional sales and purchases. Ameritrust or its Affiliated Banks will also advise the participants in the Fund that withdrawals could be made at any time without penalty prior to the increase in fees. In addition, if Ameritrust's fee from the Fund were increased, Ameritrust would reduce by an additional corresponding amount its management fee charged to the Keoghs for which it provides investment management services.

11. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 408(a) of the Act because: (a) The decision to invest in the Fund will be made for each of the Keoghs by the Account Holders only after a full disclosure of the fees received by Ameritrust; (b) the investment of the Keoghs assets in the Fund will enable those assets to be fully invested on a daily basis in a professionally managed money market fund; (c) the Fund is the best available means for Ameritrust to provide for the daily investment of all the assets of the Keoghs and the only available means provided for automated cash management into a diversified fund; and (d) Ameritrust will reduce its management fee from the Keoghs by an amount equal to the fee it receives as service provider to the Fund.

For Further Information Contact: Angelena C. Le Blanc of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

Franklyn W. Meyer Self-Directed Individual Retirement Account (IRA) Located in Danville, California

[Application No. D-8035]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed cash purchase by the IRA from Franklyn W. Meyer (Mr. Meyer), a disqualified person with respect to the IRA, of 1,075 shares (the Shares) of the Windsor Fund (the Fund); provided that the terms and conditions of the transaction are at least as favorable to the IRA as those obtainable in an arm's-length transaction between unrelated parties.[2]

Summary of Facts and Representations

1. The IRA is a self-directed IRA with Charles Schwab & Co. (Schwab) acting as trustee. As of September 30, 1988, the IRA held assets of $437,556.20.

2. Mr. Meyer desires that the IRA invest in the Fund and has requested an exemption to permit the IRA's cash purchase of the Shares in the Fund from his personal account. He represents that the exemption is necessary because the Fund's board of directors has restricted

[2] Pursuant to the provisions contained in 29 CFR 2510.3-2(d), the IRA is not subject to Title I of the Act. However, the IRA is subject to Title II of the Act pursuant to section 4975 of the Code.

Schwab's purchase of the Fund, which restriction, in turn, prevents the IRA's direct purchase of shares from the Fund.

3. Mr. Meyer proposes to sell the Shares to the Plan at a price equivalent to the net asset value of the Shares at the close of business on the date of the transaction and submits that the current fair market value of the Shares is approximately $14,921 or $13.88 per Share. Mr. Meyer represents that the IRA will pay no fees or commissions in connection with its purchase of the Shares. Upon purchase by the IRA, the Shares will represent approximately 1% of the IRA's assets.

4. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria set forth in section 4975(c)(2) of the Code because: a) The transaction is a one-time purchase and will be consummated for cash; b) The Shares will represent only 1% of the IRA's investment portfolio; c) The IRA will pay a price equal to the net asset value of the Shares at the close of business on the date of the transaction; d) No commissions or fees will be paid by the IRA in connection with the transaction; and e) Mr. Meyer, the disqualified person with respect to the IRA, is the only participant to be affected by this transaction.

Notice to Interested Persons: Because Mr. Meyer is the sole participant in the IRA, the Department has determined that there is no need to distribute the notice of pendency of the proposed exemption to interested persons. Comments and requests for hearing must be received within 30 days of the date of publication in the **Federal Register** of this notice of proposed exemption.

For Further Information Contact: Mrs. B.S. Scott of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 25th day of August, 1989.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 89-20403 Filed 8-29-89; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 89-74; Exemption Application No. D-7107 et al.]

Grant of Individual Exemptions; General American Life Insurance Company, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

General American Life Insurance Company (General American) Located in St. Louis, MO

[Prohibited Transaction Exemption 89-74; Application No. D-7107]

Exemption

The restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, shall not apply to: (1) The proposed amendment (the Amendment) to an annuity contract and Separate Account agreement entered into by General American and the Carpenters' Pension Trust Fund of St. Louis (the Plan) which will provide that General American will insure that, in the event of a foreclosure

upon a mortgage loan note (Note) held by General American's Separate Account No. 3 (the Account), the Account will receive the unpaid principal balance, and any due and unpaid interest at the face rate of the note, and any advances and foreclosure costs with respect to that Note; and (2) the proposed purchase of residential real property or delinquent Notes by General American from the Account in accordance with the Amendment, provided that the terms and conditions of the transactions are at least as favorable to the Plan as those between unrelated parties would be.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 14, 1989 at 54 FR 25355.

For Further Information Contact: David Lurie of the Department, telephone (202) 523-8671. (This is not a toll-free number.)

ALTA Health Strategies, Inc. (ALTA) and ALTA Reinsurance Company (ALTA Re) Located in Salt Lake City, Utah

[Prohibited Transaction Exemption 89-75; Exemption Application No. D-7550]

Exemption

The restrictions of section 406(a) of the Act shall not apply to the reinsurance of group health, life, and accidental death and dismemberment risks, and the receipt of premiums therefrom, by ALTA Re pursuant to reinsurance arrangements with Issuing Carriers in connection with stop-loss insurance contracts sold to employee welfare benefit plans for which ALTA serves as a third party administrator or provides brokerage services (the Plans), provided the following conditions are satisfied:

(1) The Plans pay no more than adequate consideration for the insurance contracts;

(2) The transactions covered by the proposed exemption will be offered as an option to be considered by the Plan fiduciary described in 2(d) below, only when each of the following conditions are satisfied: (a) The Plans for which the transactions are presented as an option have 100 or more participants; (b) ALTA concludes, on the basis of its analysis, that the stop-loss insurance arrangement covered by this exemption is consistent with the insurance needs of the Plans; (c) ALTA concludes that the proposed transactions would be less expensive than conventional stop-loss insurance offered by comparable primary insurers and reinsurers having the equivalent reserves and Best's ratings; further, ALTA will not offer this option unless it concludes that, based on a review of the available data concerning the insurance market, stop-loss insurance consistent with this exemption will, in fact, be more beneficial to the Plans than comparable coverage not subject to this exemption; (d) ALTA determines that, in accordance with the procedures described in (e), below, the decision to utilize the option covered by this exemption is being made by a fiduciary of the Plan who is independent of ALTA and ALTA Re, who is capable of making an independent decision, and who is sufficiently knowledgeable with respect to the Plan, and administrative, benefits, and funding matters related thereto, to make an informed decision concerning the option covered by this exemption; and (e) with respect to the determinations made by ALTA pursuant to (d), above, ALTA maintains a written procedure under which criteria are established for making such determinations. Pursuant to such procedure, each determination, and the basis therefore, shall be documented and, thereafter, approved by an officier of ALTA who was not involved in the presentation of the options to the Plan fiduciary. Such documentation shall, among other things, include: Written representations provided by the fiduciary or plan sponsor supporting such determinations, the qualifications of the fiduciary on which ALTA based its determination, and any other factors which ALTA took into account in making its determination, and the relevance of such factors. Such documentation shall be retained for a period of six years from the date that the transaction was entered into pursuant to this exemption. Similarly, a copy of the procedure shall be retained during any period for which documentation is required to be retained. Both the procedure and documentation shall be unconditionally available at ALTA's principal place of business for examination during working hours by any duly authorized employee or representative of the Department;

(3) ALTA provides to the fiduciary described in 2(d) above a complete description of all services, commissions, fees, contracts or arrangements and relationships between ALTA, ALTA Re and any other party, and will provide a complete description of the insurance arrangements offered by the direct insurers, and the fiduciary acknowledges in writing the receipt of such information and that the decision to select an option (including the proposed option) is a decision made in its fiduciary capacity;

(4) no commissions will be paid with respect to the reinsurance of the risks by ALTA Re;

(5) no single group of affiliated Plans will represent more than 5 percent of the total premiums written pursuant to the subject transactions;

(6) ALTA will follow its standard claims processing practices regarding any claims submitted with respect to Plans engaging in the subject transactions;

(7) ALTA will not offer any incentives to any of its employees with respect to the stop-loss option covered by the proposed exemption and in all cases the compensation paid with respect to employees or other persons acting on behalf of ALTA will be paid in the same manner regardless of the option selection;

(8) ALTA Re will comply with all applicable requirements of the law of its domiciliary state, Arizona, regarding its operations and reserves; and

(9) ALTA Re will be subject to a financial audit by the Arizona Department of Insurance no less frequently than once every three years.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 22, 1989 at 54 FR 26267.

Written Comments: The Department received one written comment which supported the granting of the proposed exemption. The Department has considered the entire record, including the written comment, and has determined to grant the exemption as proposed.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Extension of Prohibited Transaction Exemption (PTE) 82-184 for Certain Transactions Involving the Alaska Teamster-Employer Pension Plan (the Plan) Located in Anchorage, Alaska

[Prohibited Transaction Exemption 89-76; Exemption Application No. D-7797]

Extension of Exemption

The Department hereby extends, for a period of five years, a portion of PTE 82-184 (47 FR 52246, November 19, 1982). Authority to grant the extension of PTE 82-184 is given the Department under section 408(a) of the Act, section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

Accordingly, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the sales of certain residential units (the Units) located near Palm Springs, California, by Desert Horizons, Inc. (Desert Horizons), a wholly owned corporation of the Plan, to parties in interest with respect to the Plan who are not fiduciaries (within the meaning of section 3(21)(A) of the Act), provided the following conditions are satisfied:

1(A) Before a Unit may be sold to a non-fiduciary party in interest, the terms and conditions of the prospective sale to that party in interest, including the price and Unit/lot number and type, shall be advertised in the *Desert Sun* newspaper. The advertisement also shall set forth the price and the terms and conditions of comparable Units sold at Desert Horizons within a reasonable time prior to a prospective sale. Additionally, the advertisement shall indicate that the Unit is available for purchase by all other non-party in interest members of the public at a price and on terms and conditions that are equal to the offer made by the party in interest.

(B) For thirty days from the publication of the advertisement described in paragraph 1(A), no sale of said Unit to the party in interest shall be consummated, even if such party offers more than the advertised price.

(C) During the period between publication and thirty days thereafter, if any non-party in interest member of the public agrees to match or better the price or terms and conditions advertised, that member (or those members) of the public shall have a right to purchase the Unit that supersedes the right of the party in interest. If, after a reasonable period of time subsequent to the thirty day period, the member or members of the public who have gained the prior right do not prove that they are ready, willing and able to consummate the purchase, the Unit may be sold to the party in interest at a price and on terms and conditions that are equal to or greater than the advertised price and its terms and conditions.

(D) If, after thirty days from the publication of the advertisement, no non-party in interest member of the public offers to purchase the Unit, the party in interest who made the offer cited in the advertisement shall become an eligible purchaser but only at the advertised price and its terms and conditions or at a price and on terms and conditions that are more favorable to Desert Horizons.

(E) All prospective purchasers shall complete a questionnaire indicating whether they are a party in interest with respect to the Plan.

(2) Prior to the execution of a contract for the sale of a residential Unit to a party in interest, A.N. Advisors (Advisors) and any successor independent fiduciary shall certify in writing that, based on all relevant market factors, the sales price and the terms and conditions for a Unit are not less than its fair market value. The written certification shall also state that: (A) the advertisement procedures set forth in paragraphs 1(A)–(E) have been met; and (B) the terms and conditions (including price) of such sale are at least as equal to those that the Plan could receive in a similar transaction with an unrelated party. In the event that Advisors resigns or is terminated, or a replacement is chosen after its contract expires, the Plan shall notify the Department's Office of Exemption Determinations of the name and qualifications of a prospective successor fiduciary and the reasons for the change. Solely for the purposes of continuing the effectiveness of this exemption, appointment of such successor independent fiduciary shall not be effective until the receipt by Desert Horizons of the Department's approval.

(3) The Plan and/or Desert Horizons shall maintain accurate records demonstrating compliance with the conditions of this exemption for all party in interest transactions. The Plan and/or Desert Horizons shall make available to the Department such records, including the written certification described in paragraph (2).

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 4, 1989 at 54 FR 13586.

Effective Date: This extension of PTE 82–184 will expire five years from the date of the grant.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Complete General Construction Company Profit Sharing Plan (the Plan) Located in Columbus, Ohio

[Prohibited Transaction Exemption 89–77; Exemption Application No. D–7868]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale for cash by the Plan of certain real property (the Real Property) to Complete General Construction Company, a party in interest with respect to the Plan, provided that the price paid be no less than the fair market value of the Real Property as of the date of sale, as determined by an independent and qualified appraiser.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 14, 1989 at 54 FR 25363.

For Further Information Contact: Joseph L. Roberts III of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Washington Mortgage Corporation (WMC) Located in Seattle, Washington

[Prohibited Transaction Exemption 89–78; Exemption Application Nos. D–7891 and D–7892]

Exemption

I. The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to: 1) The sale, exchange or transfer between WMC and its affiliates and certain employee benefit plans (the Plans) of certain construction loans or participation interests therein to non-party in interest entities; and 2) the sale, exchange or transfer between WMC and its affiliates and the Plans of any construction or permanent loan made by a Plan to a party in interest, and the resulting extension of credit therefrom, provided that:

(a) The terms of the transactions are not less favorable to the Plans than the terms generally available in arm's-length transactions between unrelated parties;

(b) Such sales, exchanges or transfers are expressly approved by a Plan fiduciary independent of WMC and its affiliates who has authority to manage or control those Plan assets being invested in mortgages or participation interests therein;

(c) No investment management, advisory, underwriting fee or sales commission or similar compensation is paid to WMC or any of its affiliates with regard to such sale, exchange or transfer;

(d) The decision to invest in a loan or a participation interest therein is not part of an arrangement under which a fiduciary of a Plan, acting with the knowledge of WMC or its affiliate, causes a transaction to be made with or

for the benefit of a party in interest [as defined in section 3(14) of the Act] with respect to the Plan;

(e) At the time of its acquisition of a loan or participation therein, no Plan will have more than 25% of its assets invested in construction or permanent mortgages;

(f) WMC and its affiliates do not and will not act as fiduciaries with regard to any Plan investing in permanent and construction loans and interests therein which are the subject of this exemption; and

(g) WMC shall maintain or will cause to be maintained, for the duration of any loan or participation therein sold to a Plan pursuant to this exemption, such records as are necessary to determine whether the conditions of this exemption have been met. The records mentioned above must be unconditionally available at their customary location for examination for purposes reasonably related to protecting rights under the Plans, during normal business hours, by: Any trustee, investment manager, employer of Plan participants, employee organization whose members are covered by a Plan, participant or beneficiary of a Plan.

II. The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to any transactions to which such restrictions or taxes would otherwise apply merely because WMC or any of its affiliates is deemed to be a party in interest with respect to a Plan by virtue of providing services to the Plan in connection with the subject loan transactions [or because it has a relationship to such service provider described in section 3(14) (F), (G), (H) or (I) of the Act], solely because of the ownership of a loan participation interest therein as described in this exemption by such Plan.

III. Definitions

For purposes of this exemption,

(a) An "affiliate" of WMC includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with WMC,

(2) Any officer, director, employee, relative of, or partner in any such person, and

(3) Any corporation or partnership of which such person is an officer, director, partner or employee.

(b) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 22, 1989 at 54 FR 26273.

Temporary Nature of Exemption: This exemption will be effective only for those transactions entered into within five years of the date on which the Final Grant of this proposed exemption is published in the Federal Register.

For further information contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Electrical Workers Local Union No. 103, I.B.E.W., Health and Welfare Fund, Deferred Income Fund, Pension Fund, and Holiday, Vacation and Supplementary Unemployment Benefits Fund (collectively, the Funds) Located in Boston, Massachusetts

[Prohibited Transaction Exemption 89–79; Exemption Application Nos. D–7893 through D–7896]

Exemption

The restrictions of section 406(b)(2) of the Act shall not apply to the proposed leasing of certain office space, to the Funds by the Local 103, I.B.E.W., Building Corporation, a corporation which is wholly-owned by the Local Union No. 103 of the International Brotherhood of Electrical Workers, AFL–CIO, a party in interest with respect of the Funds, provided that the terms of the transaction are at least as favorable to the Funds as the terms which would exist in an arm's length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 3, 1989 at 54 FR 27963.

Effective date: The effective date of this exemption is July 14, 1988.

For further information contact: Mr. E.F. Williams of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

Hunter and Associates Laboratory, Inc., Profit Based Retirement Plan and Trust (the Plan) Located in Reston, Virginia

[Prohibited Transaction Exemption 89–80; Exemption Application No. D–7906]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reasons of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale by the Plan to Hunter Associates Laboratory, Inc., the sponsor of the Plan, of (1) the Plan's rights with respect to an unsatisfied judgment against the National Exchange Leasing Company, and (2) the Plan's rights as creditor in a loan to Government Financial Services, Inc., including any preferential payment refunds due from the Plan with respect thereto; provided that all terms of such transactions are not less favorable to the Plan than those which the Plan could obtain in an arm's-length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on Monday, July 3, 1989 at 54 FR 27959.

For further information contact: Ronald Willett of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which amount other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material fact is and representations contained in each application accurately describes all

material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 25th day of August 1989.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 89-20402 Filed 8-29-89; 8:45 am]

BILLING CODE 4510-29-M

LEGAL SERVICES CORPORATION

Request for Comments on a Grant Award to Single Parents United 'N Kids (SPUNK)

AGENCY: Legal Services Corporation.

ACTION: The Legal Services Corporation (LCS) announces its intention to award a one-time, non-recurring grant of $32,380 in fiscal year 1989 to Single Parents United 'N Kids (SPUNK). The purpose for making this grant is to provide training and technical assistance in child support matters. These services will be provided to client eligible persons residing in or near Los Angeles County, California.

DATE: All comments and recommendations must be received by the Office of Field Services of LSC on or before September 29, 1989.

FOR FURTHER INFORMATION CONTACT: Victoria O'Brien, Counsel to the Director, or Charles T. Moses, Associate Director, Legal Services Corporation, Office of Field Services, 400 Virginia Ave., SW., Washington, DC 20024-2751, (202) 863-1837.

SUPPLEMENTARY INFORMATION: The Legal Services Corporation is the national independent organization charged with implementing the federally funded system of legal services for low-income people. It hereby announces its intention to award a grant in the amount of $32,380 to SUPPORT. The grantee will use this grant to provide training and technical assistance on child support matters to client eligible persons residing in or near Los Angeles County.

It is anticipated that the twelve month term of this grant will extend from September 30, 1989 to September 29, 1990.

Interested persons are invited to submit written comments and/or recommendations concerning the above to Victoria O'Brian or Charles T. Moses.

Dated: August 25, 1989.

Ellen J. Smead,

Acting Director, Office of Field Services.

[FR Doc. 89-20453 Filed 8-29-89; 8:45 am]

BILLING CODE 7050-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-400]

Carolina Power & Light Co., et al., Shearon Harris Nuclear Power Plant, Unit 1; Environmental Assessment and Finding of No Significant Impact

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-63 to the Carolina Power & Light Company (CP&L or the licensee), for the Shearon Harris Nuclear Power Plant, Unit 1, located in Wake and Chatham Counties, North Carolina.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would revise the provisions in the Technical Specifications (TS) relating to fuel enrichment.

The proposed action is in accordance with the licensee's applications dated April 11 and July 26, 1989.

The Need for the Proposed Action

The proposed changes are needed so that the licensee can use higher enrichment fuel, and provides the flexibility of extending the fuel irradiation and permitting operation of longer fuel cycles.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revisions to the Technical specifications. The proposed revisions would permit use of fuel enrichment with Uranium 235 in excess of 4.2 weight percent and up to 5.0 weight percent and the licensee would expect the fuel to be irradiated to levels above 33 gigawatt days per metric to (GWD/MT) but not to exceed 60 GWD/MT. The safety considerations associated with reactor operation with higher enrichment and extended irradiation have been evaluated by the NRC staff. The staff has concluded that such changes would not adversely affect plant safety. The proposed changes have no adverse effect on the probability of any accident. The increased burnup and higher enrichment may slightly change the mix of fission products that might be released in the event of a serious accident but such small changes would not significantly affect the consequences of serious accidents. No changes are being made in the types or amounts of any radiological effluents that may be released offsite. There is no significant increase in the allowable individual or cumulative occupational radiation exposure.

With regard to potential nonradiological impacts of reactor operation with higher enrichment and extended irradiation, the proposed changes to the TS involve systems located within the restricted area, as defined in 10 CFR part 20. They do not affect nonradiological plant effluents and have no other environmental impact.

The environmental impacts of transporation resulting from the use of higher enrichment fuel and extended irradiation were published and discussed in the staff assessment entitled, "NRC Assessment of the Environmental Effects of Transporation Resulting from Extended Fuel Enrichment and Irradiation," dated July 7, 1988 and published in the **Federal Register** (53 FR 30355) on August 11, 1988. As indicated therein, the environmental cost contribution of the proposed increase in the fuel enrichment and irradiation limits are either unchanged or may, in fact, be reduced from those summarized in Table S-4 as set forth in 10 CFR 51.52(c).

Therefore, the Commission concludes that there are no significant radiological or nonradiological environmental impacts associated with the proposed amendment.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce the environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in connection with the "Final Environmental Statement related to the operation of the Shearon Harris Nuclear Power Plant, Units 1 and 2," dated October 1983.

Agencies and Persons Consulted

The NRC staff has reviewed the licensee's request and did not consult other agencies or persons.

Finding of no Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

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 application for amendment dated April 11 and supplement dated July 26, 1989, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, and at the Richard B. Harrison Library, 1313 New Bern Avenue, Raleigh, North Carolina 27610.

Dated at Rockville, Maryland, this 22nd day of August 1989.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Director, Project Directorate II–1, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89–20380 Filed 8–29–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–302]

Florida Power Corp.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission is considering issuance of an amendment to Facility Operating License No. DPR–72 to the Florida Power Corporation (the licensee) for the Crystal River Unit 3 Nuclear Generating Plant located in Crystal River, Florida.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would revise the provisions in the Technical Specifications (TS) relating to fuel enrichment.

The proposed action is in accordance with the licensee's application dated December 23, 1988, as supplemented July 12, 1989.

The Need for the Proposed Action

The proposed changes are needed so that the licensee can use higher enrichment fuel. In addition, the proposed changes provide the flexibility of extending the fuel irradiation, thus allowing longer fuel cycles.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revisions to the TS. The proposed revisions would permit use of fuel enriched with Uranium 235 in excess of 4 weight percent and up to 4.5 weight percent. The licensee would expect the fuel to be irradiated to levels above 33 gigawatt days per metric ton (GWD/MT), but not to exceed 60 GWD/MT. The safety considerations associated with reactor operation with higher enrichment and extended irradiation have been evaluated by the NRC staff. The staff has concluded that such changes would not adversely affect plant safety. The proposed changes have no adverse effect on the probability of any accident. The increased burnup may slightly change the mix of fission products that might be released in the event of a serious accident, but such small changes would not significantly affect the consequences of serious accidents. No changes are being made in the types or amounts of any radiological effluents that may be released offsite. There is no significant increase in the allowable individual or cumulative occupational radiation exposure.

With regard to potential nonradiological impacts of reactor operation with higher enrichment and extended irradiation, the proposed changes to the TS involve systems located within the restricted area as defined in 10 CFR partr 20. They do no affect nonradiological plant effluents and have no other environmental impact.

The environmental impacts of transportation resulting form the use of higher enrichment fuel and extended irradiation are discussed in the staff assessment entitled, "NRC Assessment of the Environmental Effects of Transportation Resulting from Extended Fuel Enrichment and Irradiation," dated July 7, 1988 (53 FR 30355). As indicated therein, the environmental cost contribution of the proposed increase in the fuel enrichment and irradiation limits are either unchanged or may in fact be reduced from those summarized in Table S–4 as set forth in 10 CFR 51.52(c).

Therefore, the Commission concludes that there are no significant radiological or nonradiological environmental impacts associated with the proposed amendment.

Alternatives to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternative with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Crystal River Unit 3 Generating Plant.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of no Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

Based on the foregoing environmental assessment, we conclude that the proposed action will not have a significant impact on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated December 23, 1988, as supplemented July 12, 1989, which are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC and at the Crystal River Public Library, 668 NW First Avenue, Crystal River, Florida 32629.

Dated at Rockville, Maryland, this 22nd day of August 1989.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Project Directorate II–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89–20381 Filed 8–29–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–390 and 50–391]

Environmental Assessment and Finding of No Significant Impact; Tennessee Valley Authority Watts Bar Nuclear Plant, Units 1 and 2

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of a temporary exemption from the requirements of 10 CFR 70.51(d) to the Tennessee Valley Authority (the licensee) for Watts Bar Nuclear Plant, Units 1 and 2. The units are located at the licensee's plant site in Rhea County, Tennessee.

Environmental Assessment

Identification of Proposed Action: By application dated July 10, 1989, the licensee requested a temporary exemption to 10 CFR 70.51(d). The temporary exemption will maintain the requirement for an annual inventory of fuel stored at the Watts Bar Nuclear

Plant, but will allow the inventory for 1989 to be conducted at an interval of more than 12 months but not more than 15 months from the date of the inventory for 1988. The requirements of 10 CFR 50.71(d) specify that the annual inventories must be conducted at an interval of not more than 12 months.

The Need for the Proposed Action: The licensee is requesting a temporary exemption for 1989 from the annual physical inventory requirement in 10 CFR 70.51(d).

Pursuant to 10 CFR 70.51(d), the licensee conducted a physical inventory of the Watts Bar fuel by piece count and serial number verification in August 1988. The next scheduled inventory was to be conducted by August 9, 1989. In order to perform the inventory, removal of the spent fuel pit covers and the new fuel vault covers is required. However, the Auxiliary Building crane which is required to remove those covers was and is currently out of service. The spent fuel pool covers weigh approximately 5000 pounds each and the new fuel vault covers weigh approximately 6000 pounds each. This crane was not returned to service in time to conduct the physical inventory before the required date.

Environmental Impact of the Proposed Action: The proposed action is an administrative action only and will have no environmental impact.

Alternative Use of Resources: This action does not involve the use of resources not previously considered in connection with the "Final Environmental Statement Related to the Operation of the Watts Bar Nuclear Plant, Units 1 and 2."

Agencies and Persons Consulted: The licensee initiated this temporary exemption action. The NRC staff is reviewing their request. No other agencies or persons were consulted.

Finding of no Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed temporary exemption.

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not adversely affect the public health and safety nor common defense and security.

For further details with respect to this action, see the licensee's application dated July 10, 1989 which is available in the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555 and at the Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Dated at Rockville, Maryland this 23rd day of August 1989.

For the Nuclear Regulatory Commission.

Suzanne Black,

Assistant Director for Project, TVA Projects Division, Office of Nuclear Reactor Regulation.

[FR Doc. 89-20382 Filed 8-29-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-440]

Cleveland Electric Illuminating Co., et al.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-58, issued to the Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company and Toledo Edison Company (the licensees), for operation of the Perry Nuclear Power Plant, Unit No. 1 located in Lake County, Ohio.

The amendment would permit the use of functioning channels of the Traversing In-Core Probe (TIP) system to provide data when one or more of the TIP measurement locations are inaccessible or inoperable. Operable TIP measurement data would be substituted from symmetric core locations for use in Local Power Range Monitoring (LPRM) calibrations and thermal power monitoring.

The exigent circumstances related to this request are that the first indication of a problem with the TIP system occurred on August 11, 1989. Mechanical interference within the 'B' TIP unit indexing mechanism prevented taking traces on a channel. Subsequently, three other channels on that TIP unit also became inaccessible. Two of these four channels can be accessed by other TIP units, however, two remain inaccessible. The TIP mechanisms are located in the drywell and are inaccessible at power due to the high radiation levels. The next calibration of the LPRM detectors is due on September 18, 1989. Utilizing the 25 percent permissible extension of surveillance intervals would make the late date for this surveillance September 29, 1989. If the 'B' TIP indexing mechanism cannot be restored prior to this surveillance being due, it must be declared inoperable. Without the proposed change, the plant would be required to shut down when the above surveillance becomes overdue in late September. This problem could not have been foreseen by the licensee because TIP calibrations can only be performed after entry into power operation and no problems were identified with the TIP indexing mechanism during prior system testing. Three previous successful TIP core traverses were performing during the operating cycle prior to this failure. The licensees' amendment request was promptly submitted on August 23, 1989 and did not result in creation of the exigent circumstances.

The due date of this amendment request to avoid shutdown of the unit does not allow for a full 30-day notice in the Federal Register. The earliest publication date in the Federal Register of the notice for this proposed amendment is no earlier than August 30, 1989. Therefore, based on the above, the staff has determined that exigent circumstances exist with respect to this license amendment request.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards considerations. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensees have provided the following analysis of the above three factors:

1. The core monitoring methodology is based on symmetry of rod patterns and fuel loading. This is not changed, but extended to use a higher order of symmetry (octant symmetry) which exists with "type A" sequence rod patterns.

This change does not change the fundamental process involved in calibrating neutron instrumentation (LPRMs), but requires that only the equipment associated with the TIP channels necessary for recalibrating LPRMs and for core monitoring functions be operable. The use of symmetric detectors to provide substitute data for inaccessible TIP channels does not compromise the ability of the process computer to accurately represent the spatial gamma flux distribution of the reactor core.

This proposed change does not alter the basic method used to calculate power and exposure distributions and fuel thermal limits. The existing method for calculating core power and exposure distributions and

fuel thermal limits includes provisions for monitoring the gamma flux distribution with mirror or rotational symmetry. This proposed change includes provisions for using octant symmetry, which is both mirror and rotationally symmetrical.

This proposed change does not alter the basic method used to determine the appropriate constants with which to relate the readings of LPRMs to those of the TIPs or the basic method used to determine substitute values to be used by the process computer for LPRMs which have failed. The proposed change specifies the use of TIP data which is equivalent to that which would normally be used.

The calibration of LPRMs using symmetric string base distributions provide LPRM data within the normal uncertainty expected for calibration with all five machines operable. Consequently, this condition will not adversely affect core thermal limit calculations.

This proposed change does not alter the function, performance or operation of any safety system or safety related equipment. The restriction to "A" control rod sequences and the limitation on total TIP uncertainty ensures the readings from symmetric channels are equivalent.

Therefore, this proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The substitution of data into inaccessible TIP channels has no effect on any accident initiator, therefore this proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. This proposed change does not involve a significant reduction in a margin of safety because the implementation is restricted by the LCO to type A symmetric control rod patterns, and then only when the total TIP uncertainty has been demonstrated previously in the cycle to be within the value assumed in the General Electric reload licensing topical report—GESTAR II (8.7 percent).

The staff agrees with the licensees' analysis; accordingly, the Commission proposes to determine that this change does not involve significant hazards considerations.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of the **Federal Register** notice.

Written comments may also be delivered to Room P–216, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By September 29, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any persons whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rule 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 that 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 the amendment is issued before the expiration of 30-days, the Commission will make a final determination on the issue of no significant hazards considerations. If a hearing is requested, 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 considerations, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves significant hazards considerations, 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 15-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 15-day notice period, provided that its final determination is that the amendment involves no significant hazards considerations. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention:

Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1 (800) 325-6000 (in Missouri 1 (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John N. Hannon: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated August 23, 1989, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555, and at the Local Public Document Room, Perry Public Library, 3753 Main Street, Perry, Ohio.

Dated at Rockville, Maryland, this 25th day of August 1989.

For the Nuclear Regulatory Commission.

Timothy G. Colburn,

Acting Director, Project Directorate III–3, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89–20502 Filed 8–29–89; 8:45 am]

BILLING CODE 7590–01–M

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Nuclear Waste Technical Review Board; Meeting

Notice is hereby given that a meeting of the Nuclear Waste Technical Review Board will be held on Tuesday, September 12, 1989, from 9 a.m. to 5 p.m., and on Wednesday, September 23, 1989, from 8:30 a.m. to 2 p.m. in the Fairfax Room, Hyatt Regency Crystal City Hotel, 2799 Jefferson Davis Highway, Arlington, VA 22202, telephone (703) 418–1234. Additionally, the first meeting of the Board's Environmental and Public Health Panel will be held on Thursday, September 14, 1989, from 9 a.m. to 4 p.m., in room 258, 2000 L Street NW., Washington, DC 20036.

The meeting on Tuesday, September 12, will be closed to the public in order for the Board to discuss matters solely related to the internal personnel rules and practices of the Board, and discuss information of a personnel nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The meeting on Wednesday, September 13, 1989, will include reports from the Board Panels on Containers and Transportation, Risk and Performance Analysis, and Structural Geology and Geoengineering. On Thursday, September 14, 1989, the Environmental and Public Health Panel will be briefed on environmental regulatory requirements, field activities, monitoring and mitigation, reclamation planning, status of site characterization permitting, repository EIS planning, and a review of regulatory requirements of 40 CFR part 191 draft standards. The public is invited to attend the meetings on September 13 and 14 only as observers. The meetings on these dates will be transcribed and procedures to obtain transcripts will be provided at the meeting. To ensure that adequate facilities are provided for public attendance, persons planning to attend the meetings should contact Helen Einersen on (202) 254–4792 by September 5, 1989, 4:30 p.m. (EST).

Further information on these meetings can be obtained from William W. Coons, Executive Director, Nuclear Waste Technical Review Board, 1111 18th Street NW., Suite 801, Washington, DC 20036, (202) 254–4792.

Dated: August 28, 1989.

William W. Coons,

Executive Director, Nuclear Waste Technical Review Board.

[FR Doc. 89–20555 Filed 8–29–89; 8:45 am]

BILLING CODE 6820–AM–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34–27169; File No. SR–Amex–89–12]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Associate Membership

On June 9, 1989, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its Constitution to expand Associate Membership privileges to include access to the PER/AMOS system as well as to delete some outdated and unnecessary provisions.[3] Amendment No. 1, reflecting Exchange membership approval of the proposal, was filed on August 7, 1989.

The proposed rule change was noticed in Securities Exchange Act Release No. 26964 (June 23, 1989), 54 FR 28132 (July 5, 1989). No comments were received on the proposal.

The Amex has proposed that Associate Membership privileges be expanded to provide access to PER/AMOS. Associate Membership is one category of membership on the Exchange. This type of membership, which dates back to the early days of the Exchange, enables the Associate Member and his or her firm to send orders for execution directly to a Regular Member broker on the trading floor via the telephone line. An Associate Member may not transact business on the Floor itself, or exercise privileges enjoyed by other classes of members. Aside from telephone access to the Floor, an Associate Member's only privilege is that its own name may be given up as the clearing firm. The 169 current Associate Members have paid a one-time fee equal to 5% of the most

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1989).

[3] Amex's Post Execution Reporting Service ("PER") electronically routes market and marketable limit orders in equity securities of up to 2,000 shares to the applicable specialist post. Amex's Options Switching System ("AMOS") allows Amex members to route options market and marketable limit orders of up to 20 contracts directly to the applicable specialist's post.

recent price of a Regular Membership, and annual dues of $750.

Since December 1987, when the Board approved modifications to the Exchange's telephone access policy to permit non-members to establish direct telephone access to members' booths on the Floor,[4] Associate Members have had no significant membership advantage over non-members. This has led to the possibility that some Associate Members might discontinue their membership over time, reducing the number of broker-dealers with membership ties to the Exchange. In addition, several Associate Member firms have requested direct access to the Exchange's PER/AMOS electronics order routing system over the past year. The Exchange believes that if PER/AMOS were made accessible to Associate Members, this category of membership would continue to be viewed as an attractive alternative to Regular Membership, and that the Exchange would thus retain an important segment of the member firm community.

For these reasons, the Amex proposes that Associate Membership privileges be expanded to provide access to PER/AMOS. The enhanced Associate Membership would be similar to the New York Stock Exchange's ("NYSE") electronic access membership, which was created in 1978.[5] Existing Associate Members could obtain PER/AMOS privileges on payment of an annual fee, or maintain their current status. All new Associated Members would pay the one-time initiation fee, as well as an annual fee if they wished to access PER/AMOS. As now, Associate Memberships could not be sold or leased. The Board would have authority to extend Associate Member access to other electronic systems that may become available in the future.

The Amex proposes that the one-time initiation fee for Associate Membership remain at 5% of the most recent price of a Regular Membership, and that an annual fee be set yearly at 10% of the average price at which Regular Memberships have been sold for the prior twelve months.

The Amex also proposes to amend the Exchange Constitution to eliminate certain outdated provisions relating to Associate Members. The requirement that an Associate Member be actively engaged as a broker/dealer has been deleted since, as with other types of membership, this is a requirement imposed by the Act. The requirement that Associate Membership be cancelled on election to Regular Membership has been deleted as an unnecessary administrative burden on member firms. The posting requirement has been deleted, to be replaced by a provision in a proposed new Admission of Members section of the Exchange's rules, which has been submitted separately to the SEC for consideration.[6]

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5) of the Act.[7] The Commission believes that the proposal is consistent with the section 6(b)(5) requirement that "the rules of the exchange * * * perfect the mechanism of a free and open market." In this regard, the Commission believes that the proposal, by providing Associate Members with significant additional membership advantages, will help attract additional firms to the Amex's market. In particular, the Commission believes that providing Associate Members with access to PER/AMOS will allow the Amex to maintain or widen the number of such memberships, thus providing customers with additional firms through which orders in Amex securities can be routed. In addition, the Commission notes that the Amex's proposal is similar to the NYSE's electronic access membership, which was approved by the Commission in 1978.[8]

It therefore is ordered, pursuant to section 19(b)(2) of the Act,[9] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Dated: August 23, 1989.

Shirley E. Hollis,

Assistant Secretary,

[FR Doc. 89-20410 Filed 8-29-89; 8:45 am]

BILLING CODE 8010-01-M

[4] *See* File No. SR-Amex-87-33.

[5] *See* NYSE Constitution, Article II, Sec. 1(c): NYSE electronic access members are entitled to maintain electronic or telephonic access to (i) the floor facilities of a member or member organization, and (ii) the Designated Order Turnaround System of the NYSE, and (iii) such other automated trading systems of the NYSE as the Board may determine. See Release No. 34-14535 (March 7, 1978), 43 FR 10659, approving File No. SR-NYSE-77-21.

[6] *See* File No. Amex-89-15.

[7] 15 U.S.C. 78f (1982).

[8] *See* note 5, *supra.*

[9] 15 U.S.C. 78s(b)(2) (1982).

[10] 17 CFR 200.30-3(a)(12) (1989).

[Rel. No. 34-27159; Files No. SR-AMEX-89-21; SR-PHLX-89-45]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Philadelphia Stock Exchange, Inc.; Notice of Filings and Order Granting Accelerated Approval to Proposed Rule Changes Relating to Margin Requirements for Equity and Index Options

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 8, 1989, and August 7, 1989, respectively, the American Stock Exchange, Inc. ("AMEX") and Philadelphia Stock Exchange, Inc. ("PHLX") (collectively "Exchanges"), filed with the Securities and Exchange Commission ("Commission") the proposed rule changes as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organizations ("SROs"). The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

The Exchanges propose to extend the current margin requirements for equity and index options until such time as the Commission approves subsequent proposed rule changes filed by the Exchanges pursuant to Section 19 of the Act in accordance with a joint options SRO margin monitoring program which is expected to be implemented in the future.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Changes

In its filing with the Commission, the SROs included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The SROs have 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 Changes

On May 17, 1988, the Commission approved proposals by the AMEX, PHLX and the other options SROs to amend their rules to increase customer

margin requirements for equity and index options.[1] Specifically, the current customer margin requirements are as follows. For broad-based index options, the margin requirement is 100% of the option premium plus 15% of the underlying aggregate index value, less any out-of-the-money amount, with a minimum requirement of the option premium plus 10% of the underlying aggregate index value. For equity options and narrow-based index options, the requirement is 100% of the option premium plus 20% of the underlying product value, less any out-of-the-money amount, with a minimum requirement of the option premium plus 10% of the underlying product value.

The SROs propose to extend the current margin requirements for equity and index options until a routine margin monitoring program expected to be instituted by the options SROs is implemented.[2] The SROs believe that the proposed rule changes are consistent with Section 6(b)(5) of the Act because extending the current margin requirements until a routine margin monitoring program is implemented should assure both firms and investors reasonable financial protection, even if market volatility increases during this period, thereby promoting just and equitable principles of trade and protecting investors and the public interest.

(B) Self-Regulatory Organizations Statement on Burden on Competition

The SROs do not believe the proposed rule changes will impose a burden on competition.

(C) Self-Regulatory Organizations Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The SROs have requested that the proposed rule changes be given accelerated effectiveness pursuant to Section 19(b)(2) of the Act so that the current margin levels can continue uninterrupted.

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6 and the rules and regulations thereunder.[3] In particular, the Commission finds that the proposed rule changes are consistent with Section 6(b)(5) because extending the current margin requirements until a routine margin monitoring program is implemented will assure the financial protection of both firms and investors, even if market volatility increases during this period, thereby protecting investors and the public interest.[4]

The Commission finds good cause for approving the proposed rule changes prior to the thirtieth day after the date of publication of the proposals in the **Federal Register** so that the increased margin requirements can continue uninterrupted. The Commission previously has solicited comments on the proposed margin levels on three separate occasions and has not received any negative comments. Moreover, the proposals extend margin levels that have been in place for over one year and prevents the margins from reverting back to levels that may be inconsistent with the routine margin monitoring program that is being developed.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes 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. Section 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filings also will be available for inspection and copying at the respective principal offices of the above-referenced self-regulatory organizations. All submissions should refer to the file numbers in the caption above and should be submitted by September 18, 1989.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[5] that the proposed rule changes (AMEX–89–21 and PHLX–89–45) are approved, nunc pro tunc as of July 17, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Dated: August 21, 1989.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 89–20411 Filed 8–29–89; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–27168; File No. SR–NYSE–89–22]

Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange, Inc., Relating to Specifications and Content Outline for the Modified Series 7—UK Representatives Examination

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1) ("Act"), notice is hereby given that on August 10, 1989, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission, ("Commission") the proposed rule change as described in Items I, 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 parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange has filed specifications and a content outline for the Modified Series 7—United Kingdom ("UK") Representatives Examination administered by the Exchange.

III. 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

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[1] Securities Exchange Act Release No. 25701 (May 17, 1988), 53 FR 20706, approving the margin increases for a six-month period. In Securities Exchange Act Release No. 26381 (December 21, 1988), 53 FR 52541, the margin requirements were extended for an additional three-month period. In Securities Exchange Act Release No. 26696 (April 4, 1989), 53 FR 14403, and Securities Exchange Act Release No. 26721 (April 12, 1989), 53 FR 16033, the margin requirements were extended until July 17, 1989.

[2] The SROs also have requested that this approval order be applied retroactively to July 17, 1989, to avoid any lapse in the applicability of the higher margin requirements.

[3] 15 U.S.C. 78f(b)(5) (1982).

[4] The Commission also approves the rule change retroactively to July 17, 1989 to avoid any lapse in the applicability of the increased margin requirements.

[5] 15 U.S.C. 78s(b)(2) (1982).

[6] 17 CFR 200.30–3(a)(12) (1988).

these below and is set forth in Sections (A), (B), and (C) below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Exchange and The Securities Association ("TSA") of the United Kingdom have recently completed a joint study of respective qualification requirements for registered representatives in an effort to eliminate duplicative qualification requirements and facilitate cross-qualification of Exchange and TSA member firm personnel.

The Exchange and TSA have agreed that TSA's qualified registered representatives in good standing applying to become registered representatives with Exchange member organizations can satisfy the Exchange's examination requirement under Rule 345.15 by obtaining a passing score of 70% on an abbreviated version of the Series 7 Examination. Such persons will be required to take a special ninety (90) question examination dealing with U.S. securities laws, regulations, sales practices and special products drawn from the Series 7 to become registered with the Exchange. Consideration will also be given to the candidate's previous experience for the purpose of satisfying the Exchange's four-month training requirement pursuant to Rule 345.15.

U.S. Series 7 qualified registered representatives will be able to satisfy TSA qualification requirements by passing TSA's equivalent of the modified Series 7 examination or meeting an experience criterion, *i.e.*, U.S. registered persons with "continuous relevant experience" since January 1, 1987 will be exempt by TSA from the examination requirement. Those without such experience will have to take the U.K. test.

Those individuals passing the modified Series 7 examination will be eligible to sell all securities except municipal securities. Persons seeking municipal securities registration will be required to pass the standard Series 7 or the modified exam plus the Series 52.

The statutory basis for the proposed rule change is section 6(c)(3)(B) of the Act which requires the Exchange to prescribe standards of training, experience and competence for persons associated with Exchange members and member organizations.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the specifications or content outline for the modified Series 7—UK Representatives Examination will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited or received.

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 the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all 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 persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-89-22 and should be submitted by September 18, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 22, 1989.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 89-20412 Filed 8-29-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-27167; File No. SR-CBOE-89-17]

Self-Regulatory Organizations; Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Extension of Its Modified Trading System Pilot

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 3, 1989, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend CBOE Rule 8.13 to continue for two additional years its Modified Trading System ("MTS") pilot program. (Italic indicate additions; brackets indicate deletions.)

Rule 8.13 Modified Trading System

(a) From September 22, [1987] *1989* through September 22, [1989] *1991,* the Exchange will *continue the* pilot *of* a modified trading system. The pilot will be used, at the discretion of the Exchange, in any one or more of the option classes opened for trading at the Exchange after May 1, 1987. Option classes opened for trading prior to May 1, 1987, or replacements thereof, will not become a part of this pilot except to the extent authorized by a membership vote.

(b) through (d). No change.

* * * Interpretations and Policies .01 through .02. No change.

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 test of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The MTS provides for the assignment of a designated primary market maker ("DPM") to specific option classes.

The DPM's functions are a cross between those of a specialist and those of a regular market maker. To date the CBOE has assigned a DPM in 31 option classes. The proposed rule filing is intended to extend the MTS pilot program for a maximum additional two years or until such lesser time when the pilot becomes permanent. While the pilot has been successful, the Exchange intends to implement changes to the pilot through subsequent filings. As such, the CBOE believes the two-year extension does not constitute a significant change and qualifies for accelerated approval in that it is an existing rule of the Exchange.

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder, and in particular, the requirements of Section 6. Specifically, the CBOE believes the proposed rule is consistent with Section 6(b)(5) of the Act, which provides, among other things, that the rules of the Exchange are to be designed to promote just and equitable principles of trade.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will 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.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has requested that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act so that the pilot program can continue without interruption.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of section 6 and the rules and regulations thereunder. Specifically, the Commission believes that the proposed rule change is consistent with section 6(b)(5) because it will benefit investors and perfect the mechanism of a free and open market by continuing a pilot program designed to enhance the CBOE's overall marketmaking capabilities. In addition, the program has not been the subject of any complaints nor resulted in any performance or disciplinary action.

The Commission finds good cause for approving the proposed rule change prior to the thirteenth day after the date of publication of notice of filing thereof so that the pilot program can continue without interruption. In addition, the Commission previously has solicited comments on this pilot program and has not received any negative comments on its operation. Moreover, this program has operated effectively and generally has been well received.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspections 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 September 15, 1989.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[1] that the proposed rule change (SR–CBOE–89–17) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

Dated: August 22, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–20421 Filed 8–29–89; 8:45 am]

BILLING CODE 8010–02–M

[1] 15 U.S.C. 78s(b) (1982).

[2] 17 CFR 200.30–02–M

[Rel. No. 34–27163; File No. SR–MBS–89–3]

Self-Regulatory Organizations; MBS Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to Trade Processing and Participation Standards

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 March 31, 1989, MBS Clearing Corporation 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

Accounts and Account Groups. A new Rule 1 is added to Article II. Article II, Rule 1, Section 1, provides for the maintenance of separate Accounts for different types of transactions: (i) Trade-for-Trade Accounts for processing transactions through the Trade-for-Trade System only, (ii) SBO Accounts for processing transactions through the SBO System and the Trade-for-Trade System, (iii) Option Accounts for recording Option Contracts and (iv) such other types of Accounts as may be specified in the Procedures. Article II, Rule 1, Section 2, permits conversion of an SBO Account to a Trade-for-Trade Account and *vice versa* upon prior notice to the Corporation and cancellation of all transactions in the original Account and re-entry of the transactions in the new Account.

The former defined term "Non-Dealer" in Article I, Rule 1, has been deleted; for purposes of the Rules, a Participant is either a Broker or a Dealer. Under Article II, Rule 1, Section 1, Accounts of a Participant acting as a Broker on behalf of Participant Dealers (newly defined in Article I, Rule 1, as Broker Accounts) are maintained in a Broker Account Group, and Accounts of a Participant acting as a Dealer (newly defined in Article I, Rule 1, as Dealer Accounts) are maintained in a Dealer Account Group. If a Participant maintains two or more Account Groups, each Account Group will be treated separately for purposes of calculating Account maintenance fees, deposits to the Participants Fund and Market Margin Differential Deposits. However, under Article II, Rule 1, Section 1, a Participant with two or more Account Groups bears full responsibility for transactions in all of its Account

Groups. See "Participants Fund Deposits," below.

Transactions by Brokers. The proposed Rule changes clarify the processing of transactions entered by Brokers acting on behalf of Participant Dealers, which previously were addressed only in Article II, Rule 3, Section 6, captioned "Substitution of Participants" (which is now deleted). Under Article II, Rule 3, Section 1, a transaction may be entered as a Broker Give-Up Trade (newly defined in Article I, Rule 1), with the Broker submitting pre-compared trade input on behalf of both the selling and the purchasing Dealers for which the Broker is acting. Pursuant to Article II, Rule 3, Section 3, all of such transactions are reflected in an Audit Report (newly defined in Article I, Rule 1) delivered to the Broker. Under Article II, Rule 3, Section 2, and Article II, Rule 6, in a Broker Give-Up Trade the Broker initially will be identified in Purchase and Sale Reports and Open Commitment Reports as the Original Contra-Side Participant of both Dealers on whose behalf it is acting. On a prescribed Broker Give-Up Date, the Dealers will be paired with one another. Pursuant to Article II, Rule 3, Section 3, the Dealers will receive a Broker Give-Up Report (newly defined in Article I, Rule 1) reflecting such pairing, while pursuant to Article II, Rule 3, Section 2, and Article II, Rule 6, the Dealers will receive new Purchase and Sale and Open Commitment Reports identifying them as the contra-side Participants.

Under Article II, Rule 3, Section 1, any Participant entering a transaction as a Broker Give-Up Trade warrants that it is authorized to do so by both the selling and the purchasing Dealers, and each such Dealer is liable as principal notwithstanding the temporary designation of the Broker as Original Contra-Side Participant. Article IV, Rule 4 is revised to make it clear that a Broker that enters a transaction other than as a Broker Give-Up Trade remains liable as principal.

The Rules continue to provide that the Purchase and Sale Report constitutes the sole confirmation of transactions between Original Contra-Side Participants that are processed by the Corporation. However, Article II, Rule 3, Section 4, is amended to make it clear that the Rules do not relieve a Broker of any obligation to confirm transactions effected by it on behalf of a Dealer.

Participants Fund Deposits. Currently, the Rules require each Participant to deposit in the Participants Fund a minimum of $10,000 in cash plus the amount of any Market Margin Differential computed by the Corporation. Under revised Article IV, Rule 1, a Participant is required to make a Basic Deposit (newly defined in Article I, Rule 1) of no less than $10,000 per Account and a Minimum Market Margin Differential Deposit (also newly defined in Article I, Rule 1) of $2,500,000 for each Account Group; provided that the Corporation's Board of Directors may, at its option, based on the recommendation of the Corporation's Risk Management Committee, increase the amount of either the Basic Deposit or the Minimum Market Margin Differential Deposit and exempt any Broker Account Group from the Minimum Market Margin Differential Deposit requirement. Under Article III, Rule 1, Section 12, if a Participant ceases to meet the financial requirements for participation, the Board of Directors may condition the Participant's continued participation on an increase in its minimum required deposits to the Participants Fund for any of its Account Groups.

Under Article IV, Rule 2, Section 4, the Basic Deposit must be made in cash. Minimum Market Margin Differential Deposits may be in the form of cash, approved securities or letters of credit. Article IV, Rule 2, Section 6, is amended to clarify a Participant's right to substitute securities, while Article IV, Rule 2, Section 7, is amended to clarify a Participant's right to substitute letters of credit, in each case upon prior notice to and approval by the Corporation. Article II, Rule 2, Section 5, is amended to provide for the distribution of investment income, less an amount to compensate the Corporation for its handling costs, only on cash deposits in excess of Basic Deposits.

Market Margin Differential Deposits. Article I, Rule 1, is amended to distinguish between the Market Margin Differential and the Market Margin Differential Deposit. The former is the amount calculated by the Corporation pursuant to Article IV, Rule 2, Section 1, while the latter is the amount a Participant is required to deposit to the Participants Fund pursuant to new Article IV, Rule 2, Section 2. Under Article IV, Rule 2, Section 2, the Market Margin Differential Deposit for any Account Group will be based on the net Market Margin Differential for all Accounts included in the Account Group, reduced by the amount of the Minimum Market Margin Differential Deposit to the Participants Fund with respect to that Account Group. Under Article IV, Rule 2, Section 2, if a Participant has more than one Account Group, any excess Market Margin Differential Deposit for one Account Group may, upon written request, be used to offset a deficiency in any other Account Group.

Article IV, Rule 2, Section 1, is amended to make it clear that Market Margin Differential is computed not only with respect to net long or net short positions in a particular Settlement Class, but also with respect to net zero positions, in which purchases have been offset by sales. Market Margin Differential with respect to net zero positions is equal to the net excess of original contract value of the Participant's purchases over original contract value of its sales.

Article I, Rule 1 provides new definitions for "Put Option Contract" and "Call Option Contract." Put Option Contracts or Call Option Contracts for Securities of the same typoe and coupon rate and having the same Expiration Date are referred to in Article I, Rule 1 by the new term "Option Class." The concept of Option Class is used in Article IV, Rule 2, Section 1 to clarify the computation of Margin Differential with respect to Option Contracts.

Under Article II, Rule 4, Section 6; Article III, Rule 3, Section 4; and Article IV, Rule 3 and 5, if the Corporation ceases to act for a Participant, or a Participant fails to discharge any liability to the Corporation for any Account Group, the Corporation may utilize the Participants Fund deposits with respect to any of the Participant's Account Groups to cover any losses or discharge any liability to the Corporation.

Under the Corporation's existing Rules, if the Corporation ceases to act for a Participant, the Corporation will use the Participant's contributions to the Participants Fund and the proceeds for liquidation of its open commitments for settlement to satisfy loss claims for SBO Contra-Side Participants and Original Contra-Side Participants. Revised Article III, Rule 3, Section 4, clarifies the Corporation's intenstion to use such funds first to satisfy the loss claims of SBO Contra-Side Participants which were not also Original Contra-Side Participants, assessing Original Contra-Side Participants to the extent that such funds are insufficient to cover the loss claims of such SBO Contra-Side Participants in full. Any remaining funds will be used to satisfy the loss claims of Original Contra-Side Participants, including SBO Contra-Side Participants which are also Original Contra-Side Participants.

SBO Transactions. The proposed Rule changes make a number of clarifications in, the operation of the SBO System. Currently, trades having a face value of less than $1,000,000 or not evenly divisible by $1,000,000 are said to be ineligible for settlement in the SBO

System; such provisions in Article II, Rule 4, Section 1, will be replaced by reference to the Procedures, which in turn will refer to trades in amounts which do not satisfy the PSA Guidelines. To eliminate confusion with SBO Trades (the trades resulting from netting of a Participant's purchases and sales within a particular Settlement Class), "SBO-Destined Trade" is newly defined in Article I, Rule 1, to refer to a transaction intended for netting through the SBO System. The definition of "SBO Trade" in Article I, Rule 1, is modified to make it clear that a Participant's transactions in a particular Settlement Class may net to more than one Long or Short SBO Trade. Finally, in Article I, Rule 1, a former distinction in the definition of "Impending Settlement Date" between transactions in the SBO and Trade-for-Trade Systems has been eliminated; the term refers to any transaction with a Settlement Date scheduled to occur within the next 30 days.

The proposed Rule changes describe in greater detail the Corporation's current procedure for netting SBO-Destined Trades to produce SBO Trades. Under Article II, Rule 4, Section 2, each Participant's SBO-Destined Trades are netted by Settlement Class as follows:

(a) First, the Corporation creates Netted Positions (newly defined in Article I, Rule 1) by offsetting the Participant's purchases from and sales to each of its Original Contra-Side Participants.

(b) Second, to the extent that SBO-Destined Trades cannot be eliminated through Netted Positions, the Corporation creates Net-Out Positions (also newly defined in Article I, Rule 1) by offsetting the Participant's purchases form the sales to different Original Contra-Side Participants.

(c) Third, to the extent that SBO-Destined Trades cannot be eliminated through Netted or Net-Out Positions (i.e., remain Net Open Positions, as newly defined in Article I, Rule 1), the Corporation creates one or more SBO Trades between the Participant and another Participant, which may or may not have been its Original Contra-Side Participant.

The current Rules provide that SBO Trades are settled at the SBO Price determined by the Corporation. The proposed amendment to Article II, Rule 4, Section 2, provides more specifically that SBO Trades are settled at the Class Average Price (CAP) (newly defined in Article I, Rule 1), which is the average contract price of all SBO-Destined Trades in the Settlement Class.

Article II, Rule 4, Section 3, as proposed to be amended, expands and clarifies the Corporation's current method of computing the SBO Market Differential, which is redefined accordingly in Article I, Rule 1. The Corporation begins by computing a Firm Class Average Price (FCAP) (newly defined in Article I, Rule 1) for all of a Participant's sales to, or purchases from, a particular Original Contra-Side Participant. The FCAP is the average contract price of such sales or such purchases. The Participant's SBO Market Differential is equal to the sum of the following:

(a) For each of its Netted Positions, the difference (positive or negative) between the FCAPs for its purchases and the FCAPs for its sales; plus or minus

(b) For each of its Net-Out Positions, the difference (positive or negative) between the FCAPs for its purchases and the FCAPs for its sales; plus or minus

(c) For each of its Net Open Positions, the difference (positive or negative) between the Participant's FCAP for its purchase or sale transactions with the Original Contra-Side Participant and the CAP for its SBO Trade.

On the Settlement Date, a Participant with a negative SBO Market Differential is required to pay such negative amount to the Corporation, while a Participant with a positive SBO Market Differential is entitled to receive such positive amount from the Corporation.

Following clearance of an SBO Trade, Participants are required to submit to the Corporation an SBO Notification of Settlement. If only one Participant submits clearance information or the information submitted by both Participants does not compare, the proposed Rule changes provide in Article II, Rule 7, Section 2, for an SBO Pool Uncompared/Advisory Report (newly defined in Article I, Rule 1); the current Uncompared/Advisory Report, as redefined in Article I, Rule 1, will list only uncompared trade input.

The proposed Rule changes revise Article II, Rule 4, Sections 4 and 5, to make it clear that any Cash Adjustment (formerly referred to as the SBO Cash Adjustment) payable following clearance (including any Broker Adjustment payable by or to Dealers on whose behalf a Broker has acted) is based on the difference between the amortized value of Securities delivered and the Par Amount, rather than the amount reported to the Corporation.

Following clearance of an SBO Trade, new Article II, Rule 8, Section 2, provides that the Corporation will ascertian whether the delivery conformed with the PSA Guidelines. If not, the delivery will be reflected in an SBO Pool Reject Report (newly defined in Article I, Rule 1).

Procedures and PSA Guidelines. The current Rules contain detailed specifications for trade input (Article II, Rule 2, Section 1) and reconciliation of input discrepancies (Article II, Rule 2, Section 4); exercise of Option Contracts Article II, Rule 2, Section 1); settlement reporting (Article II, Rule 3, Section 2, and Article II, Rule 4, Section 2) and reconciliation of settlement discrepancies (Article II, Rule 6); good delivery (Article II, Rule 7, Sections 2 and 3); payment of, and due bills for, principal and interest (Article II, Rule 7, Sections 5 and 6); and reclamations (Article II, Rule 9). The proposed Rule changes replace such specifications with references to the Procedures and the PSA Guidelines. The current Rules also contian specific time frames for a variety of actions to be taken by Participants and the Corporation. The proposed Rule changes substitute references to times specified in the Procedures. These include Article II, Rule 3, Section 1 (submission of trade input), 2 (delivery of Purchase and Sale Report) and 5 (verification and correction of discrepancies in Purchase and Sale Reports); Article II, Rule 5 (furnishing of settlement information to original Contra-Side Participants in Trade-for-Trade transactions); and Article III, Rule 3, Section 4 (liquidation of open commitments of Participants for which the Corporation has ceased to act).

Participation Standards. Article III, Rule 1, Section 1, makes it clear that entities eligible for participation include not only broker-dealers registered under Section 15 of the Securities Exchange Act of 1934, but also government securities broker-dealers registered under Section 15C of the Act. Consistent with that change, Article III, Rule 1, Section 10, permits government securities broker-dealers to satisfy certain financial reporting obligations by submitting to the Corporation copies of their Form G–405 Reports on Finances and Operations to the Department of the Treasury.

Article III, Rule 1, Section 1, clarifies provisions relating to use of the net worth of a parent guarantor to satisfy the Corporation's net worth standards. Financial reporting requirements in Article III, Rule 1, Section 10, are expressly made applicable to parent guarantors. Article III, Rule 1, Section 9, is amended to require a Participant to submit, in addition to specifically enumerated financial reports, such other

information pertaining to the financial condition of the Participant or its parent guarantor as the Corporation may reasonably request.

The Corporation's current practice of requiring Participants to respond to monthly "Audit Packages" is incoporated in new Article V, Rule 4, section 4, along with a reference to sanctions for failure to respond. The term "Audit Package" is newly defined in Article I, Rule 1, as a request for confirmation of Open Commitment Reports.

Miscellaneous Changes

Changes in Terminology. A number of definitions that formerly appeared in Article I, Rule 1, have been deleted as unnecessary, either because of simplification of the Rules (FHLMC Agreement, FHLMC Securities, FNMA Securities, GNMA Securities, Par Amount, Price, Principal and Interest Due Bill, Principal and Interest Payment Date, Reclamation, Record Date, Repurchase Agreement) or because of changes in trading practices in the mortgage-backed securities industry (Delayed-Delivery Contract, Graduated Payment Mortgage, Guaranteed Coupon, Par/Price Cap, Specified Transaction).

The proposed Rule changes also modify certain definitions previously used and add new definitions. The term "Settlement Date" has been redefined in Article I, Rule 1, to refer to the PSA-designated settlement date for SBO transactions and the date designated by the parties for Trade-for-Trade transactions. In some instances, the word "settlement" is replaced by the word "clearance"—defined in Article I, Rule 1, as the acutal settlement of a transaction as reported to the Corporation, which may occur on the PSA-designated Settlement Date or another date.

Finally, references to certian reports in Article I, Rule 1, have been changed to correspond to the exact titles given to such reports by the Corporation's computer system. These include the Notification of Settlement Summary (formerly referred to as the Notification of Settlement Report) and Uncompared/Advisory List (formerly referred to as the Uncompared/Advisory Report).

Additional Services. To accommodate possible future services, the term "Securities" has been expanded in Article I, Rule 1, to cover not only Mortgage-Backed Securities and Government Securities but also any other asset-backed securities designated by the Corporation as Eligible Securities. Under Article I, Rule 2, Eligible Securities are those determined by the Corporation to be eligible for comparison, recording, clearance or other services provided by the Corporation—not merely clearance through the SBO or Trade-for-Trade systems (which will be used only for transactions in Mortgage-Backed Securities). Conforming changes have been made throughout the Rules, including Article II, Rule 1, Section 1; Article II, Rule 2; Article II, Rule 3, Sections 2 and 6; Article II, Rule 6; Article II, Rule 8, Section 1; Article II, Rule 9; Article III, Rule 3, Sections 2 and 4; and Article V, Rule 7, Section 1. The Corporation does not currently propose to designate additional types of Securities as Eligible Securities; if and when it does so, the nature of the services provided with respect to such Securities will be specified by amendment to the Corporation's Rules and/or its Procedures.

Sale of Depository Division. The Corporation contemplates in the near future closing the sale of its Depository Division. Upon the closing of that sale, references to separate Clearing and Depository Divisions will be unnecessary. Accordingly, the terms "Clearing Division" and "Depository" have been deleted from Article I, Rule 1, and throughout the Rules. All references to the Clearing Division have been replaced with references to the Corporation. References to the MBSCC Clearing Division Pledgee Account in the Depository Division are also deleted from Article I, Rule 1, and Article IV, Rule 2, section 6, and a provision authorizing the Clearing Division to make available to the Depository Division any excess deposits a dual Participant may have made to the Participants Fund has been deleted from Article III, Rule 1, section 3.

Billing. Article V, Rule 2, section 3, is modified to codify the Corporation's recently implemented practice of billing, on behalf of the PSA, Participants which are members of the PSA for fees and charges imposed by the PSA.

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 Section (A), (B), and (C) below, of the most significant aspects of such statements. Further statements are available in the file available at the Commission.

(A) Self-Regulatory Organization's Statement of the Purposes of, and Statutory Basis for, the Proposed Rule Change

The proposed Rule changes are intended, among other things, to (1) provide for maintenance of separate Account Groups for Participants acting as Brokers or as Dealers, each containing separate Accounts for SBO transactions, Trade-for-Trade transactions, Option Contracts and other transactions; (2) clarify existing provisions and add new provisions relating to transactions of Participants acting as Brokers; (3) provide additional collateral security for performance of Participants' settlement obligations by increasing minimum required deposits to the Participants Fund; (4) clarify provisions relating to Market Margin Differential Deposits to the Participants Fund and application of the Participants Fund; (5) add further provisions relating to the processing of SBO transactions not included in the Corporation's prior Rule filing related to the SBO System (SR–MBS–88–19, filed November 23, 1988); (6) provide additional flexibility by relegating to the Procedures and PSA Guidelines certain matters previously addressed in detail in the Corporation's Rules; (7) clarify participation standards and financial reporting requirements; and (8) effect miscellaneous changes designed to conform terminology to current usage, to accommodate possible future services and to reflect the intended sale of the Corporation's Depository Division.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Corporation does not believe that any burden will be placed on competition as a result of the proposed Rule changes.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The proposed Rule changes effecting substantive changes in the practice of the Corporation were described in an Administrative Bulletin to Clearing Division Participants dated November 22, 1988. Having received no comments, the Corporation redistributed the Administrative Bulletin on or about December 5, 1988. Again, no comments were received.

The Corporation announced in an Administrative Bulletin dated January 24, 1989 its intention to begin billing, on behalf of the PSA, Participants which are members of the PSA for charges and fees imposed by the PSA. No responses from Participants were received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such 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 File No. SR-MBS-89-3 and should be submitted by September 15, 1989.

For the Commission by the Division of Market Regulations, pursuant to delegated authority.

Dated: August 22, 1989

Jonathan G. Katz,

Secretary.

[FR Doc. 89-20422 Filed 8-29-89; 8:45 am]

BILLING CODE 8010-01-M

[34-27173; SR-MSE-89-7]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Clearing Corporation Relating to the Fee for Automated Customer Account Transfer Service Function, Transfer of Residual Credit Positions

August 23, 1989.

Pusuant 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 August 16, 1989 the Midwest Clearing Corporation ("MCC") filed with the Securities and Exchange Commission the proposeed 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

Midwest Clearing Corporation ("MCC") proposes to institute a fee for its newly created Automated Customer Account Transfer Service ("ACATS") function, Transfer of Residual Credit Positions. The service will be priced at $0.12 per item entered into the MST System.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change is designed to establish a fee for the Transfer of Residual Credit Positions, a service recently provided to MCC Participants through the ACATS system. This new function allows the delivering broker to initiate transfer of cash or securities which have been credited to an account after that account has been transferred via ACATS. (See SR-MCC-89-3)

The new fee is consistent with section a of the Securities Exchange Act of 1934 (the "Act") in that it provides for the equitable allocation of reasonable dues, fees and other charges among MCC's Participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

Midwest Clearing Corporation 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

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purpose of the Securities Exchange Act of 1934.

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 & Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to file number SR-MCC-89-7 and should be submitted by September 20, 1989.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 89-20416 Filed 8-29-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-27175; File No. SR-MSRB-89-4]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Professional Qualifications

On June 15, 1989, the Municipal Securities Rulemaking Board ("MSRB") submitted a proposed rule change (File No. SR-MSRB-89-4) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") to revise examination specifications and a study outline for the Municipal Securities Representative Qualification Examination (Series 52).[1] The MSRB also requested that the Commission delay the effectiveness of the proposed rule change until January 1, 1990, in order to permit the Series 52 question bank to be updated to reflect the revised test specifications and study outline and to provide time for information concerning the revised study outline to be circulated to the industry.

Notice of the proposed rule change was given in Securities Exchange Act Release No. 27016 (July 7, 1989), 54 FR 30488. The Commission received no comments on the proposal. This order approves the proposal.

In its filing with the Commission, the MSRB stated that specific subjects and questions have been updated from time to time in the series 52 examination to reflect changes in the municipal securities industry or in Board rules. At this time, however, the Board's Professional Qualifications Advisory Committee ("PQAC") [2] determined that a comprehensive review of the current study outline should be undertaken, both to ensure that the subject matter reflected current products and practices and to realign some of the topics for clarity. The Series 52 examination contains questions not only on municipal securities and the municipal markets, but also on U.S. Government, federal agency and money market instruments, government economic policy and behavior of interest rates, anjd applicable federal securities laws and regulations.

To achieve the PQAC's objective of the study outline reflecting current products and practices and ensuring clarity, some topics have been revised (*e.g.*, the section on "Revenue Bonds" was expanded and reformatted to reflect the increasing use of these bonds in the market). The most significant revision made to the current study outline concerns the topic of customer suitability. The current examination tests suitability indirectly by testing the components of suitability (*e.g.*, product knowledge, tax considerations, and Board rules). The revised study outline contains the topic "Customer Suitability Considerations" as a direct means to test suitability. This will be achieved by requiring the candidates to answer "application" questions by making suitability determinations with respect to a given customer's finance profile, investment objectives, tax status and similar information.

The examination specifications specify how the questions asked on each examination are to be allocated among the various topics. In general, the PQAC concluded that the allocation of questions in the current examination specificaitons are appropriate, although some changes were made to increase questions on some topics and to decrease the number in other topic areas. The revised question allocations to Part Two (U.S. Government, Federal Agencies, and Other Financial Instruments) reflects a realignment of the subject matter. The revised examination specifications have been filed under a separate letter dated June 14, 1989, requesting confidential treatment to Jonathan G. Katz, Secretary, SEC.

The revised examination will remain a three-hour, 100-question examination administered by the National Association of Securities Dealers, Inc. using Control Data Corporation's PLATO computer system.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB. In particular, the Commission finds that the proposal is consistent with section 15B(b)(2)(A) which requires the MSRB to propose and adopt the rules that:

> provide that no municipal securities broker or municipal securities dealer shall effect any transaction in, or induce or attempt to induce the purchase or sale of, any municipal security unless * * * such municipal securities broker or municipal securities dealer and every natural person associated with such municipal securities broker or municipal securities dealer meets such standards of training, experience, competence, and such other qualifications as the Board finds necessary or appropriate in the public interest or for the protection of investors.

Section 15B(b)(2)(A) of the Act also provides that the Board may appropriately classify municipal securities brokers and municipal securities dealers and their associated personnel and require persons in any such class to pass tests prescribed by the Board.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, the File No. SR-MSRB-89-04, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(12).

Dated: August 24, 1989.

Shirley E. Hollis,

Assistant Secretary.

FR Doc. 89-20419 Filed 8-29-89; 8:45 am]

BILLING CODE 9010-01-M

[34-27172, SR-NSCC-89-12]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the National Securities Clearing Corporation Regarding a Modification of Automated Customer Account Transfer Service Rules

August 23, 1989.

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 August 14, 1989, NSCC 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 National Securities Clearing Corporation (NSCC). The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of a modification of NSCC's Automated Customer Account Transfer Service Rules to provide for the automated transfer of Fund/SERV eligible book share mutual fund assets.

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[1] An application for confidential treatment of the revised examination specifications was filed with the Secretary of the Commission on June 14, 1989.

[2] The PQAC is composed of the Representative Examination Subcommittee and the principal Examination Subcommittee. The Subcommittees are composed of individuals with extensive experience in the securities industry. The committee members are employed by securities firms and bank dealers and come from diverse geographic locations.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC 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. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) The purpose of the proposed rule filing is to enhance NSCC's Automated Customer Account Transfer Service (ACAT Service) in order to permit the automated transfer of book share mutual fund assets for mutual funds associated with NSCC Fund Members and Mutual Fund Processors (hereinafter referred to as "Eligible Shares"). The enhancement will occur in two phases.

Under Phase I, only Receiving and Delivering Members (as those terms are used in the ACAT rule) who request to be included will be permitted to transfer Eligible Shares in an automated format. To be eligible to participate both the Receiving and Delivering Members will be required to input data to NSCC in automated format. In addition, NSCC will create standing transfer instructions which will be used in the event the Receiving Member does not properly and timely submit transfer instructions to NSCC.

NSCC expects to implement Phase II sixty days after implementation of Phase I. In Phase II all Members will become eligible Receiving Members, but to be eligible they must continue to have automated input capabilities. Receiving Members will also be given the opportunity to provide NSCC with standing transfer instructions.

Currently mutual fund assets, for the purposes of the ACAT Service, are categorized by NSCC as non-CNS eligible. If mutual fund shares are to be transferred, the Delivering and Receiving Members are debited and credited respectively, on settlement day, for the value of the mutual fund assets (along with the debits and credits for the value of all other non-CNS eligible assets), while the actual transfer of the mutual fund shares occurs directly between the Receiving and Delivering Members outside the ACAT Service.

Under the proposed enhancement, if an eligible fund asset is held in book share form and the Delivering Member submits all asset details in automated format, the transfer will be processed through NSCC's Fund/SERV Service. Neither the Deliverer nor the Receiver will be required to be a Fund/SERV user in order for this to occur. If shares are held in physical form or if the shares are not Eligible Shares they will continue to be transferred directly between the Receiving and Delivering Members outside the ACAT Service.

In order for the automated transfer of Eligible Shares to occur Delivering Members will be required to: (1) Submit all customer account asset details in automated format and (2) submit certain additional asset details pertaining to the mutual fund shares. These details are: (1) The customer account number at the Mutual Fund, (2) whether the number was assigned by the Delivering Member or the Mutual Fund, (3) a Networking control indicator (if the account is a Networking Account), (4) whether the account is held in customer or street name, (5) whether the shares are physical or book shares [1] and (6) the registered representative's identity. If the asset details are submitted in paper format the entire account process will be pended, the Receiving and Delivering Members will be notified and the Deliverer will be required to re-submit the details in automated format. NSCC will report the mutual fund asset details along with the other account asset details, to the Receiving and Delivering Member. Eligible mutual fund shares which are held in book share form, will be set forth in a separate category on the asset detail report.

Currently, a Receiving Member must, within two business days of receipt of the asset detail report, accept the account, request the Delivering Member to make adjustments, or reject the account. Under the proposed rule change the Receiving Member will also be required to submit transfer instructions for those mutual fund shares to be processed through Fund/SERV. If a Receiving Member makes an adjustment to the account the Receiving Member will be allowed two additional business days to submit the transfer information. If the Receiving Member fails to submit the instructions by the required time, or submits them incorrectly, NSCC will provide pre-established (standing) transfer instructions to the Fund Member or Mutual Fund Processor.

[1] If the Delivering Member indicates physical shares, then transfer will not occur in automated format, but as it does today.

Initially, the standing instructions will be derived by NSCC; eventually the Receiving Member will be able to establish his own standing transfer instructions. In the event the Receiving Member chooses not to provide standing instructions, the NSCC derived standing instructions will be used. A Registration Detail Report will be produced, advising Members of the transfer instructions received by the corporation, errors if any in such instructions and where no instructions were received, the standing instructions which will be sent to the Fund Member or Mutual Fund Processor. The Receiver will have the opportunity within the two business day time period to submit changes to this information prior to the instructions being submitted to the Fund Member or Mutual Fund Processor. The Delivering Member will continue to be debited on settlement day (as indicated on the ACATS Settlement Report) for the value of the Mutual fund asset and the Receiving Member will be credited with the value.

NSCC will transmit through Fund/SERV, to the Fund Member or Mutual Fund Processor, the transfer instructions and details of the Eligible Shares. The Fund Member or Mutual Fund Processor will be obligated to confirm or reject the data. Through ACATS, NSCC will notify the Receiving and Delivery Members, on a Statistics Report, of those items which have been confirmed or rejected and those to which there has not been a response. The Fund Member or Mutual Fund Processor will be reminded, on a daily basis, of the items which it has not confirmed or rejected. These pending items will be continually carried forward in the system. If the Member or Mutual Fund Processor rejects a Fund/SERV eligible book share mutual fund asset, NSCC, as part of the ACAT Service, will issue Receive and Deliver orders. The actual transfer of these rejected items will be required to be accomplished between the parties, outside the ACAT and Fund/SERV Services. On the day following the day a Fund Member or Mutual Fund Processor confirms Eligible Shares, NSCC will debit the Receiver and credit the Deliverer for the value of the assets as indicated on the Statistics Report. This reversing debit and credit entry will be separately set forth on the Member's settlement statement.

(b) The proposed rule change provides for the automated transfer of Fund/SERV eligible book share mutual funds as part of a transfer of a customer account from one brokerage firm to another. The rule change therefore, facilitates the prompt and accurate clearance and settlement of securities

transactions and is consistent with the requirements of the 1934 Act and the rules and regulations thereunder applicable to NSCC.

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule will have an impact or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments have been solicited or received. NSCC will notify the Commission of any written comments received.

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 published its reason 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 changes should be approved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change that are filed with 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 provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to file number SR–NSCC–89–12 and should be submitted by September 20, 1989.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 89–20414 Filed 8–29–89; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–27171 File No. SR–PSE–89–15]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to the Trading Privileges of Holders of Special Memberships

On June 6, 1989, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Act,[1] and Rule 19b–4 thereunder,[2] a proposed rule change to describe more clearly the trading privileges of holders of Special Memberships.

The proposed rule change was noticed in Securities Exchange Act Release No. 26961 (June 23, 1989), 54 FR 28140 (July 5, 1989). No comments were received by the Commission on the proposed rule change.

The PSE proposes to amend Rule IX, section 13, to describe more specifically the limitations on trading privileges accorded to holders of Special Memberships. Currently, under section 13, holders of Special Memberships issued by the Exchange are entitled to admission to the options trading floor and registration as a Market Maker or Floor Broker in options on the PSE Technology Index, Financial News Composite Index ("FNCI") and such other new products as the Board may determine to include.

The PSE proposes to add new language, in the form of Commentary .01 to section 13, to make clear that a market maker holding a special membership, while present on the options trading floor, may not place orders in option classes other than that for which the market maker is registered. In particular, Commentary .01 states that a market maker holding a special membership may bid, offer, purchase, write, and enter orders for his market maker account only in FNCI options series currently open for trading. The PSE has removed the reference to the PSE Technology Index in section 13 because that product is no longer traded. If a market maker holding a special membership wishes to place an order in an option class other than that for which he is registered, he must do so from off the floor. The market maker must identify the order as a customer order and any position established that was entered from off the floor will be placed in the market maker's investment account and subject to applicable customer margin. The PSE states that these specific procedures are designed to preclude any unfair competitive advantage over public orders.

The PSE proposes to add new Commentary .02 to section 13 that provides that floor brokers holding special memberships are limited to accepting and executing orders on option contracts on the FNCI.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of section 6[3] and the rules and regulations thereunder. Holders of special memberships are allowed to pay reduced fees in connection with the application for and acquisition or transfer of such memberships. In return, holders of special memberships are limited in the rights and privileges provided for regular members as set forth in the PSE Constitution. For example, a holder of a special membership is not entitled to vote at meetings of the Exchange, and is not eligible to be elected as a member of the Board of Governors. In addition, as described in this proposal, holders of special memberships are subject to certain limitations on the trading privileges associated with such memberships.

The Commission believes that the PSE's proposal, by more clearly delineating the limitations on trading privileges accorded to market makers and floor brokers holding special memberships, is an appropriate exercise of the Exchange's authority to create special classes of memberships. Such memberships are designed to enhance the ability of the Exchange to ensure fair and orderly markets. Accordingly, the proposal, by clarifying the rights of special memberships, is consistent with the protection of investors and the public interest pursuant to section 6(b)(5) of the Act.

Is therefore is ordered, pursuant to section 19(b)(2) of the Act,[4] that the proposed rule change is approved.

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1989).

[3] 15 U.S.C. 78f (1982).

[4] 15 U.S.C. 78s(b)(2) (1982).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Dated: August 23, 1989.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 89-20413 Filed 8-29-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-27162; File No. SR-PSE-89-08]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to the Summary Sanctioning of Members by Floor Officials

On May 15, 1989, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change to provide PSE Floor Officials with the authority to impose summary sanctions on PSE members by issuing floor citations.

The proposed rule change was published for comment in Securities Exchange Act Release No. 26901 (June 7, 1989), 54 FR 25522 (June 15, 1989). No comments were received on the proposed rule change.

Currently, floor citations are issued by a Floor Official to a member, member organization, or employee of a member organization when charged with an alleged violation of Exchange rules. The citation is then forwarded to Exchange staff for a complete investigation consisting of witness interviews, rule interpretation, documentary evidence evaluations, and other necessary research. After completion of the investigation, a memorandum is presented to the Options Floor Trading Committee ("Committee") for its evaluation and determination as to disposition of the matter. A finding of guilt results in the imposition of a fine in accordance with the Committee's "Recommended Fine Schedule."

In the current rule filing, the PSE proposes to simplify the floor citation process. Specifically, under the proposed rule change, Floor Officials will have the discretion, after the alleged occurrence of a violation, to conduct an immediate investigation and impose an automatic fine in accordance with the same fine schedule as employed by the Committee. The Exchange believes the proposed rule change will eliminate certain unnecessary and time-consuming procedures which exist in the processing of floor citations. In particular, the PSE believes that Floor Officials, due to their location on the trading floor, will have the ability to investigate and evaluate alleged violative conduct promptly, thereby allowing the Exchange to use its resources more effectively. Nevertheless, under the proposal, Floor Officials will retain the discretion to refer matters, particularly instances involving egregious or complicating factors, to the Committee for its evaluation and determination as to disposition.

The PSE, however, does not believe the expedited disciplinary procedures will compromise the due process rights of individuals that receive summary sanctions for the following reasons. First, similar to current PSE procedures, whereby a member may appeal the sanction imposed by the Committee, under the PSE proposal, a member may appeal the sanction imposed by Floor Officials pursuant to PSE Rule XX, Section 11.[3] Second, the proposal incorporates safeguards to prevent the arbitrary or capricious impositions of fines by floor officials.[4] Third, the Committee will receive a monthly report of the citations issued summarily for its review and discussion. Lastly, in order to protect against arbitrary or capricious determinations of sanction amounts, citing Floor Officials will follow a "Recommended Fine Schedule" when assessing fines.

The PSE also proposes to modify the "Recommended Fine Schedule" to increase by 100% the recommended fines for most trading violations. The Exchange believes that the increased sanctions will promote public confidence in the operations of the Exchange by discouraging violative conduct.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6.[5] Specifically, the Commission finds that simplifying the floor citation procedure and increasing the fine schedule is consistent with Sections 6(b)(6) and 6(b)(7) of the Act because violators of the Exchange's rules will be appropriately disciplined through a fair procedure. In particular, the Commission believes that the safeguards built into the summary sanction procedure (*i.e.*, the issuance of citations by two Floor Officials, the generation of monthly citation reports, the right to appeal summary sanctions, and the adherence to a "Recommend Fine Schedule") adequately ensure that the due process rights of PSE members are not diminished.

The rule violations subject to the Floor Citation Procedures solely concern floor procedure, and most are technical in nature. They include such violations as the failure of a member to time stamp an order, violation of conduct or dress standards, and improper execution of a cross transaction. Moreover, the floor citation plan proposed by the PSE is similar to plans adopted by other exchanges and approved by the Commission.[6] In addition, the PSE has filed a reporting plan for the Floor Citation violations under Section 19(d) of the Act and Rule 19d-1 thereunder. The procedures proposed by the PSE are consistent with Section 6(b)(5) of the Act in that they will make the disciplinary process for minor violations more timely and efficient while preserving the alleged violator's procedural rights. Finally, under the procedures Floor Officials retain the discretion to forward a violation to the Exchange Compliance Department if, for example, the violation was egregious or repetitive in nature.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, [7] that the proposed rule change (SR-PSE-89-08) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Dated: August 22, 1989.

Sirley E. Hollis,

Assistant Secretary.

[FR Doc. 89-20368 Filed 8-29-89; 8:45 am]

BILLING CODE 8010-01-M

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[5] 17 CFR 200.30-3(a)(12) (1989).

[1] 15 U.S.C. 78s(b)(12) (1934).

[2] 17 CFR 240.19b-4 (1988).

[3] The Exchange has amended recently the appeal process to clarify the precise procedures by which floor citations are reviewed, and to facilitate the systematic, complete and orderly operation of the review proceedings. Among other things, the new procedures clarify the right of an applicant to request that their appeal of floor citations be reviewed via oral presentation or based on written documentation. *See* Securities Exchange Act Release No. 27110 (August 9, 1989).

[4] Specifically, the proposal requires the participation of two Floor Officials for the issuance of a citation and imposition of a fine. Also, the proposed rule change mandates that the citing Floor Officials confer with Exchange staff before issuing the citation and fine.

[5] 15 U.S.C. § 78f (1982).

[6] *See e.g.* Securities Exchange Act Release No. 21918 (April 3, 1985) 50 FR 14068 (April 9, 1985).

[7] U.S.C. 78s(b)(2) (1982).

[8] 17 CFR 200.30-3(a)(12) (1986).

[Rel. No. 34-27154; File No. SR-PSE-89-20]

Proposed Rule Change By the Pacific Stock Exchange Inc. Relating to Orders Entered From Off the 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 August 8, 1989, the Pacific Stock Exchange Incorporated ("PSE" or the "Exchange") 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

ITEM 1. *Text of the Proposed Rule Change*

The Pacific Stock Exchange Incorporated ("PSE" or the "Exchange"), proposes to delete Options Floor Procedure Advice ("OFPA") B–11 and amend Rule VI, Section 73, to incorporate the language of OFPA B–11 as a commentary. The purpose for the proposed changes is to work toward the eventual elimination of all Procedure Advices from the rules. (Brackets indicate language to be deleted, italics indicate new language.)

Sec. 73 A Market Maker is an individual who is registered with the Exchange for the purpose of making transactions as dealer-specialist on the Floor of the Exchange in accordance with the provisions of this Section. Registered Market Makers are designated as specialists on the Exchange for all purposes under the Securities Exchange Act of 1934 and the Rules and Regulations thereunder. Only transactions that are initiated on the Floor of the Exchange shall count as Market Maker transactions for the purposes of this Section.

Commentary: .01 *Market Makers and Floor Brokers effecting transactions as Market Makers are instructed that, except as specified below, only transactions that are initiated on the Floor of the Exchange by that person shall count as Market Maker transactions and be entitled to special margin treatment, pursuant to the net capital requirements of Rule 15c3–1 of the Securities Exchange Act of 1934 and Regulation T of the Board of Governors of the Federal Reserve System.*

Accordingly, any position established for the account of a Market Maker which has been "entered from off the floor" must be placed in the Market Maker's investment account and be subject to applicable customer margin.

Market Maker clearing firms are directed to instruct their respective trading desks to identify their order as entered from off the floor by placing a "C" after the Market Maker's number in the firm box on the ticket. Floor Brokers, when accepting an order by phone from a Market Maker, are similarly directed to identify that order in the above manner.

An exception to the above stated procedure exists when an order is marked GTC, as referred to in Rule I, Section 6(a) of the Rules of the Exchange. A Market Maker, while on the floor, may enter a GTC order with a Floor Broker and still receive special margin treatment, as described above. However, the order must be a limit order where the quantity cannot be increased or the limit changed. If the order is increased or the limit changed, the GTC order shall be handled as a new order, subject to the guidelines of an "order entered from off the floor," and shall not receive the special margin treatment. Likewise, limit orders to "buy and sell" in the same series, discretionary orders, and "market not-held" orders may not be handled on a GTC basis without being subject to the above provisions applicable to "orders entered from off the 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. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The proposed rule change deletes Options Floor Procedure Advice B–11, and incorporates the amended language into Rule VI, Section 73. The purpose for this change is to work toward the eventual elimination of all Procedure Advices from the rules.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of the publication of this notice in the Federal Register or within such longer period: (1) 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;

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. 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 September 15, 1989.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 21, 1989.

Johathan G. Katz,

Secretary.

[FR Doc. 89-20423 Filed 8-29-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-21764; File No. SR-PHLX-89-16]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Specialist Allocation Restrictions Policy

I. Introduction

On March 23, 1989, the Philadelphia Stock Exchange, Inc. ("Exchange" or "PHLX") filed with the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] copies of a proposed rule change designed to impose allocation restrictions on a specialist unit that loses its registration in a specialty stock or options class as a result of an involuntary reallocation proceeding or a disciplinary proceeding.[3]

Notice of the filing of the proposed rule change together with its terms of substance was provided by the issuance of a Commission release (Securities Exchange Act Release No. 26714, April 11, 1989) and by publication in the **Federal Register** (54 FR 15581, April 18, 1989). No comments were received in connection with the proposal.

II. Description of the Proposal

PHLX Rule 506 delineates the application process for an equity book or options class in connection with an allocation or reallocation proceeding by the Exchange's Allocation, Evaluation and Securities Committee ("Committee"). The Exchange is proposing to add suplementary material .01 to PHLX Rule 506. The proposed supplementary material provision would prohibit a specialist unit from applying for any new listings for a six (6) month period immediately following the reallocation of a unit's stock book or options class as a result of: (i) An involuntary reallocation proceeding, or (ii) a disciplinary proceeding. The proposal also would prohibit the affected specialist from applying for any new listings for a subsequent six (6) month period unless the Exchange is satisfied that adequate corrective actions have been undertaken by the specialist.

The proposed rule change is intended to complement the provisions of PHLX Rules 511 and 515. PHLX Rule 511(b) establishes the substantive criteria that the Committee may consider when making allocation or reallocation decisions, and authorizes the Committee to allocate or reallocate equity books and options classes based on the results of specialist evaluations conducted pursuant to PHLX Rule 515 and any other factors the Committee deems appropriate. Additionally, because PHLX Rule 511(b) provides that all allocations and reallocations are made on a temporary basis for a period of up to 60 days, during that 60-day period the Committee may conduct a special review pursuant to PHLX Rule 515(b) to determine whether or not reallocation proceedings should be commenced. PHLX Rule 511(c) allows the Exchange to conduct a special review of a specialist's performance and, if necessary, to institute proceedings to determine whether to remove and reallocate an equity book or options class if a specialist unit has performed below minimum standards.

Rule 515 and the supplementary material thereto delineate the format for specialist evaluations by the Exchange. Pursuant to PHLX Rule 515 supplementary material .01 and .02, if an equity or options specialist unit performed below minimum standards on a prior occasion, did not have a specialty stock or options class reallocated, and continues over the next year to demonstrate performance weakness, a mandatory Committee review will be commenced to determine whether to reallocate one or more securities.

With respect to disciplinary proceedings conducted under the Exchange's Disciplinary Rules, PHLX Rule 960.10 authorizes the Business Conduct Committee to discipline members adjudicated to have violated an Exchange rule by "expulsion, suspension, fine, censure, limitations or terminations as to activities, functions, operations or association with a member or member organization, or any other fitting sanction." The Business Conduct Committee's authority in this area includes the authority to reallocate a specialist's securities.[4]

These rules do not specifically restrict a specialist unit's ability to receive new allocations following the reassignment of a security due to a reallocation or disciplinary action. The Exchange contends that it is inappropriate for a specialist unit to obtain a new listing during a period of time immediately subsequent to its loss of a listing. The Committee probably would not award new books immediately following a specialist unit's loss of a listing pursuant to a reallocation or disciplinary proceeding, but the Exchange contends that the proposed rule change will strengthen existing PHLX allocation, evaluation and reallocation rules by codifying that result. The Exchange believes that implementation of the proposal will provide notice to specialists of definite repercussions for substandard performance of their specialist responsibilities or being subject to serious disciplinary findings.

The Exchange also notes that the proposed rule change would not operate as a permanent bar to obtaining new listings. Rather, the prohibition would extend for a sufficiently long duration to grant a specialist time to remedy the operational deficiencies which originally led to the reallocation of its specialty securities. In this regard, the Exchange further notes that a second six (6) month prohibition would be imposed only if the Exchange is not satisfied that adequate corrective actions of the deficiencies which initially gave rise to the removal of the unit's specialist books have been undertaken by the specialist.

After the initial six month allocation restriction period, the specialist unit will be permitted to apply for new listings during the following six months, but only if the unit satisfactorily demonstrates that it has undertaken adequate measures to address the circumstances surrounding the reallocation of a specialty security.[5] In

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[1] 15 U.S.C. 782(b)(1) (1982).

[2] 17 CFR 240.129b-4 (1989).

[3] The proposal that is the subject of this approval order is similar to a New York Stock Exchange, Inc. ("NYSE") proposal recently approved by the Commission. See Securities Exchange Act Release No. 26487, January 24, 1989 (54 FR 4359, January 30, 1989) (Commission approval of File No. SR-NYSE-88-33).

[4] *See* PHLX By-Laws, § 10-9.

[5] The determination of whether a unit may apply for new listings during this second six month period will be made by the Committee for instances where securities have been reallocated pursuant to PHLX Rules 500 through 599. Where a specialist's securities have been reallocated pursuant to sanctions imposed by the Exchange's Business Conduct Committee under PHLX Rule 960.10, the Committee's determination will be made in consultation with the Business Conduct Committee. In making this determination, the Committee will have the discretion to consider, among other things, whether the unit hired additional manpower, including back office personnel, changes in the unit's professional staff, whether the unit implemented more stringent supervisory procedures, and its dealer participation rates in its specialty stock. *See* Letter from William W. Uchimoto, General Counsel, PHLX, to George E. Scargle, Staff Attorney, SEC, Division of Market Regulation, dated August 7, 1989.

the event that the Committee determines that the unit's corrective measures did not adequately address the circumstances surrounding the reassignment of the unit's specialty stock or options class, the unit would not be permitted to apply for new listings at that time.[6] A unit could, however, apply for another new listing at a later date during the second six month period; however, the submission of an application for a new listing would trigger an Exchange review of the unit's corrective measures. At the conclusion of the second six month restriction period, the specialist unit's eligibility to participate in the Exchange's allocation process would be fully restored.

The Exchange indicates that the new policy is designed to complement the Exchange's existing allocation, evaluation, and reallocation rules which provide standards to be considered by the Committee in awarding new allocations, but which do not specifically restrict a specialist unit's ability to receive new allocations following the reassignment of registration in a specialty stock or options class due to a disciplinary proceeding or performance improvement action. The Exchange further indicates that the policy is intended to specifically complement PHLX Rules 511 and 515, which, as discussed above, provide for the reallocation of one or more of a unit's equity books or options classes for substandard performance. As stated above, the Exchange believes that it would be inappropriate for a specialist unit to receive a new allocation during a period of time immediately following the loss of a listing pursuant to a disciplinary or reallocation proceeding.

The Exchange believes that the proposal is consistent with section 6(b) of the Act in that it will enhance its ability to ensure the fair allocation of securities to specialist units and to prevent the allocation of securities to specialist units whose performance is below acceptable standards. Further, the Exchange contends that for purposes of investor protection, the public interest and the maintenance of fair and orderly markets, it is consistent to impose temporary allocation restrictions on specialists who have had a security reallocated due to substandard performance and/or disciplinary actions.

III. Discussion and Conclusion

After careful consideration, the Commission believes that the Exchange's proposal to impose allocation restrictions on certain specialist units is consistent with the Act, and, therefore, has determined to approve the filing. In particular, the Commission believes, as the Exchange maintains, that a specialist unit whose performance leads to the reallocation of a security should not be allowed to participate in the allocation process until it demonstrates that its performance has improved. In this regard, the Commission believes that the initial six month allocation prohibition period should provide the unit with sufficient time to develop and implement the necessary corrective measures to rectify the deficiencies which led to the reassignment of a speciality security. The success of the unit's improvement initiatives during this period will determine whether it will be permitted to apply for new listings during the second six month period.[7]

Further, the allocation restriction policy will act as an incentive for improved specialist performance. Because the unit will be precluded from applying for new allocations during the allocation prohibition and conditionally prohibited for the following six months, the Commission believes that a unit will find it advantageous to avoid the consequences of a reallocation of an assigned security and subsequent imposition of the allocation restrictions by maintaining quality markets in its assigned securities as well as complying with Exchange rules and policies.

Under the proposal, the reallocation and subsequent imposition of the allocation restrictions is not a permanent impediment to a unit's future allocation success. In the event that a unit's specialty security is reallocated and the restriction period triggered, the unit has, as discussed above, six months to institute the necessary reforms to correct its deficiencies. The unit could only be restricted for an additional six month period if the Committee finds that the unit has not taken adequate steps to resolve the circumstances giving rise to the reallocation. Accordingly, at most, a unit could be precluded from applying for new allocations only for a twelve month period. The Commission does not believe a potential twelve month allocation bar for units that have had securities reallocated is too restrictive. Rather, we strongly believe it is consistent with investor protection, the public interest and the maintenance of fair and orderly markets to impose temporary allocation restrictions on specialists who have had a specialty security reallocated due to poor performance and/or disciplinary action.

Finally, the Commission believes that the safeguards provided for in the procedures governing performance improvement and disciplinary proceedings will ensure that a specialist unit subject to the allocation restrictions will receive proper notice and the opportunity to defend its performance prior to the imposition of the allocation restrictions. For the reasons noted above, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6 of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) [8] 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.[9]

Dated: August 22, 1989.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 89-20420 Filed 8-29-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-27151; File No. SR-PHLX-89-20]

Self-Regulatory Organizations; Philadelpha Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Floor Procedure and Compliance With Market Surveillance Data Requests

On May 22, 1989, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") submitted to the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to section 19(b)(1) of the Securities Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposed rule change to

[6] Even if the Exchange allows a unit to apply for a new allocation during (and after) this second six month period, the unit's disciplinary history, which will include a record of both the allocation restriction and the circumstances surrounding the reallocation of the unit's security, will be provided to the Committee under existing Exchange allocation, evaluation and reallocation rules. See, *e.g.*, PHLX Rules 506(d) and 511(b).

[7] In this regard, we note that the steps identified as factors that may be considered by the Exchange staff in reviewing a unit's improvement efforts should serve as guidelines for the unit to consider when developing its improvement initiatives. See note 5, *supra.*

[8] 15 U.S.C. 78s(b)(2) (1982).

[9] 17 CFR 200.30-3 (1989).

[1] 15 U.S.C. 78s(b)(12) (1984).

[2] 17 CFR 240.19b-4 (1988).

extend the PHLX's expedited disciplinary scheme for minor rule infractions to the Exchange's equity floor and impose fines on PHLX members and persons associated with PHLX members for failure to comply with data requests made by the Exchange's Market Surveillance Department.

The proposed rule change was published for comment in Securities Exchange Act Release No. 26889 (June 7, 1989), 54 FR 25526 (June 15, 1989). No comments were received on the proposed rule change.

In 1986, the Commission approved the adoption of PHLX Rule 970 that established an expedited disciplinary scheme for minor rule infractions.[3] Specifically, Rule 970 authorizes the PHLX to promulgate "Option Floor Procedure Advices ("Advices")" that describes minor rule infractions and permit the Exchange's Market Surveillance Department ("Surveillance") to impose fines (up to $2,500) for violations of these Advices according to pre-set fine schedules. The PHLX believes that the disciplinary scheme created by Rule 970 has worked well as: (1) Violators of Advices have been summarily cited for violations without the need of the Exchange's Business Conduct Committee to exercise its discretion on a case-by-case basis; and (2) violators of Advices have been treated uniformly and fairly because of the imposition of fines according to pre-set fine schedules.

By its terms, however, Rule 970 only authorizes the promulgation of "Option" Advices, and, therefore, only applies to infractions committed on the PHLX's equity option and currency option trading floors. Accordingly, the PHLX proposes to amend Rule 970 to extend the minor rule infraction plan to the equity trading floor because of its demonstrated efficiency and fairness on the PHLX's options trading floors.

Additionally, pursuant to the proposed expanded version of Rule 970, the PHLX proposes the adoption of two new identical floor procedure advices that would require PHLX members and persons associated with PHLX members to comply promptly with any request for information made by Surveillance in connection with any investigation within the Exchange's disciplinary jurisdiction.[4] In order to ensure compliance with such data requests, the Exchange also proposes to establish a fine schedule for violations of these Advices.[5] The Exchange believes the proposed Advices will expedite Surveillance investigations by enabling the Exchange to discipline quickly and effectively members who fail to respond in a timely fashion to Surveillance information requests.

The Commission finds that the proposed amendment to PHLX Rule 970 to permit the promulgation of Equity Floor Procedure Advices is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6.[6] Specifically, the Commission believes that the proposal is consistent with section 6(b)(1) of the Act because it will facilitate the enforcement by the Exchange of compliance with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange by PHLX members and persons associated with PHLX members.[7] The proposal will extend to minor equity violations a summary disciplinary procedure that has been fair and effective for minor options violations. The Commission also finds that the proposed amendment to Rule 970 is consistent with section 6(b)(6) of the Act because the penalties under the Equity Floor Procedure Advices are reasonable in relation to the infractions in question. Finally, the Commission finds that the floor procedure advice requiring members to comply promptly with information requests by Surveillance is consistent with the Act. As the Commission stated in approving a similar proposal by the New York Stock Exchange, "In order to effect its supervisory and compliance role over members and member organizations, it is necessary for the Exchange to have the ability to set timetables for the receipt of information, and the disciplinary authority to compel members to comply with such requests." [8]

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[9] that the proposed rule change (SR-PHLX-89-20) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Dated: August 18, 1989.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 89-20367 Filed 8-29-89; 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.

August 24, 1989.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Borden Chemicals and Plastics LP
Common Stock, No Par Value (File No. 7-5300)

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 September 15, 1989, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 89-20417 Filed 8-29-89; 8:45 am]

BILLING CODE 8010-01-M

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[3] *See* Securities Act Release No. 23296 (June 4, 1986) 51 FR 21430 (June 12, 1986).

[4] Under the proposal, the procedures would be called Options Floor Procedure Advices F-8 and Equity Floor Procedure Advice EM-1.

[5] The PHLX amended the proposed fine schedule by letter dated August 3, 1989 from William W. Uchimoto, General Counsel, PHLX, to Thomas Gira, Branch Chief, Division of Market Regulation, SEC. Specifically, the amendment provides that violations of the Advices will receive a $500 fine instead of a warning for the first occurrence of a violation.

[6] 15 U.S.C. 78f (1982).

[7] As with Option Floor Procedure Advices the Commission finds that the PHLX must file all proposed Equity Floor Procedure Advices with the Commission as proposed rule changes under Section 19(b) of the Act for its review and approval.

[8] *See* Securities Exchange Act Release No. 25763 (May 27, 1988) 53 FR 20925 (June 7, 1988) as 20929. The reasoning contained in that Release is incorporated in this Order.

[9] 15 U.S.C. 78s(b)(2) (1982).

[10] 17 C.F.R. 200.30-3(a)(12) (1986).

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

August 24, 1989.

The above named national securities exchange has filed application with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges ("UTP") limited to odd-lot transactions [1] in the securities listed in the attached Exhibit A.

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.[2]

Interested persons are invited to submit on or before September 1, 1989, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[1] Odd-lot transactions normally involve orders of less than 100 shares unless otherwise designated by an exchange. See *e.g.*, MSE Rules, Article XXXI, Rules 1 and 2.

[2] The MSE has indicated that all the securities on which they are seeking to trade UTP for odd-lot transactions only are listed and registered on the American Stock Exchange, Inc.

File Nos.	Description	Par value
7–4836	AIFS, Inc., Common Stock	$.10
4837	ATI Medical, Inc., Common Stock	No
4838	Abiomed Inc., Common Stock	.01
4839	Advanced Medical Technologies, Common Stock	.01
4840	Alliance Bancorporation, Common Stock	.01
4841	AmeriHealth, Inc., Common Stock	.01
4842	American Bank of Connecticut, Common Stock	1.00
4843	American Exploration Company, Common Stock	.05
4844	American Shared Hospital Services, Common Stock	No
4845	American Southwest Mortgage Investment Corporation Common Stock	1.00
4846	Arizona Land Income Corporation, Common Stock	.10
4847	Arrow Automotive Industries, Inc., Common Stock	.10
4848	Atlantis Group, Inc., C1 A Common Stock	.10
4849	B & H Ocean Carriers Ltd., Common Stock	.01
4850	B. B. Real Estate Investment Corporation, Common Stock	.01
4851	Bank of San Francisco, Common Stock	No
4852	BankAtlantic Financial Corporation, Capital Stock	.01
4853	Barr Laboratories, Inc., Common Stock	.01
4854	Barrister Information Systems Corporation, Common Stock	.24
4855	Bayou Steel Corporation, Common Stock	.01
4856	Biotherapeutics Incorporated, Common Stock	.002
4857	Biscayne Holdings, Inc., Class A Common Stock	.01
4858	Buffton Corp., Common Stock	.05
4859	Burnham Pacific Properties, Inc., Common Stock	No
4860	CIM High Yield Securities, Shares of Beneficial Interest	No
4861	COM Systems, Inc., Common Stock	No
4862	CXR Telecom Corporation, Common Stock	.0033
4863	Catalina Lighting, Inc., Common Stock	.01
4864	Cavalier Homes, Inc., Common Stock	.10
4865	Central Pacific Corporation, Common Stock	No
4866	Cenvill Development Corp., C1 A Common Stock	.01
4867	Clear Channel Communications, Inc., Common Stock	.10
4868	Collins Industries, Inc., Common Stock	.10
4869	Comptek Research Inc., Common Stock	.02
4870	Compumat, Inc., Common Stock	.01
4871	Corcap Inc., Common Stock	.01
4872	Cypress Fund, Inc., Common Stock	.001
4873	Damon Creations, Common Stock	1.00
4874	Datametrics Corporation, Common Stock	.01
4875	Dataram Corporation, Common Stock	.01
4876	Daxor Corporation, Common Stock	.01
4877	De Laurentiis Entertainment Group, Inc., Common Stock	.01
4878	De Rose Industries, Inc., Common Stock	No
4879	Decorator Industries, Inc., Common Stock	.20
4880	Del Laboratories, Inc., Common Stock	1.00
4881	Designatronics Incorporated, Common Stock	.04
4882	Designcraft Industries, Inc., Common Stock	.02
4883	Devon Resources Investors, Units of Partnership Interest	.10
4884	Di Industries, Inc., Common Stock	.10
4885	Diagnostic/Retrieval Systems, Inc., C1 A Common Stock	.01
4886	Diagnostic/Retrieval Systems, Inc., Class B Common Stock	.01
4887	Dickenson Mines Limited, C1 A Common Stock	No
4888	Dickenson Mines Limited, C1 B Common Stock	No
4889	Diodes, Inc., Common Stock	.66⅔
4890	Divi Hotels N.V., Common Stock	1.00
4891	Donnelly Corporation, C1 A Common Stock	.10

File Nos.	Description	Par value
4892	Dreyfus California Municipal Income, Inc., Common Stock	.001
4893	Dreyfus Municipal Income, Inc., Common Stock	.001
4894	Dreyfus New York Municipal Income, Inc., Common Stock	.001
4895	Driver-Harris Co., Common Stock	.83⅓
4896	Ducommon Inc., Common Stock	2.00
4897	Duplex Produce, Inc., Common Stock	1.00
4898	EAC Industries, Inc., Common Stock	.10
4899	EECO Incorporated, Common Stock	1.00
4900	ENSR Corporation, Common Stock	.01
4901	ESI Industries, Inc., C1 A Common Stock	.10
4902	Eagle Clothes, Common Stock	1.00
4903	Eagle Financial Corp., Common Stock	.01
4904	Eastgroup Properties SBI, Shares of Beneficial Interest	1.00
4905	Ecology & Environment, Inc., Common Stock	.01
4906	Ehrlich Bober Financial Corp., Common Stock	1.00
4907	Eldorado Bancorp, Common Stock	1.25
4908	Electrosound Group Inc., Common Stock	.01
4909	Ellsworth Convertible Growth & Income Fund, Common Stock	No
4910	Empire of Carolina, Common Stock	.10
4911	Endevco, Inc., Common Stock	.10
4912	Energy Development Partners Ltd., Depositary Units	No
4913	Engex Inc., Common Stock	.10
4914	Enzo Biochem, Inc., Common Stock	.01
4915	Escagenetics Corporation, Common Stock	.0001
4916	Espey Manufacturing & Electronics, Inc., Common Stock	.33⅓
4917	Esquire Radio Electronics, Inc., Common Stock	.10
4918	Etz Lavud Limited Ordinary Shares 5.25 Israeli Pounds	0.85
4919	Everest & Jennings International, C1 A Common Stock	.01
4920	Everest & Jennings International, C1 B Common Stock	.01
4921	FPA Corp., Common Stock	1.00
4922	Fab Industries Inc., Common Stock	.20
4923	Falcon Cable Systems Co., Inc., Units	No
4924	Fidelity National Financial, Inc., Common Stock	No
4925	First Central Financial Corporation, Common Stock	.10
4926	First Connecticut Small Business Investment Co. (The)	No
4927	First Corp. Inc., C1 A Common Stock	1.00
4928	First Federal Bancorp, Common Stock	.01
4929	First National Corp., Common Stock	No
4930	First Republic Bancorp, Inc., Common Stock	.01
	First State Corporation, Common Stock	5.00
4931	FirstFed America, Inc., Common Stock	.01
4932	Fischer & Porter Co., Common Stock	1.00
4933	Flexible Bond Trust, Inc., Common Stock	.001
4934	Florida Rock Industries, Inc., Common Stock	.10
4935	Foodarama Supermarkets, Inc., Common Stock	1.00
4936	Franklin Holding Corp. (The) Common Stock	1.00
4937	Friedman Industries, Incorporated, Common Stock	1.00
4938	Frisch's Restaurants, Inc., Common Stock	No
4939	Frozen Food Express Industries, Inc., Common Stock	1.50
4940	GRI Corporation, Common Stock	No
4941	GTI Corporation, Common Stock	.04
4942	Gainsco, Inc., Common Stock	.10
4943	Garan Incorporated, Common Stock	1.00
4944	Gelman Sciences, Inc., Common Stock	.10
4945	Gemco National, Inc., Common Stock	.50
4946	General Automation, Inc., Common Stock	.10
4947	General Employment Enterprises, Inc., Common Stock	No
4948	General Microwave Corporation, Common Stock	.01
4949	Genisco Technology Corp., Common Stock	.50
4950	Genovese Drug Stores, Inc., Common Stock	1.00
4951	Geothermal Resources International, Inc., Common Stock	.50
4952	Gibson (C.R.), Common Stock	.10
4953	Glatfelter (P.H.) Company, Common Stock	.01
4954	Glenmore Distilleries Co., Common Stock	1.00
4955	Gorman-Rupp Company (The) Common Stock	No
4956	Graham-Field Health Products, Inc., Common Stock	.025
4957	Granges Exploration Ltd., Common Stock	No
4958	Graphic Technology, Common Stock	.67
4959	Greater Washington Investors, Inc., Common Stock	.10
4960	Greiner Engineering, Inc., Common Stock	.50
4961	Guardian Bancorp, Common Stock	No
4962	HAL, Inc., Common Stock	3.00
4963	HEICO Corporation, Common Stock	16⅔
4964	HMG/Courtland Properties, Inc., Common Stock	1.00
4965	HUBCO, Inc., Common Stock	No
4966	Halifax Engineering, Inc., Common Stock	.35
4967	Hampton Industries, Inc., Capital Stock	1.00
4968	Hampton Utilities Trust, Capital Shares	.01
4969	Harvey Group Inc. (The) Common Stock	1.00
4970	Hastings Manufacturing Co., Common Stock	2.00
4971	Health-Chem Corporation, Common Stock	.01
4972	Health-Mor Inc., Common Stock	1.00

File Nos.	Description	Par value
4973	Healthcare International, Inc., Class A Common Stock	.10
4974	Hein-Werner Corporation, Common Stock	1.00
4975	Heldor Industries, Inc., Common Stock	No
4976	Hershey Oil Corporation, Common Stock	.10
4977	Hinderliter Industries, Inc., Common Stock	.01
4978	Hofmann Industries, Inc., Common Stock	.25
4979	Holco Mortgage Acceptance Corporation I, Common Stock	.01
4980	Holly Corporation, Common Stock	.01
4981	Hooper Homes, Inc., Common Stock	.04
4982	Howe Richardson, Inc., Common Stock	.01
4983	Howell Industries, Inc., Common Stock	No
4984	Howtek, Inc., Common Stock	.01
4985	Hubbell (Harvey) Inc., Common Stock	5.00
4986	Hudson General Corporation, Common Stock	1.00
4987	ICN Biomedicals, Inc., Common Stock	.01
4988	INCSTAR Corporation, Common Stock	.01
4989	IPM Technology, Inc., Common Stock	.25
4990	IRT Corporation, Common Stock	.10
4991	ISI Systems, Inc., Common Stock	.01
4992	ISS International Service System, Inc., Common Stock	.10
4993	IVAX Corporation, Common Stock	.10
4994	Income Opportunity Realty Trust, Shares of Beneficial Interest	No
4995	Insteel Industries, Inc., Common Stock	No
4996	Inter-City Gas Corp., Common Stock	No
4997	Intermark, Inc., Common Stock	1.00
4998	International Income Property Inc., Common Stock	.01
4999	International Power Machines Corp., Common Stock	.10
5000	International Proteins Corporation, Common Stock	.16⅔
5001	International Recovery Corp., Common Stock	.01
5002	Ionics Incorporated, Common Stock	1.00
5003	Iroquois Brands, Ltd., Common Stock	1.00
5004	Iverson Technology Corporation, Class A Common Stock	.01
5005	Jaclyn Inc., Common Stock	1.00
5006	Jacobs Engineering Group, Inc., Common Stock	1.00
5007	Jetronic Industries, Inc., Common Stock	.10
5008	Jewelmasters, Inc., Class A Common Stock	.01
5009	Johnson Products Co. Inc., Common Stock	.50
5010	Joule, Inc., Common Stock	.01
5011	Jumping-Jacks Shoes, Inc., Common Stock	.01
5012	K-V Pharmaceutical Company, Common Stock	.25
5013	KMW Systems Corporation, Common Stock	.10
5014	Kappa Networks, Inc., Common Stock	No
5015	Keithley Instruments, Inc., Common Stock	No
5016	Kent Electronics Corporation, Common Stock	No
5017	Kenwin Shops, Inc., Common Stock	1.00
5018	Kerkhoff Industries, Inc., Common Stock	No
5019	Ketchum & Co., Inc., Common Stock	1.00
5020	Ketema, Inc., Common Stock	1.00
5021	Keystone Camera Products Corp., Common Stock	.10
5022	Killearn Properties, Inc., Common Stock	.10
5023	Kleer-Vu Industries, Inc., Common Stock	.10
5024	Koala Technologies, Common Stock	No
5025	LSB Industries, Inc., Common Stock	.10
5026	LaBarge Inc., Common Stock	.25
5027	Lajolla Bancorp, Common Stock	No
5028	Lancer Corporation, Common Stock	.01
5029	Landmark Savings Association, Common Stock	1.00
5030	Landsing Pacific Fund, Common Stock	.001
5031	Larizza Industries, Inc., Common Stock	No
5032	Laurentian Capital Corporation, Common Stock	.05
5033	Lawrence Insurance Group, Inc., Common Stock	1.00
5034	Lazare Kaplan International, Inc., Common Stock	1.00
5035	Lillian Vernon Corporation, Common Stock	.01
5036	Lincoln N.C. Realty Fund, Inc., Common Stock	.01
5037	Linpro Specified Properties, Shares of Beneficial Interest	.01
5038	Littlefield, Adams & Company, Common Stock	1.00
5039	Lori Corporation (The), Common Stock	.01
5040	Lumex, Inc., Common Stock	.10
5041	Luria (L.) & Son, Inc., Common Stock	.01
5042	Lydall, Inc., Common Stock	3.33
5043	Lynch Corporation, Common Stock	No
5044	MEM Company, Inc., Common Stock	.05
5045	MSA Realty Corp., Common Stock	1.00
5046	MSR Exploration Ltd., Common Stock	No
5047	Maine Public Service Co., Common Stock	7.00
5048	Manufactured Homes, Inc., Common Stock	.50
5049	Marlton Technologies, Inc., Common Stock	.10
5050	Mars Graphic Services, Inc., Common Stock	No
5051	Matec Corp., Common Stock	.05
5052	Materials Research Corporation, Common Stock	1.00
5053	Matlack Systems, Common Stock	1.00
5054	McRae Industries, Inc., Class A Common Stock	1.00

File Nos.	Description	Par value
5055	McRae Industries, Inc., Class B Common Stock	1.00
5056	Medical Management America, Common Stock	.01
5057	Medical Properties, Inc., Common Stock	.01
5058	Medicore, Inc., Common Stock	.01
5059	Merchants Group, Inc., Common Stock	.01
5060	Merrimac Industries, Inc., Common Stock	.50
5061	Met-Pro Corporation, Common Stock	.10
5062	Metro Mobile CTS, Class B Common Stock	.10
5063	Metrobank, N.A., Common Stock	No
5064	Metropolitan Realty Corporation, Common Stock	.01
5065	Michaels Stores, Inc., Common Stock	.10
5066	Micron Products, Inc., Common Stock	.10
5067	Middleby Corporation, Common Stock	.01
5068	Midland Company (The), Common Stock	No
5069	Mission West Properties, Common Stock	No
5070	Moog, Inc., Class A Common Stock	1.00
5071	Moog, Inc., Class B Common Stock	1.00
5072	Morgan's Foods, Inc., Common Stock	No
5073	Mortgage Investments Plus, Inc., Common Stock	.01
5074	Mott's Supermarkets, Inc., Common Stock	1.00
5075	Mountain Medical Equipment, Inc., Common Stock	.10
5076	Muni Insured Fund, Inc., Common Stock	.10
5077	Munivest Fund, Inc., Common Stock	.10
5078	Myers Industries, Inc., Common Stock	No
5079	NCF Financial Corp., Common Stock	.01
5080	NECO Enterprises Inc., Common Stock	No
5081	NS Group, Inc., Common Stock	No
5082	Nantucket Industries, Inc., Common Stock	.10
5083	Nasta International, Inc., Common Stock	.01
5084	National Gas & Oil Co., Common Stock	1.00
5085	Nelson Holdings International Ltd., Common Stock	No
5086	New Line Cinema Corporation, Common Stock	.01
5087	Newcor, Inc., Common Stock	1.00
5088	Nichols (S.E.), Inc., Common Stock	.10
5089	Nichols Institute, Common Stock	.10
5090	North Canadian Oils, Ltd., Common Stock	No
5091	Nu Horizons Electronics, Inc., Common Stock	.01
5092	Nuclear Data, Inc., Common Stock	.50
5093	Numac Oil & Gas Ltd., Common Stock	No
5094	Nuveen New York Municipal Income Fund, Inc., Common Stock	.01
5095	O'Brien Energy Systems, Inc., Common Stock	.01
5096	O'Okiep Copper Co. Ltd., Common Stock	.10
5097	O'Sullivan Corp., Common Stock	1.00
5098	OEA, Inc., Common Stock	.10
5099	Odetics, Inc., Class A Common Stock	.10
5100	Odetics, Inc., Class B Common Stock	.10
5101	Ohio Art Company (The), Common Stock	1.00
5102	One Liberty Properties, Inc., Common Stock	1.00
5103	Oneita Industries Inc., Common Stock	.25
5104	Oppenheimer Industries, Inc., Common Stock	.10
5105	Oriole Homes Corp., Class A Common Stock	.10
5106	Oriole Homes Corp., Class B Common Stock	.10
5107	Oxford Energy Company (The), Common Stock	.01
5108	P. Leiner Nutrional Products Corp., Common Stock	1.00
5109	PEC Israel Economic Corp., Common Stock	1.00
5110	PLM International, Inc., Common Stock	.01
5111	PSE, Inc., Common Stock	.01
5112	Pantasote Inc., Common Stock	1.00
5113	Pauley Petroleum, Inc., Common Stock	1.00
5114	Paxar Corp., Common Stock	.10
5115	Pay-Fone Systems, Inc., Common Stock	.10
5116	Peerless Tube Co., Common Stock	1.33
5117	Penn Traffic Company (The), Common Stock	1.25
5118	Penobscot Shoe Co., Common Stock	1.00
5119	Penril Corporation, Common Stock	.01
5120	Perini Corporation, Common Stock	1.00
5121	Perini Investment Properties, Inc., Common Stock	1.00
5122	Peters (J.M.) Company, Inc., Common Stock	.10
5123	Petroleum Heat & Power Co., Inc., Common Stock	.10
5124	Pioneer Systems, Inc., Common Stock	.10
5125	Pitt-Des Moines Inc., Common Stock	No
5126	Pitts & West Virginia Railroad, SBI	No
5127	Pittway Corporation, Common Stock	.50
5128	Plymouth Rubber Company, Inc., Class A Common Stock	1.00
5129	Plymouth Rubber Company, Inc., Class B Common Stock	5.00
5130	Portage Industries Corporation, Common Stock	.01
5131	Prairie Oil Royalties Co. Ltd., Common Stock	No
5132	Pratt & Lambert, Inc., Common Stock	1.00
5133	Pratt Hotel Corporation, Common Stock	.01
5134	Precision Aerotech, Inc., Common Stock	.10
5135	Preferred Health Care Ltd., Common Stock	.01
5136	Presidential Realty Corp., Class A Common Stock	.10

File Nos.	Description	Par value
5137	Presidential Realty Corp., Class B Common Stock	.10
5138	Presidio Oil Company, Class A Common Stock	.10
5139	Presidio Oil Company, Class B Common Stock	.10
5140	Princeton Dignostic Laboratories of America, Inc. Common Stock	.01
5141	Princeton Dignostic Laboratories of American, Inc. Units	No
5142	Prism Entertainment Corporation, Common Stock	.01
5143	Pro-Med Capital, Inc., Common Stock	.01
5144	Professional Care, Inc., Common Stock	.02
5145	Property Capital Trust, Shares of Beneficial Interest	No
5146	Punta Gorda Isles, Inc., Common Stock	.10
5147	Quaker Fabric Corporation, Common Stock	.01
5148	Quebecor Inc., Class A Common Stock	No
5149	RB & W Corporation, Common Stock	1.00
5150	RMS International, Inc., Common Stock	.08
5151	Real Estate Securities Income Fund, Inc., Common Stock	.01
5152	Realty South Investors, Inc., Common Stock	.01
5153	Redlaw Industries, Inc., Common Stock	No
5154	Residential Mortgage Investments, Inc., Common Stock	.01
5155	Resort Income Investors, Inc., Common Stock	.01
5156	Riedel Environmental Technologies, Inc., Common	.01
5157	Rio Algom, Ltd., Common Stock	No
5158	Riser Foods, Inc., Common Stock	.01
5159	Riverbend International Corporation, Common Stock	.10
5160	Robert-Mark, Inc., Class A Common Stock	.10
5161	Rogers Corporation, Common Stock	1.00
5162	Ruddick Corp., Common Stock	1.00
5163	Rymac Mortgage Investment Corporation, Common Stock	.01
5164	SFM Corporation, Common Stock	1.00
5165	SIFCO Industries, Inc., Common Stock	1.00
5166	SJW Corp., Common Stock	6.25
5167	SPI Pharmaceuticals, Inc., Common Stock	.01
5168	Salem Corp., Common Stock	.50
5169	San Carlos Milling Co., Inc., Common Stock	1 16
5170	Sandy Corporation, Common Stock	.01
5171	Sanmark-Stardust Inc., Common Stock	.01
5172	Sbarro, Inc., Common Stock	.01
5173	Sceptre Resources Limited, Common Stock	No
5174	Schieb (Earl), Inc., Capital Stock	.01
5175	Schwab Safe Co., Common Stock	.50
5176	Science Management Corp., Common Stock	.10
5177	Scurry-Rainbow Oil Ltd., Common Stock	No
5178	Seaboard Corp., Common Stock	1.00
5179	Seaport Corporation, Common Stock	.50
5180	Selas Corp. of America, Common Stock	1.00
5181	Seligman & Associates Inc., Common Stock	.10
5182	Semtech Corporation, Common Stock	.01
5183	Servotronics, Inc., Common Stock	.20
5184	Shaer Shoe Corp., Common Stock	1.00
5185	Shelter Components Corporation, Common Stock	.01
5186	Sherwood Group, Inc., (The), Common Stock	.01
5187	Sierra Capital Realty IV Co., Common Stock	.001
5188	Sierra Capital Realty Trust VI, Common Stock	.01
5189	Sierra Capital Realty Trust VII Co., Common Stock	.001
5190	Sierracin Corp. (The) Company, Common Stock	1.00
5191	Sikes Corp., Class A Common Stock	.10
5192	Silvercrest Corporation, Common Stock	.10
5193	Skolniks, Inc., Common Stock	.001
5194	Sorg, Incorporated, Common Stock	1.00
5195	Southwest Bancorp, Common Stock	No
5196	Spartech Corporation, Common Stock	.75
5197	Speed-O-Paint Business Machines Corp., Common Stock	1.00
5198	Spelling Entertainment, Class A Common Stock	No
5199	Stage II Apparel Corp., Common Stock	.01
5200	Standard Shares, Inc., Common Stock	1.00
5201	Starrett Housing Corporation, Common Stock	1.00
5202	Sterling Capital Corp., Common Stock	1.00
5203	Stevens Graphics Corporation, Series A Common Stock	.10
5204	Stevens Graphics Corporation, Series B Common Stock	.10
5205	Struthers Wells Corp., Common Stock	1.00
5206	Sun City Industries, Inc., Common Stock	.10
5207	Sunbelt Nursery Group, Inc., Common Stock	.01
5208	Sunshine-Jr. Stores, Inc., Common Stock	.10
5209	Superior Industries International, Inc., Common Stock	.50
5210	Synalloy Corp. Common Stock	1.00
5211	T2 Medical, Inc., Common Stock	.01
5212	TEC Inc., Common Stock	.20
5213	TII Industries, Inc., Common Stock	01
5214	Tab Products Company, Common Stock	.01
5215	Tandy Brands, Inc., Common Stock	1.00
5216	Tasty Baking Company, Common Stock	.50
5217	Team, Inc., Common Stock	.30
5218	Tech/Ops Landaver, Inc., Common Stock	No

File Nos.	Description	Par value
5219	Tech/Ops Sevcon, Inc., Common Stock	No
5220	Technitrol, Inc., Common Stock	.125
5221	Technodyne, Inc., Common Stock	.05
5222	Tejon Ranch Co., Common Stock	.50
5223	TeleConcepts Corporation, Common Stock	.10
5224	Tenney Engineering, Inc., Common Stock	.10
5225	Thermo Environmental Corporation, Common Stock	.10
5226	Thermo Process Systems Inc., Common Stock	.10
5227	Thor Energy Resources, Inc., Common Stock	1.00
5228	Three D Departments, Inc., Class A Common Stock	.25
5229	Three D Departments, Inc., Class B Common Stock	.25
5230	Toffuti Brands, Inc., Common Stock	.01
5231	Torotel, Inc., Common Stock	.50
5232	Trans-Lux Corp., Common Stock	1.00
5233	Transcisco Industries, Inc., Class A Common Stock	.01
5234	Transcisco Industries, Inc., Class B Common Stock	.01
5235	Tranzonic Companies (The), Class B Common Stock	No
5236	Tranzonic Companies (The), Common Stock	No
5237	Tri-State Motor Transit Co. of Delaware, Common Stock	.66⅔
5238	Triangle Corporation (The), Common Stock	.50
5239	Triangle Home Products, Inc., Common Stock	.45
5240	Trust America Service Corp., Common Stock	.01
5241	Turner Corp, (The), Common Stock	1.00
5242	Two Pesos, Inc., Common Stock	.01
5243	UNO Restaurant Corporation, Common Stock	.01
5244	USP Real Estate Investment Trust Shares of Beneficial Interest	1.00
5245	Unicare Financial Corp., Common Stock	No
5246	Unimar Indonesian PTC, Units	No
5247	Union Valley Corporation, Common Stock	No
5248	United Capital Corp., Common Stock	.10
5249	United Foods, Inc., Class A Common Stock	1.00
5250	United Foods, Inc., Class B Common Stock	1.00
5251	United Medical Corporation, Common Stock	No
5252	United Video, Inc., Common Stock	.01
5253	Unitil Corp., Common Stock	No
5254	University Bank, National Association, Common Stock	.30
5255	VGC Corp., Class A Common Stock	.10
5256	VGC Corp., Class B Common Stock	.10
5257	VMS Hotel Investment Trust, Common Stock	No
5258	VMS Short Term Income Trust, Shares of Beneficial Interest	No
5259	VTX Electronics Corp., Common Stock	.10
5260	Vader Group, Inc., Common Stock	.10
5261	Valley Forge Corporation, Common Stock	.50
5262	Valley Resources, Inc., Common Stock	1.00
5263	Valspar Corp. (The), Common Stock	.50
5264	Van Kampen Merritt California Municipal Trust, Common Stock	.01
5265	Verit Industries, Common Stock	No
5266	Vermont American Corp., Class A Common Stock	1.00
5267	Vermont Research Corp., Common Stock	.50
5268	Versar, Inc., Common Stock	.01
5269	Viatech, Inc., Common Stock	.25
5270	Vicon Industries, Inc., Common Stock	.01
5271	Vintage Enterprises, Inc., Common Stock	.20
5272	Virco Manufacturing Corporation, Common Stock	.01
5273	Voplex Corporation, Common Stock	1.00
5274	Vulcan International Corp., Common Stock	No
5275	Vyquest, Inc., Common Stock	No
5276	Wang Laboratories, Inc., Class C Common Stock	.50
5277	Washington Post Company (The), Common Stock	1.00
5278	Watsco, Inc., Class A Common Stock	.50
5279	Watsco, Inc., Class B Common Stock	.50
5280	Weatherford International Inc., Common Stock	.10
5281	Wedco Technology Inc., Common Stock	.10
5282	Weiman Co. Inc., Common Stock	1.00
5283	Weldotron Corp., Common Stock	.05
5284	Wellco Enterprises, Inc., Common Stock	1.00
5285	Wells American Corporation, Common Stock	.02
5286	Wells-Gardner Electronics, Common Stock	1.00
5287	Wesco Financial Corporation, Common Stock	1.00
5288	Westair Holding, Inc., Common Stock	.01
5289	Westamerica Bancorporation, Common Stock	No
5290	Westbridge Capital Corporation, Common Stock	.10
5291	Westcorp, Inc., Common Stock	1.00
5292	Western Health Plans, Inc., Common Stock	No
5293	Western Investment Real Estate Trust, Shares of Beneficial Interest	No
5294	Wichita River Oil Corporation, Common Stock	No
5295	Wiener Enterprises, Inc., Common Stock	.100
5296	Winston Resources, Inc., Common Stock	.01
5297	Winthrop Insured Mortgage Investors II, Common Stock	No
5298	Wolf (Howard B.), Inc., Common Stock	.33⅓
5299	Yankee Companies, Inc. (The), Common Stock is selected	.10

[1] Phil. pesos.

[FR Doc. 89-20418 Filed 8-29-89; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 89-069]

New York Harbor Traffic Management Advisory Committee; Reestablishment

AGENCY: Coast Guard, DOT.

ACTION: Notice of renewal.

SUMMARY: The Secretary of Transportation has approved the reestablishment of the New York Harbor Traffic Management Advisory Committee. The purpose of this Committee is to advise the Coast Guard on matters relating to maritime traffic management and safety in the New York Harbor area.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander L. Brooks, USCG, Executive Secretary, New York Harbor Traffic Management Advisory Committee, Port Safety Office, Building 109, Governors Island, New York 10004, Phone (212) 668-7834.

This notice is issued under authority of the Federal Advisory Committee Act, Public Law 92-463, 5 U.S.C. App. 1.

Dated: August 25, 1989.

Robert T. Nelson,

Rear Admiral, U.S. Coast Guard, Chief, Office of Naval Safety and Waterway Services.

[FR Doc. 89-20451 Filed 8-29-89; 8:45 am]

BILLING CODE 4910-14-M

[CGD 89-66]

National Offshore Safety Advisory Committee; Meeting of Subcommittee

AGENCY: Coast Guard, Department of Transportation.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Act (Pub. L. 92-463; U.S.C. App. I), notice is hereby given to a meeting of the Tonnage Study Subcommittee of the National Offshore Safety Advisory Committee (NOSAC).

1. The subcommittee on the Tonnage Study will meet on September 25, 1989, in the 29th floor McDermott Inc. meeting room, Bank of New Orleans Building, 1010 Common Street, New Orleans, Louisiana 70112.

The meeting is scheduled to begin at 10:00 a.m. on Monday, September 25 and end at 4:00 p.m.

The agenda for the meeting will be to evaluate the progress that the Tonnage Study Subcommittee has made in preparing input for a Congressionally mandated study of the impact of applying tonnages determined under the 1969 Tonnage Convention measurement system to laws of the U.S. that contain provisions based on tonnage. This input includes recommended levels to which tonnage thresholds should be raised so that additional vessels will not become subject to more stringent requirements if Congress decides sometime in the future that a complete conversion to the Tonnage Convention system is warranted.

Members of the public may present oral or written statements at the meeting. Additional information may be obtained from Mr. Gene Hammel, Executive Director of NOSAC at U.S. Coast Guard Headquarters, G-MP-2, Room 2414, 2100 Second Street SW., Washington, DC 20593-0001, or by calling (202) 267-1406.

Dated: August 21, 1989.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 89-20446 Filed 8-29-89; 8:45 am]

BILLING CODE 4910-14-M

[CGD 89-056]

Mid-Continent Loran-C Expansion Project Group Repetition Interval Selection

AGENCY: U.S. Coast Guard, DOT.

ACTION: Notice and request for comments.

SUMMARY: Notice is hereby given that the U.S. Coast Guard has tentatively selected Group Repetition Intervals (GRIs) for the Mid-Continent Loran-C Expansion Project. These GRIs are 82,900 microseconds for the North Central U.S. (NOCUS) chain and 96,100 microseconds for the South Central U.S. (SOCUS) chain. This action precedes the creation of two new Loran-C chains in the mid-continental area of the U.S.

DATES: Comments should be submitted by September 29, 1989.

ADDRESSES: Comments concerning this selection may be sent to: Commandant (G-NRN-2), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001.

FOR FURTHER INFORMATION CONTACT: LTJG Roger Barnett, USCG—U.S. Coast Guard Headquarters, Radio-Aids Applications and Developments Branch at the above address; telephone 202/267-0298, (FTS) 267-0298.

SUPPLEMENTARY INFORMATION: The Mid-Continent Loran-C Expansion Project is a joint USCG/FAA project that closes the present gap in Loran-C coverage in the mid-continental area of the U.S.

This project will meet the requirements for aviation use of Loran-C in the FAA's National Airspace System. To close the gap in Loran-C coverage, the USCG is expanding the Great Lakes Loran-C chain and creating two new Loran-C chains. The Great Lakes chain will be expanded by adding Boise City, OK as the Zulu (Z) secondary. The two new Loran-C chains will be the North Central U.S. and the South Central U.S. chains. The first of these operational changes is anticipated by January 1991 and the expanded Loran-C coverage should be completed by 30 April 1991.

Information on the tentative selection of these GRIs has previously been provided to prospective Loran-C users by Local Notice to Mariners, published by the Coast Guard, and Notice to Airmen, published by the Federal Aviation Administration. No objections have been received. The purpose of this notice is to provide an opportunity for comment by other persons affected by the selection of Loran GRIs. Unless the GRIs are changed, no further Federal Register Notice will be published.

Dated: August 24, 1989.

J.W. Lockwood,

Captain, U.S. Coast Guard, Acting Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 89-20449 Filed 8-29-89; 8:45 am]

BILLING CODE 4910-14-M

Federal Railroad Administration

Petitions for Exemption or Waiver; Vermont Railway, et al.

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that five railroads have petitioned the Federal Railroad Administration (FRA) for a waiver of compliance with the provisions of the Hours of Service Act (83 Stat. 464, Pub. L. 91-169, 45 U.S.C. 64a(e)).

The Hours of Service Act currently makes it unlawful for a railroad to require specified employees to remain on duty for a period in excess of 12 hours. However, the Hours of Service Act contains a provision that permits a railroad which employs not more than 15 employees who are subject to the statute to seek an exemption from the 12-hour limitation.

Vermont Railway (VTR)

[FRA Waiver Petition Docket No. HS-89-4]

The VTR seeks this exemption so that it may permit certain employees to

remain on duty not more than 16 hours in any 24-hour period. The VTR states that it is not its intention to employ a train crew over 12 hours per day under normal operating conditions, but that, if granted, this exemption would help its operation if it encountered unusual operating conditions or circumstances. The VTR provides service on over 128 miles of track from a connection with the Central Vermont Railway at Burlington, Vermont to a connection with the Guilford Transportation Industries at White Creek, New York. In addition, this carrier interchanges cars with the Green Mountain and Clarendon & Pittsford Railroad at Rutland, Vermont.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Clarendon & Pittsford Railroad (CLP)

[FRA Waiver Petition Docket No. HS–89–5]

The CLP seeks this exemption so that it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The CLP states that it is not its intention to employ a train crew over 12 hours per day under normal operating conditions, but that, if granted, this exemption would help the CLP's operation if it encountered unusual operating conditions or circumstances. The CLP provides freight service on over 24 miles of track between Rutland, Vermont and Whitehall, New York. A branch line is operated between Florence Junction and Florence, Vermont. Interchange is made with the Vermont Railway and the Green Mountain at Rutland, Vermont and with the Delaware and Hudson Railway at Whitehall.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Ohi-Rail Corporation (OHIC)

[FRW Waiver Petition Docket No. HS–89–6]

The OHIC seeks this exemption so that it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The OHIC states that it is not its intention to employ a train crew over 12 hours per day under normal operating conditions, but that, if granted, this exemption would help its operation if it encountered unusual operating conditions or circumstances. The OHIC provides service on over 36 miles of track between a connection with the Norfolk Southern at Hopedale, Ohio and a connection with Conrail at Minerva, Ohio.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Port Utilities Commission of Charleston (PUCC)

[FRA Waiver Petition Docket No. HS–89–7]

The PUCC seeks this exemption so that it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The PUCC states that it is not its intention to employ a train crew over 12 hours per day under normal operating conditions, but that, if granted, this exemption would help its operation if it encountered unusual operating conditions or circumstances. The PUCC provides industrial switching service on over 1 mile of track in and around the Port of Charleston, South Carolina.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs not more than 15 employees and has demonstrated good cause for granting this waiver.

Port Terminal Railroad of South Carolina (PTRS)

[FRA Waiver Petition Docket No. HS–89–8]

The PTRS seeks this exemption so that it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The PTRS states that it is not its intention to employ a train crew over 12 hours per day under normal operating conditions, but that, if granted, this exemption would help its operation if it encountered unusual operating conditions or circumstances. The PTRS provides industrial switching service on less than one mile of trackage at North Charleston, South Carolina.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in these proceedings by submitting written views and comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. If any interested party desires an opportunity for oral comment, he or she should notify FRA, in writing, before the end of the comment period and specify the basis for his or her request. Any communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number HS–87–20) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

Communications received before October 16, 1989 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments during regular business hours (9 a.m.–5 p.m.) in Room 8201, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

Issued in Washington, DC, on August 21, 1989.

J.W. Walsh,

Associate Administrator for Safety.

[FR Doc. 89–20371 Filed 8–29–89; 8:45 am]

BILLING CODE 4910–06–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: August 24, 1989.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515–0056.

Form Number: CF 19.

Type of Review: Extension.

Title: Protest.

Description: The CF 19, Protest, is filed by the importer, consignee, or the person paying any charge or exaction, filing any claim for drawback, or seeking entry or delivery with respect to merchandise which is the subject of the decision protested.

Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents/Recordkeepers: 3,700.

Estimated Burden Hours Per Response/Recordkeeping: 1 hour, 20 minutes.

Frequency of Response: On occasion.

Estimated Total Recordkeeping/Reporting Burden: 23,432 hours.

Clearance Officer: Dennis Dore (202) 535-9267, U.S. Customs Service, Paperwork Management Branch, Room 6316, 1301 Constitution Avenue, NW., Washington, DC 20229.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 89-20396 Filed 8-29-89; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

August 24, 1989.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submissions(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0130.

Form Number: 1120S, Schedule D and Schedule K-1.

Type of Review: Revision.

Title: U.S. Income Tax Return for an S Corporation, Capital Gains and Losses and Built-In Gains, and Shareholder's Share of Income, Credits, Deductions, etc.—1989.

Description: Form 1120S, Schedule D (Form 1120S) and Schedule K-1 (Form 1120S) are used by an S Corporation to figure its tax liability; and income and other tax-related information to pass through to its shareholders. Schedule K-1 is used to report to shareholders their share of the corporation's income, deduction credits, etc. IRS uses the information to determine the correct tax for the S Corporation and its shareholders.

Respondents: Farms, Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 1,259,920.

Estimated Burden Hours Per Response/Recordkeeping:

	1120S	Sched. D	Sched. K-1
Recordkeeping...	60 hrs, 30 mins.	8 hrs, 37 mins.	17 hrs, 36 mins.
Learning about the law or the form	20 hrs, 31 mins.	3 hrs, 50 mins.	10 hrs, 7 mins.
Preparing the form	36 hrs, 22 mins.	8 hrs, 47 mins.	14 hrs, 35 mins.
Copying, assembling, and sending the form to IRS	4 hrs, 1 min.	1 hr, 20 min.	1 hr, 4 min.

Frequency of Response: Annually.

Estimated Total Recordkeeping/Reporting Burden: 295,437,354 hours.

OMB Number: 1545-0148.

Form Number: 2758.

Type of Review: Revision.

Title: Application for Extension of Time to File Excise, Income, Information, Certain Other Returns.

Description: Internal Revenue Code section 6081 permits the Secretary to grant a reasonable extension of time for filing any return, declaration, statement, or other document. This form is used by U.S. partnerships, fiduciary, and certain organizations, to request an extension of time to file their returns. The information is used to determine whether the extension should be granted.

Respondents: Businesses or other for-profit, Non-profit institutions, Small businesses or organizations.

Estimated Number of Respondents: 156,600.

Estimated Burden Hours Per Response/Recordkeeping:

Recordkeeping: 3 hours, 50 minutes.

Learning about the law or the form: 1 hour, 18 minutes.

Preparing the form: 4 hours, 13 minutes.

Copying, assembling, and sending the form to IRS: 48 minutes.

Frequency of Response: On occasion.

Estimated Total Recordkeeping/Reporting Burden: 574,490 hours.

Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 89-20373 Filed 8-29-89; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submissions(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0085.

Form Number: IRS Form 1040A.

Type of Review: Resubmission.

Title: U.S. Individual Income Tax Return.

Description: This form is used by individuals to report their income subject to income tax and to compute their correct tax liability and supplemental Medicare premium. The date is used to verify that the income reported on the form are correct and are also for statistics use.

Respondents: Individuals or households.

Estimated Number of Respondents: 18,334,000.

Estimated Burden Hours Per Response:

Recordkeeping: 1 hour, 21 minutes.

Learning about the law or the form: 2 hours, 13 minutes.

Preparing the form: 2 hours, 56 minutes.

Copying, assembling, and sending the form to IRS: 35 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 137,218,397 hours.

OMB Number: 1545-0975.

Form Number: IRS Form 1120-W.

Type of Review: Resubmission.

Title: Corporation Estimated Tax.

Description: Form 1120-W is used by corporations to figure estimated income tax liability and the amount of each installment payment. Form, 1120-W is a

worksheet only. It is not to be filed with the Internal Revenue Service.

Respondents: Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 900,000.

Estimated Burden Hours Per Response:

Recordkeeping: 27 hours, 52 minutes.

Learning about the law or the form: 1 hour, 40 minutes.

Preparing the form: 5 hours, 50 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 8,573,218 hours.

Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 89–20374 Filed 8–29–89; 8:45 am]

BILLING CODE 4810–25–M

Public Information Collection Requirements Submitted to OMB for Review

Dated: August 24, 1989.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Bureau of the Public Debt

OMB Number: 1535–0069.

Form Number: PD 5174–1, 5174–2, 5174–3, 5174–4, 5176–1, 5176–2, 5176–3, 5178, 5179, 5182, 5188, 5189 and 5201.

Type of Review: Reinstatement.

Title: Treasury Direct Forms.

Description. These forms are used by individuals/entities who wish to purchase Treasury bills, notes, and bonds and to maintain book-entry account with the Department of the Treasury. These forms are also used to support transactions dealing with TREASURY DIRECT system accounts.

Respondents: Individuals or households, Businesses or other for-profit.

Estimated Number of Respondents: 233,327.

Estimated Burden Hours Per Response: 10 minutes per form.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 38,731 hours.

OMB Number: 1545–0083.

Form Number: PD 5238.

Type of Review: Extension.

Title: Request for Redemption of U.S. Treasury Securities–State and Local Government Series One-Day Certificates of Indebtedness.

Description: This form is used to collect account redemption information from State and local Government entities wishing to redeem demand deposit U.S. Treasury securities–State and local Government Series. Information on the forms will be encoded to process redemptions of book-entry accounts on the records of the Bureau of Public Debt.

Respondents: State and local governments.

Estimated Number of Respondents: 30,000.

Estimated Burden Hours Per Response: 3 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 2,000 hours.

Clearance Officer: Rita DeNagy (202) 447–1640, Bureau of the Public Debt, Room 137, BEP Annex, 300 13th Street SW., Washington, DC 20239–0001.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 89–20375 Filed 8–29–89; 8:45 am]

BILLING CODE 4810–25–M

Customs Service

Entry/Entry Summary Required for Importation of Hong Kong Textiles; Change of Effective Date

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of change of effective date.

SUMMARY: Customs published a notice in the **Federal Register** (54 FR 13292) on March 31, 1989, stating that Customs was delaying implementation of the requirement that an entry/entry summary ("live" entry) be filed for all textiles and textile articles of Hong Kong origin which have a textile category number. The effective date set for the requirement in that notice was September 1, 1989. A determination has been made to delay the effective date of the requirement until January 1, 1990.

EFFECTIVE DATE: January 1, 1990.

FOR FURTHER INFORMATION CONTACT: Dick Crichton, Office of Trade Operations, (202) 566–9443 or Ilene Gilbert, Office of Trade Operations, (202) 566–6006.

SUPPLEMENTARY INFORMATION: On January 5, 1989, Customs published a document in the **Federal Register** (54 FR 349), stating that Customs will require the filing of an entry/entry summary ("live" entry) for all textiles and textile products which have a textile category number, effective February 1, 1989. A correction document for that notice was published in the **Federal Register** (54 FR 1844) on January 17, 1989. On February 1, 1989, Customs published a notice in the **Federal Register** (54 FR 3281), changing the effective date to April 1, 1989. Another notice of change was published in the **Federal Register** on March 31, 1989 (54 FR 13292) delaying the effective date of the entry/entry summary requirements for Hong Kong textiles and textile articles until September 1, 1989, when it was expected that a more modern environment would have been available to allow electronic filers an option to separate payment of duty from the filing of the entry summary documentation. A decision has been made by Customs to again delay the entry/entry summary requirements for Hong Kong textiles and textile products. The effective date of the requirement is now January 1, 1990. This document is a notice of the delayed effective date.

Dated: August 28, 1989.

Michael Schmitz,

Acting Commissioner of Customs.

[FR Doc. 89–20511 Filed 8–29–89; 8:45 am]

BILLING CODE 4820–02–M

Application for Recordation of Trade Name "TRIPLE FAT GOOSE"

ACTION: Notice of Application for Recordation of Trade Name.

SUMMARY: Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "TRIPLE FAT GOOSE", used by Turbo Sportswear, Inc., a corporation organized under the laws of the State of New Jersey, located

at One Walnut Street, Perth Amboy, New Jersey 08862.

The application states that the trade name is used in connection with men's and boy's down filled outwear and active sportswear. The merchandise is manufactured in Korea.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Notice of the action taken on the application for recordation of this trade name will be published in the Federal Register.

DATE: Comments must be received on or before October 30, 1989.

ADDRESS: Written comments should be addressed to U.S. Customs Service, Attention: Value, Special Programs and Admissibility Branch, 1301 Constitution Avenue NW. (Room 2104), Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Velma Taylor Value, Special Programs and Admissibility Branch, 1301 Constitution Avenue NW., Washington, DC 20229 (202-566-5765).

Dated: August 23, 1989.

Marvin M. Amernick,

Chief, Value, Special Programs and Admissibility Branch.

[FR Doc. 89-20547 Filed 8-29-89; 8:45 am]

BILLING CODE 4820-02-M

Internal Revenue Service

Tax on Certain Imported Substances; Notice of Filing of Petition

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice.

SUMMARY: This notice announces the acceptance under Notice 89-61, 1989-21 I.R.B. 25, of a petition requesting that polyethylene terephthalate be added to the list of taxable substances in section 4672(a)(3) of the Internal Revenue Code. Publication of this notice is in compliance with Notice 89-61. This is not a determination that the list of taxable substances should be modified.

DATE: Written comments and requests for a public hearing relating to this petition must be delivered or mailed by October 30, 1989.

ADDRESS: Send comments and requests for a public hearing to the Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 Attention: CC:CORP:T:R (Petition).

FOR FURTHER INFORMATION CONTACT: Ruth Hoffman, Office of Assistant Chief Counsel (Passthroughs and Special Industries). Telephone 202-566-4475 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The petition was received on June 30, 1989. The petitioner is Eastman Chemicals Division, Eastman Kodak Company, a manufacturer and exporter of this substance. The following is a summary of the information contained in the petition. The complete petition is available in the Internal Revenue Service Freedom of Information Reading Room.

Harmonized Tariff System number 3907.60.00
Schedule B number..... 3907.60.0000.5
Chemical Abstract Service number...25038-59-9

This substance is derived from the taxable chemicals *xylene* and *ethylene*. Polyethylene terephthalate (PET) is a polyester produced from terephthalic acid and ethylene glycol. Terephthalic acid is produced by the air oxidation of p-xylene, and ethylene glycol is produced by reaction of ethylene with oxygen and water.

The stoichiometric material consumption formula for this substance is:

$$100\ C_6H_4(CH_3)_2 + 101\ H_2C{:}CH_2 + 350.5\ O_2 + 101\ H_2O \rightarrow C_2H_6O_2(C_{10}H_8O_4)_{100} + 400\ H_2O$$

xylene — ethylene — oxygen — water — PET — water

According to the petition, taxable chemicals constitute 50.8 per cent by weight of the materials used to produce this substance. The rate of tax for this substance would be *$6.30* per ton. This is based upon a conversion factor for xylene of 0.5507 and a conversion factor for ethylene of 0.1470.

Dale D. Goode,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 89-20350 Filed 8-29-89; 8:45 am]

BILLING CODE 4830-01-M

Tax on Certain Imported Substances; Notice of Filing of Petition

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice.

SUMMARY: This notice announces the acceptance under Notice 89-61, 1989-21 I.R.B. 25, of petitions requesting that linear alpha olefins and polyalphaolefins be added to the list of taxable substances in section 4672(a)(3) of the Internal Revenue Code. Publication of this notice is in compliance with Notice 89-61. This is not a determination that the list of taxable substances should be modified.

DATE: Written comments and requests for a public hearing relating to this petition must be delivered or mailed by October 30, 1989.

ADDRESS: Send comments and requests for a public hearing to the Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 Attention: CC:CORP:T:R (Petition).

FOR FURTHER INFORMATION CONTACT: Ruth Hoffman, Office of Assistant Chief Counsel (Passthroughs and Special Industries). Telephone 202-566-4475 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The petitions were received on July 11, 1989. The petitioner is Ethyl Corporation, a manufacturer and exporter of these substances. The following is a summary of the information contained in the petitions. The complete petitions are available in the Internal Revenue Service Freedom of Information Reading Room.

Linear Alpha Olefins

Harmonized Tariff System number.....2901.29.1010-9
Schedule B number..... 2901.29.1010-9
Chemical Abstract Service number.... variable

This substance is derived from the taxable chemical ethylene. Linear alpha olefins are produced via the catalytic chain growth of ethylene.

The stoichiometric material consumption formula for this substance is:

$$n/2\ C_2H_4 \rightarrow C_nH_{2n}$$

ethylene — linear alpha olefin

According to the petition, taxable chemicals constitute 100 per cent by weight of the materials used to produce this substance. The rate of tax for this substance would be *$4.87* per ton. This is based upon a conversion factor for ethylene of 1.00.

Polyalphaolefins

Harmonized Tariff System number.....3902.90.0050–3
Schedule B number.....3902.90.0050–3
Chemical Abstract Service number.... variable

This substance is derived from the taxable chemical ethylene. Polyalphaolefins are produced by oligomerization of decene-1, a linear alpha olefin.

The stoichiometric material consumption formula for this substance is:

$$n/2\ C_2H_4 + H_2 \rightarrow C_nH_{2n+2}$$

ethylene hydrogen polyalphaolefin

According to the petition, taxable chemicals constitute 99.61 per cent by weight of the materials used to produce this substance. The rate of tax for this substance would be *$4.85* per ton. This is based upon a conversion factor for ethylene of 0.9961.

Dale D. Goode,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 89–20351 Filed 8–29–89; 8:45 am]
BILLING CODE 4830–01–M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 167
Wednesday, August 30, 1989

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).

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m. Tuesday, September 12, 1989.

PLACE: Board Room, Eighth Floor, 800 Independence Avenue SW., Washington, DC 20594.

STATUS: The first two items are open to the public. The last five items are closed to the public under Exemption 10 of the Government in Sunshine Act.

MATTERS TO BE CONSIDERED:

1. Marine Accident Report: Capsizing and Sinking of the U.S. Mobile Offshore Drilling Unit ROWAN GORILLA I, North Atlantic Ocean, December 15, 1988.
2. Reconsideration of Probable Cause: Midair Collision of SkyWest Airlines Metro II and Mooney M20, Kearns, Utah, January 15, 1987.
3. Opinion and Order: Administrator v. Janka and Newman, Dockets SE–8144 and SE–8159; disposition of the Admninistrator's appeal.
4. Opinion and Order: Administrator v. Godwin, Docket SE–8397; disposition of the respondent's appeal.
5. Opinion and Order: Administrator v. Hoag, Docket SE–8609; disposition of the appeals of both parties.
6. Opinion and Order: Administrator v. Sampson, Docket SE–8668; disposition of cross appeals.
7. Opinion and Order: Administrator v. Ruhn, Docket SE–9471; disposition of the Admninistrator's motion to dismiss.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382–6525.

Bea Hardesty,

Federal Register Liaison Officer.

August 24, 1989.

[FR Doc. 89–20526 Filed 8–28–89; 8:45 am]
BILLING CODE 7533–01–M

federal register

Wednesday
August 30, 1989

Part II

Environmental Protection Agency

40 CFR Parts 302 and 355
Reportable Quantity Adjustments; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 302 and 355

[FRL-3535-3]

RIN 2050-AC14

Reportable Quantity Adjustments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to adjust reportable quantities (RQs) for 232 extremely hazardous substances (EHSs) proposed for designation as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). These substances were originally listed as EHSs pursuant to section 302 of the Superfund Amendments and Reauthorization Act of 1986 (SARA) and were subsequently proposed for designation on January 23, 1989 (54 FR 3388). By adjusting the one-pound reporting triggers proposed under CERCLA section 102 and currently in effect under SARA section 304, EPA will reduce the reporting and response burdens on the regulated community and on Federal, State, and local governments, respectively. EPA also is proposing to adjust the RQs of 19 EHSs that are already listed as CERCLA hazardous substances but have RQs greater than their threshold planning quantities (TPQs). To adjust the RQs of these 251 substances, EPA is proposing to apply the methodology used to establish TPQs as part of the RQ adjustment methodology for those CERCLA hazardous substances meeting the EHS screening criteria.

DATES: Comments must be submitted on or before October 30, 1989.

ADDRESSES:

Comments: Comments should be submitted in triplicate to: Emergency Response Division, Attention: Superfund Docket Clerk, Docket Number 102 RQ-251EHS, Superfund Docket Room M2427, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Docket: Copies of materials relevant to this rulemaking are contained in Room M2427 at the U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The docket is available for inspection between the hours of 9 a.m. and 4 p.m., Monday through Friday, excluding Federal holidays. Appointments to review the docket can be made by calling 1-202/382-3046. As provided in 40 CFR Part 2, a reasonable fee (the first 50 pages are free and each additional page costs $.20) may be charged for copying services.

Release Notification: The toll-free telephone number of the National Response Center is 1-800/424-8802; in the Washington, DC metropolitan area, the number is 1-202/267-2675.

FOR FURTHER INFORMATION CONTACT: Ms. Gerain H. Perry, Response Standards and Criteria Branch, Emergency Response Division (OS-210), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; or the RCRA/Superfund Hotline at 1-800/424-9346; in the Washington, DC metropolitan area at 1-202/382-3000.

SUPPLEMENTARY INFORMATION: The contents of today's preamble are listed in the following outline:

I. Introduction

A. Statutory Authority

Under section 102(b) of the Comprehensive Environmental Reponse, Compensation, and Liability Act of 1980 (CERCLA) (Pub. L. 96-510), 42 U.S.C. 9601 et seq., as amended, a reportable quantity (RQ) of one pound is established for releases of hazardous substances, except those for which RQs were established pursuant to section 311 of the Clean Water Act (CWA). Under CERCLA section 103(a), the person in charge of a vessel or facility from which a hazardous substance has been released in a quantity that equals or exceeds its RQ must immediately notify the National Response Center (NRC) of the release.[1] In addition to this CERCLA reporting requirement, releases of hazardous substances in quantities equal to or greater than their RQs must be reported to State and local response authorities under section 304 of the Superfund Amendments and Reauthorization Act of 1986 (SARA) (Pub. L. 99-499). Releases of SARA Title III extremely hazardous substances (EHSs) that are not CERCLA hazardous substances must be reported under section 304 of SARA if the quantity released equals or exceeds one pound. The U.S. Environmental Protection Agency (EPA or the Agency) is authorized under section 102(a) of CERCLA to adjust RQs for hazardous substances.

B. Background of This Rulemaking

On April 4, 1985, EPA published a final rule (50 FR 13456) to clarify procedures for reporting releases of CERCLA hazardous substances, to list 698 "hazardous substances" defined under section 101(14) of CERCLA, and to adjust RQs for 340 of the CERCLA hazardous substances.[2] The preamble to that final rule discussed the CERCLA notification provisions (including the persons required to notify the NRC of a release, the hazardous substances for which notification is required, the types of releases subject to the notification requirements, and the exemptions from these requirements), the proposed methodology used to adjust the RQs, and the RQ adjustments proposed under section 102 of CERCLA and under section 311 of the CWA.

The Agency subsequently promulgated final rules that clarify CERCLA section 103(a) reporting procedures and set RQ adjustments for nearly all hazardous substances.[3] In

[1] A release into the environment of a substance that is not listed as a CERCLA hazardous substance, but which rapidly forms a CERCLA hazardous substance upon release, is subject to the notification requirements of section 103. If the amount of the CERCLA hazardous substance formed as such a reaction product equals or exceeds the RQ for that substance, the release must be reported to the NRC.

[2] Twenty-nine additional substances have been listed under section 101(14). These substances are: waste streams F020, F021, F022, F023, F026, F027, and F028 under section 3001 of RCRA (50 FR 1978, January 14, 1985); waste streams K111, K112, K113, K114, K115, and K116, o-toluidine, and p-toluidine under section 3001 of RCRA (50 FR 42936, October 23, 1985); waste streams K117, K118, and K136 under section 3001 of RCRA (51 FR 5327, February 13, 1986); 2-ethoxyethanol under section 3001 of RCRA (51 FR 6537, February 25, 1988); waste streams K123, K124, K125, and K126 under section 3001 of RCRA (51 FR 37725, October 24, 1986); and waste streams K064, K065, K066, K088, K090, and K091 under section of 3001 of RCRA (53 FR 35412, September 13, 1988). On October 31, 1988, two hazardous substances (iron dextran and strontium sulfide) were deleted from the list of CERCLA hazardous substances (53 FR 43878 and 53 FR 43881). Currently there are 725 CERCLA hazardous substances. Based on a final rule published on August 14, 1989 (54 FR 33426), a third substance (ammonium thiosulfate) will be deleted from the CERCLA list effective October 13, 1989.

[3] 51 FR 34534, September 29, 1986; 54 FR 22524, May 24, 1989, 54 FR 33418, August 14, 1989; 54 FR 33426, August 14, 1989. Adjusted RQs have not yet been promulgated for methyl isocyanate, lead metal, certain lead compounds, and 11 waste streams (K002, K003, K005, K048, K049, K051, K061, K062, K069, K086, and K100) that may contain lead and lead compounds.

addition, the Agency has proposed rules (53 FR 12868, April 19, 1988; 53 FR 27268, July 19, 1988) to clarify both the reduced reporting requirements for continuous releases (see CERCLA section 103(f)) and the exemption from CERCLA reporting and liability requirements for federally permitted releases (see CERCLA sections 101(10), 103(a), and 107(j)).

In 1986 Congress enacted Title III of SARA, also known as the "Emergency Planning and Community Right-to-Know Act of 1986," which established both a framework for emergency planning at the State and local levels and extensive requirements for reporting of stored or released hazardous chemicals to allow the public access to such information in local communities. Under the authority of section 302 of SARA, EPA published a list of EHSs for purposes of emergency planning, using screening criteria described in a November 17, 1986 interim final rule (51 FR 41570) and an April 22, 1987 final rule (52 FR 13378). Reports of releases of CERCLA hazardous substances and EHSs must be made to the State emergency response commission (SERC) and to the local emergency planning committee (LEPC) pursuant to SARA section 304. The November 17, 1986 interim final rule and the April 22, 1987 final rule also established the methodology for determining threshold planning quantities (TPQs). If a TPQ of an EHS is present at a facility, the facility becomes subject to the emergency planning requirements of SARA sections 302 and 303.

The list of EHSs and TPQs published on April 22, 1987 contained 406 substances. In **Federal Register** notices published on December 17, 1987 (52 FR 48072, 48083) and February 25, 1988 (53 FR 5574), EPA delisted 40 EHSs that were found not to meet the acute toxicity listing criteria. The EHS list has been codified in 40 CFR Part 355.

EPA today proposes to adjust the RQs of 251 substances by amending Table 302.4 of 40 CFR 302.4 and Appendices A and B of 40 CFR Part 355. Of these 251 substances, 232 are EHSs that were proposed for designation as CERCLA hazardous substances under CERCLA section 102(a) on January 23, 1989 (54 FR 3388). The remaining 19 substances are EHSs that were already listed as CERCLA hazardous substances, but had RQs greater than their TPQs. EPA also proposes to apply the methodology used to establish TPQs as part of the RQ adjustment methodology for those substances meeting the EHS screening criteria.

The proposed methodology for adjusting RQs is discussed in Section II of this preamble. Section III provides a summary of the analyses supporting this proposed rule.

II. Reportable Quantity Adjustments

A. Introduction

In this rulemaking, the Agency proposes to adjust RQs based upon specific scientific and technical criteria that relate to the possibility of harm from the release of a hazardous substance in certain amounts.[4] The quantity released is but one factor considered by the government when assessing the need to respond to such a release. Other factors, assessed on a case-by-case basis, include but are not limited to: (1) The location of the release; (2) its proximity to drinking water supplies or other valuable resources; and (3) the likelihood of exposure or injury to nearby populations. The RQ adjustments proposed today, when finalized, will enable the Agency to focus its resources on those releases that are most likely to pose potential threats to public health or welfare or the environment. These adjustments will also relieve the regulated community and emergency response personnel from the burden of making and responding to reports of releases that are unlikely to pose such threats.

For 65 of the EHSs to be designated as CERCLA hazardous substances and 19 EHSs that are already CERCLA hazardous substances, the adjusted RQ obtained by considering the existing RQ adjustment criteria (described in Section II.B.1 of today's preamble) would be higher than the TPQ under SARA section 302 for the same substance. As a result, emergency planning would be required for an amount on the plant site which, if entirely released, would not require reporting to the NRC, the SERC, or the LEPC. Several commenters on EPA's November 17, 1986 interim final rule (51 FR 41570) on EHSs, TPQs, and reporting requirements expressed concern that some EHSs had CERCLA RQs that exceeded their TPQs. The Agency is therefore proposing to resolve these differences between RQs and TPQs by considering the TPQ adjustment methodology as part of the RQ adjustment methodology (as described in Section II.B.2 of today's preamble). In contrast to the RQ adjustment methodology, the TPQ methodology includes an exposure factor (e.g., the ability of a substance to disperse) and provides for the selection of the most sensitive species in measuring acute mammalian toxicity. Therefore, by taking into account the TPQ methodology in adjusting RQs for CERCLA hazardous substances, greater protection of public health and welfare and the environment could result.

B. Summary of the Reportable Quantity Adjustment Methodology

1. Primary and Secondary Criteria

The Agency has wide discretion under CERCLA in adjusting the statutory RQs for hazardous substances. Administrative feasibility and practicality are important considerations. The Agency's selected methodology for adjusting RQs begins with an evaluation of the intrinsic physical, chemical, and toxicological properties of each hazardous substance. The intrinsic properties examined—called "primary criteria"— are aquatic toxicity, mammalian toxicity (oral, dermal, and inhalation), ignitability, reactivity, chronic toxicity, and potential carcinogenicity.

The Agency ranks hazardous substances for each intrinsic property on a relative ranking scale, associating a specific range of values on each scale with a particular RQ level. The RQ levels of 1, 10, 100, 1000, and 5000 pounds were originally established pursuant to CWA section 311 (see 40 CFR Part 117 and 44 FR 50776, August 29, 1979).

Hazardous substances that fall within EPA's weight-of-evidence Groups A, B, or C (i.e., known, probable, or possible human carcinogens, respectively) are ranked and assigned RQs based on potential carcinogenicity. These substances also receive a potency classification of Group 1, 2, or 3, with Group 1 representing the potential carcinogens with the highest relative potencies. The weight-of-evidence and potency groups are combined using a matrix (see 54 FR 33421, August 14, 1989) to yield a relative hazard ranking for each substance. The resulting hazard rankings—"high," "medium," and "low"—correspond with RQ levels of 1, 10, and 100 pounds, respectively.

Each hazardous substance evaluated under the six primary criteria is assigned several tentative RQ values based on its particular properties as data allow. The lowest of the tentative RQs becomes the "primary criteria RQ" for that substance.

For a more detailed discussion of the five primary criteria other than potential carcinogenicity, see the preambles to the April 4, 1985 and September 29, 1986

[4] RQs represent a determination only of possible or potential harm, not that releases of a particular amount of a hazardous substance necessarily will be harmful to the public health or welfare or the environment.

final rules (50 FR 13456, Section V.D.1; 51 FR 34534) and the Technical Background Document to Support Rulemaking Pursuant to CERCLA Section 102, Volumes 1 and 2. For a more detailed discussion of the RQ adjustment methodology based on the primary criterion of potential carcinogenicity, see the preamble to the August 14, 1989 final rule (54 FR 33418) in which EPA adjusts the RQs of six hazardous substances and the Technical Background Document to Support Rulemaking Pursuant to CERCLA Section 102, Volume 3. These documents are available for inspection at Room M2427, U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460.

After the primary criteria RQs are assigned, substances are further evaluated for their susceptibility to certain degradative processes that are used as secondary RQ adjustment criteria. These natural degradative processes are biodegradation, hydrolysis, and photolysis (BHP). These processes tend to reduce the relative potential for harm to the public health or welfare or the environment of many hazardous substance releases. If analysis indicates that an eligible hazardous substance degrades relative rapidly to a less harmful form by one or more of the BHP processes, its primary criteria RQ is raised one level on the basis of BHP.[5] If hazardous substances have primary criteria RQs already at the maximum assignable level or are found to be bioaccumulative, environmentally persistent, highly reactive (or otherwise unusually hazardous), or degradable to more hazardous products, they are not eligible for a one-level RQ increase on the basis of BHP. Furthermore, if available evidence shows that a hazardous substance degrades into a reaction product that is more hazardous than the original substance, the primary criteria are applied to the more hazardous product rather than to the original substance to determine the tentative RQ values for the original substance (51 FR 34534, September 29, 1986). For a more detailed discussion of the BHP criteria and their use in combination with the primary criteria, see the preamble to the April 4, 1985 final rule adjusting RQs (50 FR 13456, Sections V.C.1 and V.D.2) and the Technical Background Document to Support Rulemaking Pursuant to CERCLA Section 102, Volume 1, available for inspection at Room M2427, U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460.

[5] The Agency does not adjust RQs beyond 100 pounds for potential carcinogens based on BHP. See the preamble to the August 14, 1989 final rule (54 FR 33426) in which EPA adjusts the RQs of 258 hazardous substances.

2. Threshold Planning Quantity Methodology

The proposed integration of the TPQ methodology as part of the RQ adjustment methodology involves the followng steps. First, the screening criteria used to identify EHSs (see Table 1, adapted from the preamble to the November 17, 1986 interim final rule, for screening cutoff values) are applied to all CERCLA hazardous substances. As with the TPQ methodology, acute mammalian toxicity data, based on the most sensitive species, are used to establish a level of concern for each hazardous substance that meets the screening criteria. In addition, the dispersion potential of each of these hazardous substances is assessed by considering its physical state and volatility. These two factors, level of concern and dispersion potential, are combined to produce an index value. The screened substances are then ranked according to the index value. Tentative RQs are obtained from this ranking (see Table 2). As shown in the table, the index value ranges used to assign TPQs are combined to match the RQ levels, where necessary.

TABLE 1.—SCREENING CRITERIA TO IDENTIFY EHSS

Route of exposure*	Acute toxicity measure**	Screening cutoff value
Inhalation	Median Lethal Concentration in Air (LC_{50})	Less than or equal to 0.5 milligrams per liter of air.
Dermal	Median Lethal Dose (LD_{50})	Less than or equal to 50 milligrams per kilogram of body weight.
Oral	Median Lethal Dose (LD_{50})	Less than or equal to 25 milligrams per kilogram of body weight.

* The route by which the test animals absorbed the chemical, i.e., by breathing it in air (inhalation), by absorbing it through the skin (dermal), or by ingestion (oral).
** LC_{50}: The concentration of the chemical in air at which 50 percent of the test animals dies. LD_{50}: The dose that killed 50 percent of the test animals. In the absence of LC_{50} or LD_{50} data, LC_{LO} or LD_{LO} data should be used. LC_{LO}: Lethal Concentration Low, the lowest concentration in air at which any test animals dies. LD_{LO}: Lethal Dose Low, the lowest dose at which any test animals die.

TABLE 2—SCALES FOR ASSIGNING TPQS OR TENTATIVE RQS BASED ON THE TPQ ADJUSTMENT METHODOLOGY

TPQ (pounds)	Index value	Tentative RQ (pounds)
1	< 0.001	1
10	> 0.001 to < 0.01	10
100	> 0.01 to < 0.1*	100
500	> 0.1 to < 1*	100
1,000	> 1 to < 10	1,000
10,000	> 10**	5,000

* Because there is no 500 pound RQ level, these two index value ranges are combined to yield a single index value range (> 0.01 to < 1) equivalent to a tentative RQ of 100 pounds based on the TPQ adjustment methodology.
** Because RQs are not assigned at levels greater than 5,000 pounds, a hazardous substance with an index value equal to or greater than 10 is assigned a tentative RQ of 5,000 pounds based on the TPQ adjustment methodology.

Hazardous substances with the lowest index values (highest concern) are assigned tentative RQs equal to one pound. Hazardous substances with low index values are assigned tentative RQs of 10 pounds. Hazardous substances with moderate index values, i.e., those that have TPQs of 100 or 500 pounds, are assigned tentative RQs of 100 pounds. Hazardous substances with high index values are assigned tentative RQs of 1000 pounds, and those with the highest index values (TPQ=10,000 pounds) are assigned tentative RQs of 5000 pounds.

If the tentative RQ assigned in this way is lower than the primary and (if applicable) secondary criteria RQ, this tentative RQ using the TPQ methodology becomes the proposed RQ. EPA believes that the selection of the lower of the two numbers appropriately reflects a conservative and protective approach to setting RQs. This revised RQ adjustment process also will ensure that all substances will have TPQs equal to or greater than their RQs. For more detailed discussion of how the TPQ methodology is used as part of the RQ adjustment methodology, see the Technical Background Document to Support Adjustment of the Reportable Quantities of the Extremely Hazardous Substances Designated as CERCLA Hazardous Substances, Volume 5, available for inspection at Room M2427, U.S. Environmental Protection Agency,

401 M Street SW, Washington, DC 20460.

3. Alternative Approaches Considered

In developing the proposed methodology, EPA considered a number of other approaches to addressing differences between RQs and TPQs, including: a no-action alternative; raising TPQs or lowering RQs for individual EHSs; and an extensive reevaluation or modification of the RQ and TPQ methodologies to create a unified methodology. Each of these alternatives had significant drawbacks and was rejected. If EPA did not undertake any action, the RQ/TPQ differences would not be resolved, concerns expressed by commenters on the November 17, 1986 interim final rule (51 FR 41570) would not be addressed, and the Agency would have failed to fulfill its commitment in the preamble to the April 22, 1987 final rule (52 FR 13378) to address these differences. Changing RQs or TPQs for individual EHSs could undercut the validity of the RQ and TPQ methodologies, and future changes would be required for any RQ/TPQ differences that result from additions of substances to the EHS list. Major revisions to the RQ and TPQ methodologies could involve a significant amount of time for development and implementation, which would create uncertainty in the regulated community. Such revisions would affect large numbers of EHSs and CERCLA hazardous substances in addition to those that have RQ/TPQ differences.

Under the methodology proposed today, the concern about RQ and TPQ differences can be addressed in a timely and straightforward manner, based on a sound technical rationale. EPA will fulfill its commitment to resolve this issue, and all current and future TPQ/RQ differences will be addressed. Under this proposed methodology, no adjustments to TPQs or the TPQ methodology are required; an additional step is simply included in the existing RQ adjustment methodology. That step, integration of the TPQ methodology, is an appropriate addition to the RQ methodology in light of recent public and Congressional concern about sudden, catastrophic releases of highly toxic substances, which led to the development of the EHS and TPQ program.

A further discussion of the alternatives considered by the Agency in formulating this proposal appears on pages 2–3 through 2–5 of Volume 5 of the Technical Background Document and in the "Options Paper to Address Reportable Quantity and Threshold Planning Quantity Differences," which are available in the rulemaking record.

C. Substances for Which Adjusted RQs Are Being Proposed

In applying the EHS screening criteria to CERCLA hazardous substances, 143 substances were identified, including nine that are not currently on the EHS list.[6] Of these 143 substances, 19 substances (all currently on the EHS list) would have their RQs lowered based on application of the proposed methodology.[7] In this rule, EPA proposes RQ adjustments for these 19 EHSs and for the 232 EHSs that have been proposed for designation as CERCLA hazardous substances.

The primary criteria bases for the 251 proposed adjusted RQ adjustments are as follows: 109 are based only on acute mammalian toxicity; 17 are based only on chronic toxicity; seven are based only on potential carcinogenicity; and four are based only on ignitability. Twenty-seven proposed RQ adjustments are based on more than one primary criterion. Two of the EHSs have their primary criteria RQs raised one level by applying BHP. Eighty-five proposed RQ adjustments are based only on application of the TPQ adjustment methodology.

The 232 EHSs proposed to be added to the list of CERCLA hazardous substances have proposed statutory RQs of one pound. EPA is proposing RQ adjustments that would raise the RQs for 225 of those 232 EHSs. Seven of the EHSs would have adjusted RQs proposed at one pound. Of the 19 EHSs that are currently on the list of hazardous substances, 17 have RQs proposed to be lowered one level. Two of the 19, benzal chloride and hydrochloric acid, have RQs proposed to be lowered two levels.[8] EPA considers the proposed RQs to be appropriate reporting triggers for releases of these substances, because of their potential hazards and concerns about their existing RQs. The proposed revisions to the RQ methodology address those concerns by taking into account alternative measures of adverse effects, as discussed in the Technical Background Document to Support Adjustment of the Reportable Quantities of the Extremely Hazardous Substances Designated as CERCLA Hazardous Substances, Volume 5, available for inspection at Room M2427, U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460.

[6] For the nine substances not on the EHS list, application of the proposed RQ adjustment methodology would not result in a change in the RQ.

[7] At present, Appendices A and B of 40 CFR Part 355 incorrectly show a TPQ of 10,000 pounds for one of these 19 substances, "Muscimol," CAS No. 2763-96-4. The correct TPQ is 500 or 10,000 pounds, depending on the physical form of the substance. On July 21, 1989, the Agency proposed to adjust this TPQ (54 FR 30700).

[8] At present, Appendices A and B of 40 CFR Part 355 incorrectly show an RQ of one pound for "Hydrogen Chloride (Gas Only)," CAS No. 7647-01-0. The correct RQ for this substance, however, is the one that applies to hydrochloric acid, shown in Table 302.4 of 40 CFR Part 302 as 5000 pounds. The RQ proposed today is 100 pounds.

III. Summary of Supporting Analyses

A. Executive Order 12291

Executive Order (E.O.) 12291 requires that regulations be classified as major or nonmajor for purposes of review by the Office of Management and Budget (OMB). According to E.O. 12291, major rules are regulations that are likely to result in:

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

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

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

An economic analysis performed by the Agency, available for inspection at Room M2427, U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460, shows that today's proposed rule is nonmajor, because the rule will result in a cost savings of approximately $1.8 million annually. These cost savings reflect only those effects of the RQ adjustments that are: (1) readily quantifiable in dollars; and (2) associated with the release notification requirements under CERCLA section 103 and SARA section 304 (including the associated activities of recordkeeping, notification processing, monitoring, and response).

This proposed rule has been submitted to OMB as required by E.O. 12291.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires that a Regulatory Flexibility Analysis be performed for all rules that are likely to have a "significant impact on a substantial number of small entities." To determine whether a Regulatory Flexibility Analysis was necessary for today's proposed rule, a preliminary analysis was conducted using a computer model that simulated the typical operation of a small U.S. chemical company.

The results of the simulation indicate that the upper-bound total cost of compliance to small firms is negligible. See the Economic Impact Analysis of Reportable Quantity Adjustments for the Extremely Hazardous Substances Designated as CERCLA Hazardous Substances, Volume V, available for inspection at Room M2427, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Therefore, because today's proposed rule is not expected to have a significant impact on small entities, EPA certifies that no Regulatory Flexibility Analysis is necessary.

C. Paperwork Reduction Act

The information collection requirements contained in this proposed rule have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. Information Collection Request documents have been prepared by EPA (IRC No. 1049 and 1491) and copies may be obtained from Carl Koch, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, or by calling 1-202/382-2739.

The public reporting burden for this collection of information is estimated to vary from 8 to 11 hours per response, with an average of 8.3 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM-233, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

List of Subjects

40 CFR Part 302

Air pollution control, Chemicals, Hazardous chemicals, Hazardous materials, Hazardous materials transportation, Hazardous substances, Hazardous wastes, Intergovernmental relations, Natural resources, Pesticides and pests, Reporting and recordkeeping requirements, Superfund, Waste Treatment and disposal, Water pollution control.

40 CFR Part 355

Air pollution control, Chemical accident prevention, Chemical emergency preparedness, Chemicals, Community emergency response plan, Community right-to-know, Contingency planning, Extremely hazardous substances, Hazardous substances, Intergovernmental relations, Reportable quantity, Reporting and recordkeeping requirements, Superfund Amendments and Reauthorization Act, Threshold planning quantity.

Dated: August 2, 1989.

William K. Reilly,

Administrator.

For the reasons set out in the preamble, it is proposed to amend title 40 chapter I of the Code of Federal Regulations as follows:

PART 302—DESIGNATION, REPORTABLE QUANTITIES, AND NOTIFICATION

1. The authority citation for part 302 continues to read as follows:

Authority: 42 U.S.C. 9602; 33 U.S.C. 1321 and 1361.

2. Section 302.4 is amended by adding the following entries in alphabetical order to Table 302.4 and in CASRN order to Appendix A to § 302.4 as set forth below. The note preceding Table 302.4 is revised to read as follows:

§ 302.4 Designation of hazardous substances.

* * * * *

Note: The numbers under the column headed "CASRN" are the Chemical Abstracts Service Registry Numbers for each hazardous substance. Other names by which each hazardous substance is identified in other statutes and their implementing regulations are provided in the "Regulatory Synonyms" column. The "Statutory RQ" column lists the RQs for hazardous substances established by section 102 of CERCLA. The "Statutory Code" column indicates the statutory source of hazardous substances defined in section 101(14) of CERLA or designated under section 102 of CERLA: "1" indicates that the statutory source is section 311(b)(4) of the Clean Water Act, "2" indicates that the source is section 307(a) of the Clean Water Act, "3" indicates that the source is section 112 of the Clean Air Act, "4" indicates that the source is RCRA section 3001, and "5a" indicates that the source is SARA section 302. The "RCRA Waste Number" column provides the waste identification numbers assigned to various substances by RCRA regulations. The column headed "Category" lists the code letters "X", "A", "B", "C", and "D", which are associated with reportable quantities of 1, 10, 100, 1000, and 5000 pounds, respectively. The "Pounds (kg)" column provides the reportable quantity for each hazardous substance in pounds and kilograms.

TABLE 302.4—LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES

Hazardous Substance	CASRN	Regulatory synonyms	Statutory			Proposed RQ		
			RQ	Code †	RCRA Waste Number	Category	Pounds	Kg
Acetone thiosemicarbazide	1752303		1	5a		B	100	45.4
Acrylyl chloride	814686		1	5a		B	100	45.4
Adiponitrile	111693		1	5a		C	1,000	454
Allylamine	107119		1	5a		B	100	45.4
Aminopterin	54626		1	5a		A	10	4.54
Amiton	78535		1	5a		B	100	45.4
Amiton oxalate	3734972		1	5a		B	100	45.4
Amphetamine	300629		1	5a		B	100	45.4
Aniline, 2,4,6-trimethyl-	88501		1	5a		B	100	45.4
Antimony petafluoride	7783702		1	5a		B	100	45.4
Antimycin A	1397940		1	5a		C	1,000	454
Arsine	7784421		1	5a		X	1	0.454
Azinphos-ethyl	2642719		1	5a		B	100	45.4
Benzenamine, 3-(trifluoromethyl)-	98168		1	5a		B	100	45.4
Benzenearsonic acid	98055		1	5a		A	10	4.54
Benzene, 1-(chloromethyl)-4-nitro-	100141		1	5a		B	100	45.4
Benzimidazole, 4,5-dichloro-2-(trifluoromethyl)-	3615212		1	5a		B	100	45.4
Benzyl cyanide	140294		1	5a		B	100	45.4

TABLE 302.4—LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CASRN	Regulatory synonyms	Statutory			Proposed RQ		
			RQ	Code †	RCRA Waste Number	Category	Pounds	Kg
Bicyclo[2,2,1]heptane-2-carbonitrile, 5-chloro-6-(((methyl amino)carbonyl)oxy)m.	15271417		1	5a		B	100	45.4
Bis(chloromethyl) ketone	534076		1	5a		A	10	4.54
Bitoscanate	4044659		1	5a		B	100	45.4
Boron trichloride	10294345		1	5a		B	100	45.4
Boron trifluoride	7637072		1	5a		B	100	45.4
Boron trifluoride compound with methyl ether (1:1)	353424		1	5a		C	1,000	454
Bromadiolone	28772567		1	5a		B	100	45.4
Bromine	7726956		1	5a		B	100	45.4
Cadmium oxide	1306190		1	5a		A	10	4.54
Cadmium stearate	2223930		1	5a		A	10	4.54
Cantharidin	56257		1	5a		B	100	45.4
Carbachol chloride	51832		1	5a		B	100	45.4
Carbamic acid, methyl-, O-(((2,4-dimethyl-1,3-dithiolan-2-yl)methylene)amino)-.	26419738		1	5a		B	100	45.4
Carbophenothion	786196		1	5a		B	100	45.4
Chlorfenvinfos	470906		1	5a		B	100	45.4
Chlormephos	24934916		1	5a		B	100	45.4
Chlormequat chloride	999815		1	5a		B	100	45.4
Chloroacetic acid	79118		1	5a		B	100	45.4
Chloroethanol	107073		1	5a		B	100	45.4
Chloroethyl chloroformate	627112		1	5a		B	100	45.4
Chlorophacinone	3691358		1	5a		B	100	45.4
Chloroxuron	1982474		1	5a		B	100	45.4
Chlorthiophos	21923239		1	5a		B	100	45.4
Chromic chloride	10025737		1	5a		X	1	0.454
Cobalt carbonyl	10210681		1	5a		A	10	4.54
Cobalt, ((2,2'-(0,2-ethanediylbis (nitrilomethylidyne))bis(6-fluorophenolato))(2).	62207765		1	5a		B	100	45.4
Colchicine	64868		1	5a		A	10	4.54
Coumatetralyl	5836293		1	5a		B	100	45.4
Crimidine	535897		1	5a		B	100	45.4
Cyanogen iodide	506785		1	5a		C	1,000	454
Cyanophos	2636262		1	5a		C	1,000	454
Cyanuric fluoride	675149		1	5a		B	100	45.4
Cycloheximide	66819		1	5a		B	100	45.4
Cyclohexylamine	108918		1	5a		C	1,000	454
Decaborane(14)	17702419		1	5a		A	10	4.54
Demeton	8065483		1	5a		B	100	45.4
Demeton-S-methyl	919868		1	5a		B	100	45.4
Dialifor	10311849		1	5a		B	100	45.4
Diborane	19287457		1	5a		A	10	4.54
Dichloromethylphenylsilane	149746		1	5a		B	100	45.4
Dicrotophos	141662		1	5a		B	100	45.4
Diethyl chlorophosphate	814493		1	5a		B	100	45.4
Diethylcarbamazine citrate	1642542		1	5a		B	100	45.4
Digitoxin	71636		1	5a		B	100	45.4
Diglycidyl ether	2238075		1	5a		B	100	45.4
Digoxin	20830755		1	5a		A	10	4.54
Dimefox	115264		1	5a		B	100	45.4
Dimethyldichlorosilane	75785		1	5a		B	100	45.4
Dimethyl-p-phenylenediamine	99989		1	5a		X	1	0.454
Dimethyl phosphorochloridothioate	2524030		1	5a		B	100	45.4
Dimethyl sulfide	75183		1	5a		B	100	45.4
Dimetilan	644644		1	5a		B	100	45.4
Dinoterb	1420071		1	5a		B	100	45.4
Dioxathion	78342		1	5a		B	100	45.4
Diphacinone	82666		1	5a		A	10	4.54
Dithiazanine iodide	514738		1	5a		B	100	45.4
Emetine, dihydrochloride	316427		1	5a		X	1	0.454
Endothion	2778043		1	5a		B	100	45.4
EPN	2104645		1	5a		B	100	45.4
Ergocalciferol	50146		1	5a		B	100	45.4
Ergotamine tartrate	379793		1	5a		B	100	45.4
Ethanesulfonyl chloride, 2-chloro-	1622328		1	5a		B	100	45.4
Ethanol, 1,2-dichloro-, acetate	10140871		1	5a		B	100	45.4
Ethoprophos	13194484		1	5a		C	1,000	454
Ethylbis(2-chloroethyl)amine	538078		1	5a		B	100	45.4
Ethylene flurohydrin	371620		1	5a		A	10	4.54
Ethylthiocyanate	542905		1	5a		C	1,000	454
Fenamiphos	22224926		1	5a		A	10	4.54
Fenitrothion	122145		1	5a		B	100	45.4
Fensulfothion	115902		1	5a		B	100	45.4
Fluenetil	4301502		1	5a		B	100	45.4
Fluoroacetic acid	144490		1	5a		A	10	4.54
Fluoroacetyl chloride	359068		1	5a		A	10	4.54

TABLE 302.4—LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CASRN	Regulatory synonyms	Statutory			Proposed RQ		
			RQ	Code †	RCRA Waste Number	Category	Pounds	Kg
Fluorouracil	51218		1	5a		B	100	45.4
Fonofos	944229		1	5a		B	100	45.4
Formaldehyde cyanohydrin	107164		1	5a		C	1,000	454
Formetanate hydrochloride	23422539		1	5a		B	100	45.4
Formothion	2540821		1	5a		A	10	4.54
Formparanate	17702577		1	5a		B	100	45.4
Fosthietan	21548323		1	5a		B	100	45.4
Fuberidazole	3878191		1	5a		B	100	45.4
Gallium trichloride	13450903		1	5a		B	100	45.4
Hexamethylenediamine, N,N'-dibutyl-	4835114		1	5a		B	100	45.4
Hydrogen peroxide (concentration >52%)	7722841		1	5a		C	1,000	454
Hydrogen selenide	7783075		1	5a		X	1	0.454
Hydroquinone	123319		1	5a		B	100	45.4
Iron, pentacarbonyl-	13463406		1	5a		A	10	4.54
Isobenzan	297789		1	5a		B	100	45.4
Isobutyronitrile	78820		1	5a		C	1,000	454
Isocyanic acid, 3,4-dichlorophenyl ester	102363		1	5a		B	100	45.4
Isophorone diisocyanate	4098719		1	5a		B	100	45.4
Isopropyl chloroformate	108236		1	5a		C	1,000	454
Isopropyl formate	625558		1	5a		B	100	45.4
Isopropylmethylpyrazolyl dimethylcarbamate	119380		1	5a		B	100	45.4
Lactonitrile	78977		1	5a		C	1,000	454
Leptophos	21609905		1	5a		B	100	45.4
Lewisite	541253		1	5a		A	10	4.54
Lithium hydride	7580678		1	5a		A	10	4.54
Manganese, tricarbonyl methylcyclopentadienyl	12108133		1	5a		B	100	45.4
Mechlorethamine	51752		1	5a		A	10	4.54
Mephosfolan	950107		1	5a		B	100	45.4
Mercuric acetate	1600277		1	5a		B	100	45.4
Mercuric chloride	7487947		1	5a		B	100	45.4
Mercuric oxide	21908532		1	5a		B	100	45.4
Methacrolein diacetate	10476956		1	5a		C	1,000	454
Methacrylic anhydride	750930		1	5a		B	100	45.4
Methacryloyl chloride	920467		1	5a		B	100	45.4
Methacryloyloxyethyl isocyanate	30674807		1	5a		B	100	45.4
Methamidophos	10265926		1	5a		B	100	45.4
Methanesulfonyl fluoride	558258		1	5a		B	100	45.4
Methidathion	950378		1	5a		B	100	45.4
Methoxyethylmercuric acetate	151382		1	5a		B	100	45.4
Methyl 2-chloroacrylate	80637		1	5a		B	100	45.4
Methyl disulfide	624920		1	5a		A	10	4.54
Methyl isothiocyanate	556616		1	5a		B	100	45.4
Methylmercuric dicyanamide	502396		1	5a		A	10	4.54
Methyl phenkapton	3735237		1	5a		B	100	45.4
Methyl phosphonic dichloride	676971		1	5a		B	100	45.4
Methyl thiocyanate	556649		1	5a		C	1,000	454
Methyltrichlorosilane	75796		1	5a		B	100	45.4
Methyl vinyl ketone	78944		1	5a		A	10	4.54
Metolcarb	1129415		1	5a		B	100	45.4
Monocrotophos	6923224		1	5a		A	10	4.54
Mustard gas	505602		1	5a		X	1	0.454
Nicotine sulfate	65305		1	5a		A	10	4.54
Nitrocyclohexane	1122607		1	5a		B	100	45.4
Norbormide	991424		1	5a		B	100	45.4
Organorhodium complex (PMN-82-147)	00		1	5a		A	10	4.54
Ouabain	630604		1	5a		B	100	45.4
Oxamyl	23135220		1	5a		B	100	45.4
Oxetane, 3,3-bis(chloromethyl)-	78717		1	5a		B	100	45.4
Oxydisulfoton	2497076		1	5a		B	100	45.4
Ozone	10028156		1	5a		A	10	4.54
Paraquat	1910425		1	5a		A	10	4.54
Paraquate methosulfate	2074502		1	5a		A	10	4.54
Pentaborane	19624227		1	5a		A	10	4.54
Pentadecylamine	2570265		1	5a		B	100	45.4
Peracetic acid	79210		1	5a		A	10	4.54
Phenol, 3-(1-methylethyl)-, methylcarbamate	64006		1	5a		B	100	45.4
Phenol, 2,2'-thiobis(4-chloro-6-methyl-phenol, 2,2'-thiobis (4-chloro-6-methyl)-	4418660		1	5a		B	100	45.4
Phenol, 2,2'-thiobis(4-6-dichloro-	97187		1	5a		B	100	45.4
Phenoxarsine, 10,10'-oxydi	58366		1	5a		B	100	45.4
Phenylhydrazine hydrochloride	59881		1	5a		B	100	45.4
Phenylsilatrane	2097190		1	5a		B	100	45.4
Phosacetim	4104147		1	5a		B	100	45.4
Phosfolan	947024		1	5a		B	100	45.4
Phosmet	732116		1	5a		A	10	4.54
Phosphamidon	13171216		1	5a		B	100	45.4

TABLE 302.4—LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CASRN	Regulatory synonyms	Statutory			Proposed RQ		
			RQ	Code †	RCRA Waste Number	Category	Pounds	Kg
Phosphonothioc acid, methyl-, S-(2-(bis(1-methylethyl)amino)ethyl O-ethyl ester.	50782699		1	5a		A	10	4.54
Phosphonothioc acid, methyl-,O-(4-nitrophenyl) O-phenyl ester.	2665307		1	5a		B	100	45.4
Phosphonothioc acid, methyl-,O-ethyl O-(4-(methylthio)phenyl) ester.	2703131		1	5a		A	10	4.54
Phosphoric acid, dimethyl 4-(methylthio)phenyl ester	3254635		1	5a		B	100	45.4
Phosphorothioic acid, O,O-dimethyl-S-(2-methylthio)ethyl ester.	2587908		1	5a		B	100	45.4
Phosphorus pentachloride	10026138		1	5a		B	100	45.4
Phosphorus pentoxide	1314563		1	5a		A	10	4.54
Physostigmine	57476		1	5a		B	100	45.4
Physostigmine, salicylate (1:1)	57647		1	5a		B	100	45.4
Picrotoxin	124878		1	5a		B	100	45.4
Piperidine	110894		1	5a		B	100	45.4
Piprotal	5281130		1	5a		B	100	45.4
Pirimifos-ethyl	23505411		1	5a		C	1,000	454
Promecarb	2631370		1	5a		B	100	45.4
Propargyl bromide	106967		1	5a		X	1	0.454
Propiolactone, beta-	57578		1	5a		A	10	4.54
Propiophenone, 4-amino	70699		1	5a		B	100	45.4
Propyl chloroformate	109615		1	5a		B	100	45.4
Prothoate	2275185		1	5a		B	100	45.4
Pyridine, 2-methyl-5-vinyl	140761		1	5a		B	100	45.4
Pyridine, 4-nitro-, 1-oxide	1124330		1	5a		B	100	45.4
Pyriminil	53558251		1	5a		B	100	45.4
Salcomine	14167181		1	5a		B	100	45.4
Sarin	107448		1	5a		A	10	4.54
Selenium oxychloride	7791233		1	5a		B	100	45.4
Semicarbazide hydrochloride	563417		1	5a		B	100	45.4
Silane, (4-aminobutyl)diethoxymethyl-	3037727		1	5a		C	1,000	454
Sodium cacodylate	124652		1	5a		B	100	45.4
Sodium pentachlorophenate	131522		1	5a		B	100	45.4
Sodium selenate	13410010		1	5a		B	100	45.4
Sodium tellurite	10102202		1	5a		B	100	45.4
Stannane, acetoxytriphenyl-	900958		1	5a		A	10	4.54
Strychnine, sulfate	60413		1	5a		B	100	45.4
Sulfoxide, 3-chloropropyl octyl	3569571		1	5a		B	100	45.4
Sulfur dioxide	7446095		1	5a		B	100	45.4
Sulfur tetrafluoride	7783600		1	5a		B	100	45.4
Sulfur trioxide	7446119		1	5a		B	100	45.4
Tabun	77816		1	5a		A	10	4.54
Tellurium	13494809		1	5a		B	100	45.4
Tellurium hexafluoride	7783804		1	5a		B	100	45.4
Terbufos	13071799		1	5a		B	100	45.4
Tetraethyltin	597648		1	5a		A	10	4.54
Tetramethyllead	75741		1	5a		B	100	45.4
Thallous malonate	2757188		1	5a		B	100	45.4
Thiocarbazide	2231574		1	5a		B	100	45.4
Thiourea, (2-methylphenyl)-	614788		1	5a		B	100	45.4
Titanium tetrachloride	7550450		1	5a		B	100	45.4
Trans-1,4-dichlorobutene	110576		1	5a		B	100	45.4
Triamiphos	1031476		1	5a		B	100	45.4
Triazofos	24017478		1	5a		B	100	45.4
Trichloroacetyl chloride	76028		1	5a		B	100	45.4
Trichloro(chloromethyl)silane	1558254		1	5a		A	10	4.54
Trichloro(dichlorophenyl)silane	27137855		1	5a		B	100	45.4
Trichloroethylsilane	115219		1	5a		B	100	45.4
Trichloronate	327980		1	5a		B	100	45.4
Trichlorophenylsilane	98135		1	5a		B	100	45.4
Triethoxysilane	998301		1	5a		B	100	45.4
Trimethylchlorosilane	75774		1	5a		C	1,000	454
Trimethylolpropane phosphite	824113		1	5a		B	100	45.4
Trimethyltin chloride	1066451		1	5a		B	100	45.4
Triphenyltin chloride	639587		1	5a		B	100	45.4
Tris(2-chloroethyl)amine	555771		1	5a		A	10	4.54
Valinomycin	2001958		1	5a		B	100	45.4
Warfarin sodium	129066		1	5a		A	10	4.54
Xylylene dichloride	28347139		1	5a		B	100	45.4
Zinc, dichloro(4,4-dimethyl-5((((methylamino) carbonyl)oxy)imino)pentanenitrile)-,(T-4)-.	58270089		1	5a		B	100	45.4

†—Indicates the statutory source as defined by 1, 2, 3, or 4 below:
1—indicates that the statutory source for designation of this hazardous substance under CERCLA is CWA Section 311(b)(4).
2—indicates that the statutory source for designation of this hazardous substance under CERCLA is CWA Section 307(a).
3—indicates that the statutory source for designation of this hazardous substance under CERCLA is CAA Section 112.
4—indicates that the statutory source for designation of this hazardous substance under CERCLA is RCRA Section 3001.
5a—indicates that the statutory source for designation of this hazardous substance is CERCLA Section 102(a).

APPENDIX A—SEQUENTIAL CAS REGISTRY NUMBER LIST OF EXTREMELY HAZARDOUS SUBSTANCES

CASRN	Hazardous substance
0	Organorhodium complex (PMN-82-147).
50146	Ergocalciferol.
51218	Fluorouracil.
51752	Mechlorethamine.
51832	Carbachol chloride.
54626	Aminopterin.
56257	Cantharidin.
57476	Physostigmine.
57578	Propiolactone, beta-
57647	Physostigmine, salicylate (1:1)
58366	Phenoxarsine, 10, 10-oxydi.
59881	Phenylhydrazine hydrochloride.
60413	Strychnine, sulfate.
64006	Phenol, 3-(1-methylethyl)-, methylcarbamate.
64868	Colchicine.
65305	Nicotine sulfate.
66819	Cycloheximide.
70699	Propiophenone, 4-amino.
71636	Digitoxin.
75183	Dimethyl sulfide.
75741	Tetramethyllead.
75774	Trimethylchlorosilane.
75785	Dimethyldichlorosilane.
75796	Methyltrichlorosilane.
76028	Trichloroacetyl chloride.
77816	Tabun.
78342	Dioxathion.
78535	Amiton.
78717	Oxetane, 3,3-bis(chloromethyl)-.
78820	Isobutyronitrile.
78944	Methyl vinyl ketone.
78977	Lactonitrile.
79118	Chloroacetic acid.
79210	Peracetic acid.
80637	Methyl 2-chloroacrylate.
82666	Diphacinone.
88051	Aniline, 2,4,6-trimethyl-.
97187	Phenol, 2,2'-thiobis(4,5-dichloro-.
98055	Benzenearsonic acid.
98135	Trichlorophenylsilane.
98168	Benzenamine, 3-(trifluoromethyl)-.
99989	Dimethyl-p-phenylenediamine.
100141	Benzene, 1-(chloromethyl)-4-nitro-.
102363	Isocyanic acid, 3,4-dichlorophenyl ester.
106967	Propargyl bromide.
107073	Chloroethanol.
107119	Allylamine.
107164	Formaldehyde cyanohydrin.
107448	Sarin.
108236	Isopropyl chloroformate.
108918	Cyclohexylamine.
109615	Propyl chloroformate.
110576	Trans-1,4-dichlorobutene.
110894	Piperidine.
111693	Adiponitrile.
115219	Trichloroethylsilane.
115264	Dimefox.
115902	Fensulfothion.
119380	Isopropylmethylpyrazolyl dimethylcarbamate.
122145	Fenitrothion.
123319	Hydroquinone.
124652	Sodium cacodylate.
124878	Picrotoxin.
129066	Warfarin sodium.
131522	Sodium pentachlorophenate.
140294	Benzyl cyanide.
140761	Pyridine, 2-methyl-5-vinyl.
141662	Dicrotophos.
144490	Fluoroacetic acid.
149746	Dichloromethylphenylsilane.
151382	Methoxyethylmercuric acetate.
297789	Isobenzan.
300629	Amphetamine.

APPENDIX A—SEQUENTIAL CAS REGISTRY NUMBER LIST OF EXTREMELY HAZARDOUS SUBSTANCES—Continued

CASRN	Hazardous substance
316427	Emetine, dihydrochloride.
327980	Trichloronate.
353424	Boron trifluoride compound with methyl ether (1:1).
359068	Fluoroacetyl chloride.
371620	Ethylene fluorohydrin.
379793	Ergotamine tartrate.
470906	Chlorfenvinfos.
502398	Methylmercuric dicyanamide.
505602	Mustard gas.
506785	Cyanogen iodide.
514738	Dithiazanine iodide.
534076	Bis(chloromethyl) ketone.
535897	Crimidine.
538078	Ethylbis(2-chloroethyl)amine.
541253	Lewisite.
542905	Ethylthiocyanate.
555771	Tris(2-chloroethyl)amine.
556616	Methyl isothiocyanate.
556649	Methyl thiocyanate.
558258	Methanesulfonyl fluoride.
563417	Semicarbazide hydrochloride.
597648	Tetraethyltin.
614788	Thiourea, (2-methylphenyl)-.
624920	Methyl disulfide.
625558	Isopropyl formate.
627112	Chloroethyl chloroformate.
630604	Ouabain.
639587	Triphenyltin chloride.
644644	Dimetilan.
675149	Cyanuric fluoride.
676971	Methyl phosphonic dichloride.
732116	Phosmet.
760930	Methacrylic anhydride.
786196	Carbophenothion.
814493	Diethyl chlorophosphate.
814686	Acrylyl chloride.
824113	Trimethylolpropane phosphite.
900958	Stannane, acetoxytriphenyl-.
919868	Demeton-S-methyl.
920467	Methacryloyl chloride.
944229	Fonofos.
947024	Phosfolan.
950107	Mephosfolan.
950378	Methidathion.
991424	Norbormide.
998301	Triethoxysilane.
999815	Chlormequat chloride.
1031476	Triamiphos.
1066451	Trimethyltin chloride.
1122607	Nitrocyclohexane.
1124330	Pyridine, 4-nitro-, 1-oxide.
1129415	Metolcarb.
1306190	Cadmium oxide.
1314563	Phosphorus pentoxide.
1397940	Antimycin A.
1420071	Dinoterb.
1558254	Trichloro(chloromethyl)silane.
1600277	Mercuric acetate.
1622328	Ethanesulfonyl chloride, 2-chloro-.
1642542	Diethylcarbamazine citrate.
1752303	Acetone thiosemicarbazide.
1910425	Paraquat.
1982474	Chloroxuron.
2001958	Valinomycin.
2074502	Paraquat methosulfate.
2097190	Phenylsilatrane.
2104645	EPN.
2223930	Cadmium stearate.
2231574	Thiocarbazide.
2238075	Diglycidyl ether.
2275185	Prothoate.
2497076	Oxydisulfoton.
2524030	Dimethyl phosphorochloridothioate.
2540821	Formothion.
2570265	Pentadecylamine.

APPENDIX A—SEQUENTIAL CAS REGISTRY NUMBER LIST OF EXTREMELY HAZARDOUS SUBSTANCES—Continued

CASRN	Hazardous substance
2587908	Phosphorothioic acid, 0,0-dimethyl-S-(2-methylthio) ethyl ester.
2631370	Promecarb.
2636262	Cyanophos.
2642719	Azinphos-ethyl.
2665307	Phosphonothioc acid, methyl-,0-(4-nitrophenyl) 0-phenyl ester.
2703131	Phosphonothioic acid, methyl-,0-ethyl 0-(4-(methylthio)phenyl) ester.
2757188	Thallous malonate.
2778043	Endothion.
3037727	Silane, (4-aminobutyl)diethoxymethyl-.
3254635	Phosphoric acid, dimethyl 4-(methylthio)phenyl ester.
3569571	Sulfoxide, 3-chloropropyl octyl.
3615212	Benzimidazole, 4,5-dichloro-2-(trifluoromethyl)-.
3691358	Chlorophacinone.
3734972	Amiton oxalate.
3735237	Methyl phenkapton.
3878191	Fuberidazole.
4044659	Bitoscanate.
4098719	Isophorone diisocyanate.
4104147	Phosacetim.
4301502	Fluenetil.
4418660	Phenol, 2,2'-thiobis[4-chloro-6-methyl-phenol, 2,2'-thiobis (4-chloro-6-methyl)-.
4835114	Hexamethylenediamine, N,N'-dibutyl-.
5281130	Piprotal.
5836293	Coumatetralyl.
6923224	Monocrotophos.
7446095	Sulfur dioxide.
7446119	Sulfur trioxide.
7487947	Mercuric chloride.
7550450	Titanium tetrachloride.
7580678	Lithium hydride.
7637072	Boron trifluoride.
7722841	Hydrogen peroxide (concentration > 52%).
7726956	Bromine.
7783075	Hydrogen selenide.
7783600	Sulfur tetrafluoride.
7783702	Antimony pentafluoride.
7783804	Tellurium hexafluoride.
7784421	Arsine.
7791233	Selenium oxychloride.
8065483	Demeton.
10025737	Chromic chloride.
10026138	Phosphorus pentachloride.
10028156	Ozone.
10102202	Sodium tellurite.
10140871	Ethanol, 1,2-dichloro-, acetate.
10210681	Cobalt carbonyl.
10265926	Methamidophos.
10294345	Boron trichloride.
10311849	Dialifor.
10476956	Methacrolein diacetate.
12108133	Manganese, tricarbonyl methylcyclopentadienyl.
13071799	Terbufos.
13171216	Phosphamidon.
13194484	Ethoprophos.
13410010	Sodium selenate.
13450903	Gallium trichloride.
13463406	Iron, pentacarbonyl-.
13494809	Tellurium.
14167181	Salcomine.
15271417	Bicyclo[2,2,1]heptane-2-carbonitrile, 5-chloro-5-((((methylamino)carbonyl)oxy)m.
17702419	Decaborane(14).
17702577	Formparanate.
19287457	Diborane.
19624227	Pentaborane.
20830755	Digoxin.
21548323	Fosthietan.

APPENDIX A—SEQUENTIAL CAS REGISTRY NUMBER LIST OF EXTREMELY HAZARDOUS SUBSTANCES—Continued

CASRN	Hazardous substance
21609905	Leptophos.
21908532	Mercuric oxide.
21923239	Chlorthiophos.
22224926	Fenamiphos.
23135220	Oxamyl.
23422539	Formetanate hydrochloride.
23505411	Pirimifos-ethyl.
24017478	Trizofos.
24934916	Chlormephos.
26419738	Carbamic acid, methyl-, 0-(((2,4-dimethyl-1,3-dithiolan-2-yl)methylene)amino)-.

APPENDIX A—SEQUENTIAL CAS REGISTRY NUMBER LIST OF EXTREMELY HAZARDOUS SUBSTANCES—Continued

CASRN	Hazardous substance
27137855	Trichloro(dichlorophenyl)silane.
28347139	Xylylene dichloride.
28772567	Bromadiolone.
30674807	Methacryloyloxyethyl isocyanate.
50782699	Phosphonothioc acid, methyl-, S-(2-bis(1-methylethyl)amino)ethyl 0-ethyl ester.
53558251	Pyriminil.
58270089	Zinc, dichloro(4,4-dimethyl-5((((methylamino)carbonyl)oxy)imino) pentanenitrile)-,(T-4)-.

APPENDIX A—SEQUENTIAL CAS REGISTRY NUMBER LIST OF EXTREMELY HAZARDOUS SUBSTANCES—Continued

CASRN	Hazardous substance
62207765	Cobalt, ((2,2'-ethanediylbis (nitrilomethylidyne))bis(6-fluorophenolato))(2).

3. Section 302.4 is amended by revising the following entries to Table 302.4 as set forth below:

§ 302.4 Designation of Hazardous Substances.

* * * * *

TABLE 302.4—LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES

Hazardous Substance	CASRN	Regulatory Synonyms	Statutory			Proposed RQ	
			RQ	Code*	RCRA Waste Number	Category	Pounds (Kg)
*	*	*	*	*			
Acrylamide	79061	2-Propenamide	*1	4	U007	C	1,000 (454)
5-(Aminomethyl)-3-isoxazolol	2763964	Muscimol 3(2H)-Isoxazolone, 5-(aminomethyl)..	*1	4	P007	B	100 (45.4)
4-Aminopyridine	504245	Pyridine, 4-amino-4-Pyridinamine	*1	4	P008	B	100 (45.4)
Aniline	62533	Benzenamine	1,000	1,4	U012	C	1,000 (454)
Benzal chloride	98873	Benzene, dichloromethyl-	*1	4	U017	B	100 (45.4)
Benzenamine	62533	Aniline	1,000	1,4	U012	C	1,000 (454)
Benzene, dichloromethyl-	98873	Benzal chloride	*1	4	U017	B	100 (45.4)
Benzene, hydroxy-	108952	Phenol	1,000	1,2,4	U188	B	100 (45.4)
Bromine cyanide	506683	Cyanogen bromide	*1	4	U246	B	100 (45.4)
Carbonochloridic acid, methyl ester	79221	Methyl chlorocarbonate, Methyl chloroformate.	*1	4	U156	B	100 (45.4)
Cyanogen bromide	506683	Bromine cyanide	*1	4	U246	B	100 (45.4)
Dinoseb	88857	Phenol, 2,4-dinitro-6-(1-methylpropyl)-	*1	4	P020	B	100 (45.4)
Hydrochloric acid	647010	Hydrogen chloride	5,000	1		B	100 (45.4)
Hydrogen chloride	647010	Hydrochloric acid	5,000	1		B	100 (45.4)
3(2H)-Isoxazolone, 5-(aminomethyl)-	2763964	Muscimol 5-(Aminomethyl)-3-isoxazolol	*1	4	P007	B	100 (45.4)
Malononitrile	109773	Propanedinitrile	*1	4	U149	B	100 (45.4)
Methacrylonitrile	126987	2-Propenenitrile, 2-methyl-	*1	4	U152	B	100 (45.4)
Methyl chlorocarbonate	79221	Carbonochloridic acid, methyl ester Methyl chloroformate.	*1	43	U156	B	100 (45.4)
Methyl chloroformate	79221	Carbonochloridic acid, methyl ester, methyl chlorocarbonate.	*1	4	U156	B	100 (45.4)
Mexacarbate	315184		1,000	1		B	100 (45.4)
Muscimol	2763964	3(2H)-Isoxazolone, 5-(aminomethyl)-5-(Aminomethyl)-3-isoxazolol.	*1	4	P007	B	100 (45.4)
Nickel carbonyl	13463393	Nickel carbonyl Ni(CO)4, T-4)	*1	4	P073	X	1 (0.454)
Nickel carbonyl Ni(CO)4, T-4)	13463393	Nickel carbonyl	*1	4	P073	X	1 (0.454)
Phenol	108952	Benzene, hydroxy	1,000	1,2,4	U188	B	100 (45.4)

TABLE 302.4—LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CASRN	Regulatory Synonyms	Statutory RQ	Statutory Code*	RCRA Waste Number	Proposed RQ Category	Proposed RQ Pounds (Kg)
*	*	*	*	*			
Phenol, 2,4-dinitro-6-(1-methylpropyl)	88857	Dinoseb	* 1	4	P020	B	100 (45.4)
*	*	*	*	*			
Phosphorous oxychloride	10025873		5,000	1		B	100 (45.4)
*	*	*	*	*			
Propanedinitrile	109773	Malononitrile	* 1	4	U149	B	100 (45.4)
*	*	*	*	*			
2-Propenamide	79061	Acrylamide	* 1	4	U007	C	1,000 (454)
*	*	*	*	*			
2-Propenenitrile, 2-methyl	126987	Methacrylonitrile	* 1	4	U152	B	100 (45.4)
*	*	*	*	*			
Pyrene	129000		* 1	2		C	1,000 (454)
*	*	*	*	*			
4-Pyridinamine	504245	Pyridine, 4-amino-4-Aminopyridine	* 1	4	P008	B	100 (45.4)
*	*	*	*	*			
Pyridine, 4-amino-	504245	4-Aminopyridine, 4-Pyridinamine	* 1	4	P008	B	100 (45.4)
*	*	*	*	*			
Sodium azide	26628228		* 1	4	P105	B	100 (45.4)
*	*	*	*	*			
Vanadium(V) oxide	1314621	Vanadium pentoxide	1,000	1,4	P120	B	100 (45.4)
*	*	*	*	*			
Vanadium pentoxide	1314621	Vanadium(V) oxide	1,000	1,4	P120	B	100 (45.4)
*	*	*	*	*			
Vinyl acetate	108054	Vinyl acetate monomer	1,000	1		C	1,000 (454)
*	*	*	*	*			
Vinyl acetate monomer	108054	Vinyl acetate	1,000	1		C	1,000 (454)

*—Indicates the statutory source as defined by 1, 2, 3, or 4 below:
1—Indicates that the statutory source for designation of this hazardous substance under CERCLA is CWA Section 311(b)(4).
2—Indicates that the statutory source for designation of this hazardous substance under CERCLA is CWA Section 307(a).
3—Indicates that the statutory source for designation of this hazardous substance under CERCLA is CWA Section 112.
4—Indicates that the statutory source for designation of this hazardous substance under CERCLA is CWA Section 3001.
5a—Indicates that the statutory source for designation of this hazardous substance is CERCLA Section 102(a).

PART 355—EMERGENCY PLANNING AND NOTIFICATION

4. The authority citation for part 355 continues to read as follows:

Authority: 42 U.S.C. 11002 and 11048.

5. Part 355 is amended by revising the following entries to Appendices A and B.

APPENDIX A.—THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES AND THEIR THRESHOLD PLANNING QUANTITIES

[Alphabetical Order]

CAS No.	Chemical Name	Notes	Proposed RQ (pounds)	Threshold planning quantity (pounds)
01752303	Acetone thiosemicarbazide	d	100	1,000/10,000
00079061	Acrylamide	i	1000	1,000/10,000
00814686	Acrylyl chloride	d, f	100	100
00111693	Adiponitrile	d, i	1000	1,000
00107119	Allylamine	d	100	500
00054626	Aminopterin	d	10	500/10,000
00078535	Amiton	d	100	500
03734972	Amiton oxalate	d	100	100/10,000
00300629	Amphetamine	d	100	1,000
00062533	Aniline	i	1000	1,000
00088051	Aniline, 2,4,6-trimethyl-	d	100	500
07783702	Antimony pentafluoride	d	100	500
01397940	Antimycin A	c, d	1000	1,000/10,000
07784421	Arsine	d	1	100
02642719	Azinphos-ethyl	d	100	100/10,000
00098873	Benzal chloride		100	500
00098168	Benzenamine, 3-(trifluoromethyl)-	d	100	500
00100141	Benzene, 1-(chloromethyl)-4-nitro-	d	100	500/10,000
00098055	Benzenearsonic acid	d	10	10/10,000
03615212	Benzimidazole, 4,5-dichloro-2-(trifluoromethyl)-	d, e	100	500/10,000
00140294	Benzyl cyanide	d, f	100	500
15271417	Bicyclo(2,2,1)heptane-2-carbonitrile, 5-chloro-6-((((methylamino) carbonyl)oxy)m.	d	100	500/10,000
00534076	Bis(chloromethyl)ketone	d	10	10/10,000
04044659	Bitoscanate	d	100	500/10,000
10294345	Boron trichloride	d	100	500

APPENDIX A.—THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES AND THEIR THRESHOLD PLANNING QUANTITIES—Continued

[Alphabetical Order]

CAS No.	Chemical Name	Notes	Proposed RQ (pounds)	Threshold planning quantity (pounds)
07637072	Boron trifluoride	d	100	550
00353424	Boron trifluoride compound with methyl ether	d	1000	1,000
28772567	Bromadiolone	d	100	100/10,000
07726956	Bromine	d, i	100	500
01306190	Cadmium oxide	d	10	100/10,000
02223930	Cadmium stearate	c, d	10	1,000/10,000
00056257	Cantharidin	d	100	100/10,000
00051832	Carbachol chloride	d	100	500/10,000
26419738	Carbamic acid, methyl-, o-((((2,4-dimethyl-1,3-dithiolan-2-yl)methylene)amino)-.	d	100	100/10,000
00786196	Carbophenothion	d	100	500
24934916	Chlormephos	d	100	500
00999815	Chlormequat chloride	d, f	100	100/10,000
00079118	Chloroacetic acid	d	1100	100/10,000
00107073	Chloroethanol	d	100	500
00627112	Chloroethyl chloroformate	d	100	1,000
00470906	Chlorofenvinfos	d	100	500
03691358	Chlorophacinone	d	100	100/10,000
01982474	Chloroxuron	d	100	500/10,000
21923239	Chlorthiophos	d, f	100	500
10025737	Chromic chloride	d	1	1/10,000
10210681	Cobalt carbonyl	d, f	10	10/10,000
62207765	Cobalt, ((2,2'-(1,2-ethanediylbis (nitrilomethylidyne))bis(6-fluorophenolato))(2).	d	100	100/10,000
00064868	Colchicine	d, f	10	10/10,000
05836293	Coumatetralyl	d	100	500/10,000
00535897	Crimidine	d	100	100/10,000
00506785	Cyanogen iodide	d	1000	1,000/10,000
00506683	Cyanogen bromide		100	500/10,000
02636262	Cyanophos	d	1000	1,000
00675149	Cyanuric fluoride	d	100	100
00066819	Cyclohexylamine	d	100	100/10,000
00108918	Cyclohexylamine	d, i	1000	10,000
17702419	Decaborane(14)	d	10	500/10,000
08065483	Demeton	d	100	500
00919868	Demeton-S-methyl	d	100	500
10311849	Dialifor	d	100	100/10,000
19287457	Diborane	d	10	100
00110576	Trans-1,4-dichlorobutene	d	100	500
00149746	Dichloromethylphenylsilane	d	100	1,000
00141662	Dicrotophos	d	100	100
00814493	Diethyl chlorophosphate	d, f	100	500
01642542	Diethylcarbamazine citrate	d	100	100/10,000
00071636	Digitoxin	c, d	100	100/10,000
02238075	Diglycidyl ether	d	100	1,000
20830755	Digoxin	d, f	10	10/10,000
00115264	Dimefox	d	100	500
02524030	Dimethyl phosphorochloridothioate	d	100	500
00075785	Dimethyldichlorosilane	d, f	100	500
00099989	Dimethyl-p-phenylenediamine	d	1	10/10,000
00075183	Dimethyl sulfide	d	100	100
00644644	Dimetilan	d	100	500/10,000
00088857	Dinoseb	T	100	
01420071	Dinoterb	d	100	500/10,000
00078342	Dioxathion	d	100	500
00082666	Diphacinone	d	10	10/10,000
00514738	Dithiazanine iodide	d	100	500/10,000
00316427	Emetine, dihydrochloride	d, f	1	1/10,000
02778043	Endothion	d	100	500/10,000
02104645	EPN	d	100	100/10,000
00050146	Ergocalciferol	c, d	100	1,000/10,000
00379793	Ergotamine tartrate	d	100	500/10,000
01622328	Ethanesulfonyl chloride, 2-chloro-	d	100	500
01622328	Ethanesulfonyl chloride, 2-chloro-	d	100	500
10140871	Ethanol, 1,2-dichloro-, acetate	d	100	1,000
13194484	Ethoprophos	d	1000	1,000
00538078	Ethylbis(2-chloroethyl)amine	d, f	100	500
00371620	Ethylene fluorohydrin	c, d, f	10	10
00542905	Ethylthiocyanate	d	1000	10,000
22224926	Fenamiphos	d	10	10/10,000
00122145	Fenitrothion	d	100	500
00115902	Fensulfothion	d, f	100	500
04301502	Fluenetil	d	100	100/10,000
00144490	Fluoroacetic acid	d	10	10/10,000
00359068	Fluoroacetyl chloride	c, d	10	10
00051218	Fluorouracil	d	100	500/10,000

APPENDIX A.—THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES AND THEIR THRESHOLD PLANNING QUANTITIES—Continued

[Alphabetical Order]

CAS No.	Chemical Name	Notes	Proposed RQ (pounds)	Threshold planning quantity (pounds)
00944229	Fonofos	d	100	500
00107164	Formaldehyde cyanohydrin	d, f	1000	1,000
23422539	Formetanate hydrochloride	d, f	100	500/10,000
02540821	Formothion	d	10	100
17702577	Formparanate	d	100	100/10,000
21548323	Fosthietan	d	100	500
03878191	Fuberidazole	d	100	100/10,000
13450903	Gallium trichloride	d	100	500/10,000
04835114	Hexamethylenediamine, N,N'-dibutyl-	d	100	500
07647010	Hydrogen chloride	d, i	100	500
07722841	Hydrogen peroxide (concentration >52%)	d, i	1000	1,000
07783075	Hydrogen selenide	d	1	10
00123319	Hydroquinone	i	100	500/10,000
13463406	Iron, pentacarbonyl-	d	10	100
00297789	Isobenzan	d	100	100/10,000
00078820	Isobutyronitrile	d, f	1000	1,000
00102363	Isocyanic acid, 3,4-dichlorophenyl ester	d	100	500/10,000
04098719	Isophorone diisocyanate	b, d	100	100
00108236	Isopropyl chloroformate	d	1000	1,000
00625558	Isoprophyl formate	d	100	500
00119380	Isopropylmethylpyrazolyl dimethylcarbamate	d	100	500
00078977	Lactonitrile	d	1000	1,000
21609905	Leptophos	d	100	500/10,000
00541253	Lewisite	c, d, f	10	10
07580678	Lithium hydride	b, d	10	100
00109773	Malononitrile	T	100	
12108133	Manganese, tricarbonyl methylcyclopentadienyl	d, f	100	100
00051752	Mechlorethamine	c,d	10	10
00950107	Mephosfolan	d	100	500
01600277	Mercuric acetate	d	100	500/10,000
07487947	Mercuric chloride	d	100	500/10,000
21908532	Mercuric oxide	d	100	500/10,000
10476956	Methacrolein diacetate	d	1000	1,000
00760930	Methacrylic anhydride	d	100	500
00126987	Methacrylonitrile	I, T	100	
00920467	Methacryloyl chloride	d	100	100
30674807	Methacryloyloxyethyl isocyanate	d, f	100	100
10265926	Methamidophos	d	100	100/10,000
00558258	Methanesulfonyl fluoride	d	100	1,000
00950378	Methidathion	d	100	500/10,000
00151382	Methoxyethylmercuric acetate	d	100	500/10,000
00624920	Methyl disulfide	d	10	100
00556616	Methyl isothiocyanate	b, d	100	500
03735237	Methyl phenkapton	d	100	500
00676971	Methyl phosphonic dichloride	b, d	100	100
00080637	Methyl 2-chloroacrylate	d	100	500
00079221	Methyl chloroformate		100	500
00502396	Methylmercuric dicyanamide	d	10	500/10,000
00556649	Methyl thiocyanate	d	1000	10,000
00075796	Methyltrichlorosilane	d, f	100	500
00078944	Methyl vinyl ketone	d	10	10
01129415	Metolcarb	d	100	100/10,000
00315184	Mexacarbate		100	500/10,000
02763964	Muscimol	a, f	100	10,000
06923224	Monocrotophos	d	10	10/10,000
00505602	Mustard Gas	d, f	1	500
13463393	Nickel carbonyl		1	1
00065305	Nicotine sulfate	d	10	100/10,000
01122607	Nitrocyclohexane	d	100	500
00991424	Norbormide	d	100	100/10,000
00000000	Organorhodium complex (PMN-82-147)	d	10	10/10,000
00630604	Ouabain	c, d	100	100/10,000
23135220	Oxamyl	d	100	100/10,000
00078717	Oxetane, 3,3-bis(chloromethyl)-	i	100	500
02497076	Oxydisulfoton	d, f	100	500
10028156	Ozone	d	10	100
01910425	Paraquat	d	10	10/10,000
02074502	Paraquat methosulfate	d	10	10/10,000
19624227	Pentaborane	d	10	500
02570265	Pentadecylamine	d	100	100/10,000
00079210	Peracetic acid	d	10	500
00108952	Phenol		100	500/10,000
00097187	Phenol, 2,2'-thiobis(4,6-dichloro-	d	100	100/10,000
00064006	Phenol, 3-(1-methylethyl)-, methylcarbamate	d	100	500/10,000
04418660	Phenol, 2,2'-thiobis[4-chloro-6-methyl-	d	100	100/10,000
00058366	Phenoxarsine, 10, 10'-oxydi	d	100	500/10,000

APPENDIX A.—THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES AND THEIR THRESHOLD PLANNING QUANTITIES—Continued

[Alphabetical Order]

CAS No.	Chemical Name	Notes	Proposed RQ (pounds)	Threshold planning quantity (pounds)
00059881	Phenylhydrazine hydrochloride	d	100	1,000/10,000
02097190	Phenylsilatrane	d, f	100	100/10,000
04104147	Phosacetim	d	100	100/10,000
00947024	Phosfolan	d	100	100/10,000
00732116	Phosmet	d	10	10/10,000
13171216	Phosphamidon	d	100	100
50782699	Phosphonothioc acid, methyl-, S-(2-(bis(1-methylethyl)amino)ethyl) O-ethyl ester.	d	10	100
02665307	Phosphonothioc acid, methyl-,O-(4-nitrophenyl) O-phenyl ester	d	100	500
02703131	Phosphonothioic acid, methyl-,O-ethyl O-(4-(methylthio)phenyl) ester	d	10	500
03254635	Phosphoric acid, dimethyl 4-(methylthio)phenyl ester	d	100	500
02587908	Phosphorothioic acid, O,O-dimethyl-S-(2-methylthio)ethyl ester	c, d, e	100	500
10025873	Phosphorus oxychloride		100	500
10026138	Phosphorus pentachloride	b, d	100	500
01314563	Phosphorus pentoxide	b, d	10	10
00057476	Physostigmine	d	100	100/10,000
00057647	Physostigmine, salicylate (1:1)	d	100	100/10,000
00124878	Picrotoxin	d	100	500/10,000
00110894	Piperidine	d	100	1,000
05281130	Piprotal	d	100	100/10,000
23505411	Pirimfos-ethyl	d	1000	1,000
02631370	Promecarb	d, f	100	500/10,000
00106967	Propargyl bromide	d	1	10
00057578	Propiolactone, beta-	d	10	500
00070699	Propiophenone, 4-amino	d, e	100	100/10,000
00109615	Propyl chloroformate	d	100	500
02275185	Prothoate	d	100	100/10,000
00129000	Pyrene	c	1000	1,000/10,000
00140761	Pyridine, 2-methyl-5-vinyl	d	100	500
01124330	Pyridine, 4-nitro-, 1-oxide	d	100	500/10,000
00504245	Pyridine, 4-Amino-	f	100	500/10,000
53558251	Pyriminil	d, f	100	100/10,000
14167181	Salcomine	d	100	500/10,000
00107448	Sarin	d, f	10	10
07791233	Selenium oxychloride	d	100	500
00563417	Semicarbazide hydrochloride	d	100	1,000/10,000
03037727	Silane, (4-aminobutyl)diethoxymethyl-	d	1000	1,000
26628228	Sodium azide	b	100	500
00124652	Sodium cacodylate	d	100	100/10,000
00131522	Sodium pentachlorophenate	d	100	100/10,000
13410010	Sodium selenate	d	100	100/10,000
10102202	Sodium tellurite	d	100	500/10,000
00900958	Stannane, acetoxytriphenyl-	d, e	10	500/10,000
00060413	Strychnine, sulfate	d	100	100/10,000
03569571	Sulfoxide, 3-chloropropyl octyl	d	100	500
07446095	Sulfur dioxide	d, i	100	500
07783600	Sulfur tetrafluoride	d	100	100
07446119	Sulfur trioxide	b, d	100	100
00077816	Tabun	c, d, f	10	10
13494809	Tellurium	d	100	500/10,000
07783804	Tellurium hexasfluoride	d, h	100	100
13071799	Terbufos	d, f	100	100
00597648	Tetraethyltin	c, d	10	100
00075741	Tetramethyllead	c, d, i	100	100
02757188	Thallous malonate	c, d, f	100	100/10,000
02231574	Thiocarbazide	d	100	1,000/10,000
00614788	Thiourea, (2-methylphenyl)-	d	100	500/10,000
07550450	Titanium tetrachloride	d	100	100
01031476	Triamiphos	d	100	500/10,000
24017478	Triazofos	d	100	500
01558254	Trichloro(chloromethyl)silane	d	10	100
00076028	Trichloroacetyl chloride	d	100	500
27137855	Trichloro(dichlorophenyl)silane	d	100	500
00115219	Trichloroethylsilane	d, f	100	500
00327980	Trichloronate	d, h	100	500
00098135	Trichlorophenylsilane	d, f	100	500
00998301	Triethoxysilane	d	100	500
00075774	Trimethylchlorosilane	d	1000	1,000
00824113	Trimethylolpropane phosphite	d, f	100	100/10,000
01066451	Trimethyltin chloride	d	100	500/10,000
00639587	Triphenyltin chloride	d	100	500/10,000
00555771	Tris(2-chloroethyl)amine	d, f	10	100
02001958	Valinomycin	c, d	100	1,000/10,000
01314621	Vanadium(V) oxide		100	100/10,000
00108054	Vinyl acetate	i	1000	1,000
00129066	Warfarin sodium	d, f	10	100/10,000

Appendix A.—The List of Extremely Hazardous Substances and Their Threshold Planning Quantities—Continued

[Alphabetical Order]

CAS No.	Chemical Name	Notes	Proposed RQ (pounds)	Threshold planning quantity (pounds)
28347139	Xylylene dichloride	d	100	100/10,000
58270089	Zinc, dichloro(4,4-dimethyl-5((((methlyamino)carbonyl)oxy)imino)-pentanenitrile)-, (T-4)-	d	100	100/10,000

Notes:
a—This chemical does not meet acute toxicity criteria. Its TPQ is set at 10,000 pounds.
b—This material is a reactive solid. The TPQ does not default to 10,000 pounds for non-powder, non-molten, non-solution form.
c—The calculated TPQ changed after technical review as described in the technical support document.
d—Until the proposed RQs are finalized, reporting under SARA section 304(a)(2) must be done at the statutory level (see Table 302.4 in this proposed rule for these statutory RQs).
e—New chemicals added that were not part of the original list of 402 substances.
f—Revised TPQ based on new or re-evaluated toxicity data.
g—TPQ is revised to its calculated value and does not change due to technical review as in proposed rule.
h—The TPQ was revised after proposal due to calculation error.
i—Chemicals on the original list that do not meet toxicity criteria but because of their high production volume and recognized toxicity are considered chemicals of concern ("Other chemicals").

Appendix B.—The List of Extremely Hazardous Substances and Their Threshold Planning Quantities

[CAS Number Order]

CAS No.	Chemical name	Notes	Proposed RQ (pounds)	Threshold planning quantity (pounds)
00000000	Organorhodium complex (PMN-82-147)	d	10	10/10,000
00050146	Ergocalciferol	c, d	100	1,000/10,000
00051218	Fluorouracil	d	100	500/10,000
00051752	Mechlorethamine	c, d	10	10
00051832	Carbachol chloride	d	100	500/10,000
00054626	Aminopterin	d	10	500/10,000
00056257	Cantharidin	d	100	100/10,000
00057476	Physostigmine	d	100	100/10,000
00057578	Propiolactone, beta-	d	10	500
00057647	Physostigmine, salicylate (1:1)	d	100	100/10,000
00058366	Phenoxarsine, 10, 10'-oxydi	d	100	500/10,000
00059881	Phenylhydrazine hydrochloride	d	100	1,000/10,000
00060413	Strychnine, sulfate	d	100	100/10,000
00062533	Aniline	i	1000	1,000
00064006	Phenol, 3-(1-methylethyl)-, methylcarbamate	d	100	500/10,000
00064868	Colchicine	d, f	10	10/10,000
00065305	Nicotine sulfate	d	10	100/10,000
00066819	Cyclohexylamine	d	100	100/10,000
00070699	Propiophenone, 4-amino	d, e	100	100/10,000
00071636	Digitoxin	c, d	100	100/10,000
00075183	Dimethyl sulfide	d	100	100
00075741	Tetramethyllead	c, d, i	100	100
00075774	Trimethylchlkorosilane	d	1000	1,000
00075785	Dimethyldichlorosilane	d, f	100	500
00075796	Methyltrichlorosilane	d, f	100	500
00076028	Trichloroacetyl chloride	d	100	500
00077816	Tabun	c, d, f	10	10
00078342	Dioxathion	d	100	500
00078535	Amiton	d	100	500
00078717	Oxetane, 3,3-bis(chloromethyl)-	i	100	500
00078820	Isobutyronitrile	d, f	1000	1,000
00078944	Methyl vinyl ketone	d	10	10
00078977	Lactonitrile	d	1000	1,000
00079061	Acrylamide	i	1000	1,000/10,000
00079118	Chloroacetic acid	d	100	100/10,000
00079210	Peracetic acid	d	10	500
00079221	Methyl chloroformate		100	500
00080637	Methyl 2-chloroacrylate	d	100	500
00082666	Diphacinone	d	10	10/10,000
00088051	Aniline, 2,4,6-trimethyl-	d	100	500
00088857	Dinoseb	T	100	
00097187	Phenol, 2,2'-thiobis(4,6-dichloro-	d	100	100/10,000
00098055	Benzenearsonic acid	d	10	10/10,000
00098135	Trichlorophenylsilane	d, f	100	500
00098168	Benzenamine, 3-(trifluoromethyl)-	d	100	500
00098873	Benzal chloride		100	500
00099989	Dimethyl-p-phenylenediamine	d	1	10/10,000
00100141	Benzene, 1-(chloromethyl)-4-nitro-	d	100	500/10,000
00102363	Isocyanic acid, 3,4-dichlorophenyl ester	d	100	500/10,000
00106967	Propargyl bromide	d	1	10
00107073	Chloroethanol	d	100	500
00107119	Allylamine	d	100	500

APPENDIX B.—THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES AND THEIR THRESHOLD PLANNING QUANTITIES—Continued

[CAS Number Order]

CAS No.	Chemical name	Notes	Proposed RQ (pounds)	Threshold planning quantity (pounds)
00107164	Formaldehyde cyanohydrin	d, f	1000	1,000
00107448	Sarin	d, f	10	10
00108054	Vinyl acetate	i	1000	1,000
00108236	Isopropyl chloroformate	d	1000	1,000
00108918	Cyclohexylamine	d, i	1000	10,000
00108952	Phenol		100	500/10,000
00109615	Propyl chloroformate	d	100	500
00109773	Malononitrile	T	100	
00110576	Trans-1,4-dichlorobutene	d	100	500
00110894	Piperidine	d	100	1,000
00111693	Adiponitrile	d, i	1000	1,000
00115219	Trichloroethylsilane	d, f	100	500
00115264	Dimefox	d	100	500
00115902	Fensulfothion	d, f	100	500
00119380	Isopropylmethylpyrazolyl dimethylcarbamate	d	100	500
00122145	Fenitrothion	d	100	500
00123319	Hydroquinone	i	100	500/10,000
00124652	Sodium cacodylate	d	100	100/10,000
00124878	Picrotoxin	d	100	500/10,000
00126987	Methacrylonitrile	I, T	100	
00129000	Pyrene	c	1000	1,000/10,000
00129066	Warfarin sodium	d, f	10	100/10,000
00131522	Sodium pentachlorophenate	d	100	100/10,000
00140294	Benzyl cyanide	d, f	100	500
00140761	Pyridine, 2-methyl-5-vinyl	d	100	500
00141662	Dicrotophos	d	100	100
00144490	Fluoroacetic acid	d	10	10/10,000
00149746	Dichloromethylphenylsilane	d	100	1,000
00151382	Methoxyethylmercuric acetate	d	100	500/10,000
00297789	Isobenzan	d	100	100/10,000
00300629	Amphetamine	d	100	1,000
00315184	Mexacarbate		100	500/10,000
00316427	Emetine, dihydrochloride	d, f	1	1/10,000
00327980	Trichloronate	d, h	100	500
00353424	Boron trifluoride compound with methyl ether	d	1000	1,000
00359068	Fluoroacetyl chloride	c, d	10	10
00371620	Ethylene fluorohydrin	c, d, f	10	10
00379793	Ergotamine tartrate	d	100	500/10,000
00470906	Chlorofenvinfos	d	100	500
00502396	Methylmercuric dicyanamid	d	10	500/10,000
00504245	Pyridine, 4-Amino-	f	100	500/10,000
00505602	Mustard Gas	d, f	1	500
00506683	Cyanogen bromide		100	500/10,000
00506785	Cyanogen iodide	d	1000	1,000/10,000
00514738	Dithiazanine iodide	d	100	500/10,000
00534076	Bis(chloromethyl)ketone	d	10	10/10,000
00535897	Crimidine	d	100	100/10,000
00538078	Ethylbis(2-chloroethyl)amine	d, f	100	500
00541253	Lewisite	c, d, f	10	10
00542905	Ethylthiocyanate	d	1000	10,000
00555771	Tris(2-chloroethyl)amine	d, f	10	100
00556616	Methyl isothiocyanate	b, d	100	500
00556649	Methyl thiocyanate	d	1000	10,000
00558258	Methanesulfonyl fluoride	d	100	1,000
00563417	Semicarbazide hydrochloride	d	100	1,000/10,000
00597648	Tetraethyltin	c, d	10	100
00614788	Thiourea, (2-methlyphenyl)-	d	100	500/10,000
00624920	Methyl disulfide	d	10	100
00625558	Isopropyl formate	d	100	500
00627112	Chloroethyl chloroformate	d	100	1,000
00630604	Ouabain	c, d	100	100/10,000
00639587	Triphenyltin chloride	d	100	500/10,000
00644644	Dimetilan	d	100	500/10,000
00675149	Cyanuric fluoride	d	100	100
00676971	Methyl phosphonic dichlorid	b, d	100	100
00732116	Phosmet	d	10	10/10,000
00760930	Methacrylic anhydride	d	100	500
00786196	Carbophenothion	d	100	500
00814493	Diethyl chlorophosphate	d, f	100	500
00814686	Acrylyl chloride	d, f	100	100
00824113	Trimethylolpropane phosphite	d, f	100	100/10,000
00900958	Stannane, acetoxytriphenyl-	d, e	10	500/10,000
00919868	Demeton-S-methyl	d	100	500
00920467	Methacryloyl chloride	d	100	100
00944229	Fonofos	d	100	500
00947024	Phosfolan	d	100	100/10,000

APPENDIX B.—THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES AND THEIR THRESHOLD PLANNING QUANTITIES—Continued

[CAS Number Order]

CAS No.	Chemical name	Notes	Proposed RQ (pounds)	Threshold planning quantity (pounds)
00950107	Mephosfolan	d	100	500
00950378	Methidathion	d	100	500/10,000
00991424	Norbormide	d	100	100/10,000
00998301	Triethoxysilane	d	100	500
00999815	Chlormequat chloride	d, f	100	100/10,000
01031476	Triamiphos	d	100	500/10,000
01066451	Trimethyltin chloride	d	100	500/10,000
01122607	Nitrocyclohexane	d	100	500
01124330	Pyridine, 4-nitro-, 1-oxide	d	100	500/10,000
01129415	Metolcarb	d	100	100/10,000
01306190	Cadmium oxide	d	10	100/10,000
01314563	Phosphorus pentoxide	b, d	10	10
01314621	Vanadium(v) oxide		100	100/10,000
01397940	Antimycin A	c, d	1000	1,000/10,000
01420071	Dinoterb	d	100	500/10,000
01558254	Trichloro(chloromethyl)silane	d	10	100
01600277	Mercuric acetate	d	100	500/10,000
01622328	Ethanesulfonyl chloride, 2-chloro-	d	100	500
01642542	Diethylcarbamazine citrate	d	100	100/10,000
01752303	Acetone thiosemicarbazide	d	100	1,000/10,000
01910425	Paraquat	d	10	10/10,000
01982474	Chloroxuron	d	100	500/10,000
02001958	Valinomycin	c, d	100	1,000/10,000
02074502	Paraquat methosulfate	d	10	10/10,000
02097190	Phenylsilatrane	d, f	100	100/10,000
02104645	EPN	d	100	100/10,000
02223930	Cadmium stearate	c, d	10	1,000/10,000
02231574	Thiocarbazide	d	100	1,000/10,000
02238075	Diglycidyl ether	d	100	1,000
02275185	Prothoate	d	100	100/10,000
02497076	Oxydisulfoton	d, f	100	500
02524030	Dimethyl phosphorochloridothioate	d	100	500
03540821	Formothion	d	10	100
02570265	Pentadecylamine	d	100	100/10,000
02587908	Phosphorothioic acid, O,O-dimethyl-S-(2-methylthio)ethyl ester	c, d, e	100	500
02631370	Promecarb	d, f	100	500/10,000
02636262	Cyanophos	d	1000	1,000
02642719	Azinphos-ethyl	d	100	100/10,000
02665307	Phosphonothioc acid, methyl-,O-(4-nitrophenyl) O-phenyl ester	d	100	500
02703131	Phosphonothioic acid, methyl-,O-ethyl O-(4-(methylthio)phenyl) ester	d	10	500
02757188	Thallous malonate	c, d, f	100	100/10,000
02763964	Muscimol	a, f	100	10,000
02778043	Endothion	d	100	500/10,000
03037727	Silane, (4-aminobutyl)diethoxymethyl-	d	1000	1,000
03254635	Phosphoric acid, dimethyl 4-(methylthio)phenyl ester	d	100	500
03569571	Sulfoxide, 3-chloropropyl octyl	d	100	500
03615212	Benzimidazole, 4,5-dichloro-2-(trifluoromethyl)-	d, e	100	500/10,000
03691358	Chlorophacinone	d	100	100/10,000
03734972	Amiton oxalate	d	100	100/10,000
03735237	Methyl phenkapton	d	100	500
03878191	Fuberidazole	d	100	100/10,000
04044659	Bitoscanate	d	100	500/10,000
04098719	Isophorone diisocyanate	b, d	100	100
04104147	Phosacetim	d	100	100/10,000
04301502	Fluenetil	d	100	100/10,000
04418660	Phenol, 2,2'-thiobis[4-chloro-6-methyl-	d	100	100/10,000
04835114	Hexamethylenediamine, N,N'-dibutyl-	d	100	500
05281130	Piprotal	d	100	100/10,000
05836293	Coumatetralyl	d	100	500/10,000
06923224	Monocrotophos	d	10	10/10,000
07446095	Sulfur dioxide	d, i	100	500
07446119	Sulfur trioxide	b, d	100	100
07487947	Mercuric chloride	d	100	500/10,000
07550450	Titanium tetrachloride	d	100	100
07580678	Lithium hydride	b, d	10	100
07637072	Boron trifluoride	d	100	500
07647010	Hydrogen chloride	d, i	100	500
07722841	Hydrogen peroxide (concentration >52%)	d, i	1000	1,000
07726956	Bromine	d, i	100	500
07783075	Hydrogen selenide	d	1	10
07783600	Sulfur tetrafluoride	d	100	100
07783702	Antimony pentafluoride	d	100	500
07783804	Tellurium hexafluoride	d, h	100	100
07784421	Arsine	d	1	100
07791233	Selenium oxychloride	d	100	500
08065489	Demeton	d	100	500

APPENDIX B.—THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES AND THEIR THRESHOLD PLANNING QUANTITIES—Continued

[CAS Number Order]

CAS No.	Chemical name	Notes	Proposed RQ (pounds)	Threshold planning quantity (pounds)
10025737	Chromic chloride	d	1	1/10,000
10025873	Phosphorus oxychloride		100	500
10026138	Phosphorus pentachloride	b, d	100	500
10028156	Ozone	d	10	100
10102202	Sodium tellurite	d	100	500/10,000
10140871	Ethanol, 1,2-dichloro-, acetate	d	100	1,000
10210681	Cobalt carbonyl	d, f	10	10/10,000
10265926	Methamidophos	d	100	100/10,000
10294345	Boron trichloride	d	100	500
10311849	Dialifor	d	100	100/10,000
10476956	Methacrolein diacetate	d	1000	1,000
12108133	Manganese, tricarbonyl methylcyclopentadienyl	d, f	100	100
13071799	Terbufos	d, f	100	100
13171216	Phosphamidon	d	100	100
13194484	Ethoprophos	d	1000	1,000
13410010	Sodium selenate	d	100	100/10,000
13450903	Gallium trichloride	d	100	500/10,000
13463393	Nickel carbonyl		1	1
13463406	Iron, pentacarbonyl-	d	10	100
13494809	Tellurium	d	100	500/10,000
14167181	Salcomine	d	100	500/10,000
15271417	Bicyclo(2,2,1)heptane-2-carbonitrile, 5-chloro-6-((((methylamino)carbonyl)oxy)m.	d	100	500/10,000
17702419	Decaborane(14)	d	10	500/10,000
17702577	Formparante	d	100	100/10,000
19287457	Diborane	d	10	100
19624227	Pentaborane	d	10	500
20830755	Digoxin	d, f	10	10/10,000
21548323	Fosthietan	d	100	500
21609905	Leptophos	d	100	500/10,000
21908532	Mercuric oxide	d	100	500/10,000
21923239	Chlorthiophos	d, f	100	500
22224926	Fenamiphos	d	10	10/10,000
23135220	Oxamyl	d	100	100/10,000
23422539	Formetanate hydrochloride	d, f	100	500/10,000
23505411	Pirimifos-ethyl	d	1000	1,000
24017478	Triazofos	d	100	500
24934916	Chlormephos	d	100	500
26419738	Carbamic acid, methyl-, O-((((2,4-dimethyl-1,3-dithiolan-2-yl)methylene)amino)-.	d	100	100/10,000
26628228	Sodium azide	b	100	500
27137855	Trichloro(dichlorophenyl)silane	d	100	500
28347139	Xylylene dichloride	d	100	100/10,000
28772567	Bromadiolone	d	100	100/10,000
30674807	Methacryloyloxyethyl isocyanate	d, f	100	100
50782699	Phosphonothioc acid, methyl-, S-(2-(bis(i-methylethyl)amino)ethyl) O-ethyl ester.	d	10	100
53558251	Pyriminil	d, f	100	100/10,000
58270089	Zinc, dichloro(4,4-dimethyl-5((((methylamino)carbonyl)oxy)imino) pentanenitrile)-, (T-4)-.	d	100	100/10,000
62207765	Cobalt, ((2,2'-(1,2-ethanediylbis (nitrilomethylidyne))bis(6-fluorophenolato))(2).	d	100	100/10,000

NOTES:

a—This chemical does not meet acute toxicity criteria. Its TPQ is set at 10,000 pounds.

b—This material is a reactive solid. The TPQ does not default to 10,000 pounds for non-powder, non-molten, non-solution form.

c—The calculated TPQ changed after technical review as described in the technical support document.

d—Until the proposed RQs are finalized, reporting under SARA section 304(a)(2) must be done at the statutory level (see Table 302.4 in this proposed rule for these statutory RQs).

e—New chemicals added that were not part of the original list of 402 substances.

f—Revised TPQ based on new or re-evaluated toxicity data.

g—TPQ is revised to its calculated value and does not change due to technical review as in proposed rule.

h—The TPQ was revised after proposal due to calculation error.

i—Chemicals on the original list that do not meet toxicity criteria but because of their high production volume and recognized toxicity are considered chemicals of concern ("Other chemicals").

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Federal Register

Wednesday
August 30, 1989

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20
Migratory Bird Hunting; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN-1018-AA24

Migratory Bird Hunting; Early Seasons, Bag and Possession Limits of Certain Migratory Game Birds in the Contiguous United States, Alaska, Hawaii, Puerto Rico and the Virgin Islands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes the hunting seasons, hours, areas, and daily bag and possession limits of mourning, white-winged and white-tipped doves; band-tailed pigeons; rails; moorhens and gallinules; woodcock; common snipe; sea ducks in the Atlantic Flyway; experimental September duck seasons in identified States; experimental and special September Canada goose seasons in portions of identified States; sandhill cranes in the Central and Pacific Flyways; doves in Hawaii; migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; and some extended falconry seasons during 1989–90. The taking of these migratory birds is prohibited unless hunting seasons are specifically provided. This rule will permit the hunting of these species within specified periods of time beginning as early as September 1, as has been the case in past years.

DATE: Effective on August 30, 1989.

FOR FURTHER INFORMATION CONTACT: Byron K. Williams, Acting Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Room 634-Arlington Square, Washington, DC, telephone 703–358–1714.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat 755; 16 U.S.C. 703 et seq.), as amended, authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds to determine when, to what extent, and by what means such birds or any part, nest, or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported or transported.

On March 27, 1989, the U.S. Fish and Wildlife Service (hereinafter the Service) published for public comment in the **Federal Register** (54 FR 12534) a proposal to amend 50 CFR part 20, with comment periods ending July 23, 1989, for early-season proposals, and August 28, 1989, for the late-season proposals. The March 27 document dealt with the establishment of hunting seasons, hours, areas and limits for migratory game birds under § 20.101 through 20.107, 20.109 and 20.110 of Subpart K. On June 6, 1989, the Service published in the **Federal Register** (54 FR 24290) a second document consisting of a supplemental proposed rulemaking dealing with both the early- and late-season frameworks. On July 13, 1989, the Service published for public comment in the **Federal Register** (54 FR 29640) a third document consisting of a proposed rulemaking dealing specifically with frameworks for early-season migratory bird hunting regulations. On August 11, 1989, the Service published a fourth document (54 FR 32975) containing final frameworks for early migratory bird hunting seasons from which wildlife conservation agency officials from the States, Puerto Rico and the Virgin Islands selected early-season hunting dates, hours, areas and limits for 1989–90. On August 16, 1989, the Service published the fifth document in the series (54 FR 33721) that deals specifically with proposed frameworks for the 1989–90 late-season migratory bird hunting regulations. The final rule described here is the sixth in a series of proposed, supplemental and final rulemaking documents for migratory game bird hunting regulations and deals specifically with amending Subpart K of 50 CFR part 20 to set hunting seasons, hours, areas and limits for mourning, white-winged and white-tipped doves; band-tailed pigeons; rails; moorhens and gallinules, woodcock; common snipe; sea ducks in the Atlantic Flyway; experimental September duck seasons in identified States; experimental and special September Canada goose seasons in portions of identified States; sandhill cranes in the Central and Pacific Flyways; doves in Hawaii; migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; and some extended falconry seasons.

Nontoxic Shot Regulations

In the April 13, 1989, **Federal Register** (54 FR 14814), the Service published a final rule describing zones in which lead shot is prohibited for hunting waterfowl, coots and certain other species in the 1989–90 season. Waterfowl hunters are advised to become familiar with State and local regulations regarding the use of nontoxic shot for waterfowl hunting.

NEPA Consideration

NEPA considerations are covered by the programmatic document, "Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14)," filed with EPA on June 9, 1988. Notice of Availability was published in the **Federal Register** on June 16, 1988 (53 FR 22582). The Service's Record of Decision was published on August 18, 1988 (53 FR 31341).

Endangered Species Act Consideration

On June 22, 1989, the Division of Endangered Species and Habitat Conservation gave a biological opinion that the proposed actions were not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of their critical habitats.

As in the past, hunting regulations this year are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species.

The Service's biological opinion resulting from its consultation under section 7 is considered a public document and is available for inspection in the Division of Endangered Species and Habitat Conservation and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Arlington, Virginia.

Regulatory Flexibility Act, Executive Order 12291 and the Paperwork Reduction Act.

In the **Federal Register** dated March 27, 1989 (54 FR 12534), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publication of a summary of the latter. These regulations have been determined to be major under Executive Order 12291 and they have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. This determination is detailed in the aforementioned documents which are available upon request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240. These regulations contain no information collections subject to Office of Management and Budget under the Paperwork Reduction Act of 1980.

Memorandum of Law

The Service published its Memorandum of Law, required by section 4 of Executive Order 12291, in the Federal Register dated August 11, 1989 (54 FR 32975).

Authorship

The primary author of this rule is Morton M. Smith, Office of Migratory Bird Management, working under the direction of Byron K. Williams, Acting Chief.

Regulations Promulgation

After analysis of migratory game bird survey data obtained through investigations conducted by the Service, State conservation agencies, and other sources, and consideration of all comments received on the early proposals (54 FR 12534, March 27, 1989; 54 FR 24290, June 6, 1989; and 54 FR 29640, July 13, 1989), the Service published in the Federal Register on August 11, 1989 (54 FR 32975) final early-season frameworks for the United States, including Alaska and Hawaii, and Puerto Rico and the Virgin Islands. Copies of the final frameworks were sent to the officials of the State conservation agencies and to conservation agency officials in Puerto Rico and the Virgin Islands who were invited to submit recommendations for hunting seasons which complied with the season times and lengths, hours, areas and limits specified in the frameworks.

The taking of the designated species of migratory birds is prohibited unless open hunting seasons are specifically provided. The following amendments will permit taking of the designated species within specified time periods beginning as early as September 1, as has been the case in past years.

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, the Service intends that the public be given the greatest possible opportunity to comment on the regulations. Thus, when proposed rulemakings were published on March 27, June 6, and July 13, 1989, the Service established what it believed were the longest periods possible for public comment. In doing this the Serivce recognized that when the comment period closed, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the States would have insufficient time to select their season dates, shooting hours, hunting areas and limits; to communicate those selections to the Service; and to establish and publicize the necessary regulations and procedures to implement their decisions. The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) (Administrative Procedure Act), and these regulations will, therefore, take effect immediately upon publication.

Accordingly, with each State conservation agency having had an opportunity to participate in selecting the hunting seasons desired for its State on those species of migratory birds for which open seasons are now to be prescribed, and consideration having been given to all other relevant matters presented, certain sections of Title 50, Chapter I, Subchapter B, Part 20, Subpart K, are amended as set forth below.

List of Subjects in 50 CFR Part 20

Exports, Hunting imports, Transportation, Wildlife.

PART 20—[AMENDED]

For these reasons set out in the preamble, Title 50, Chapter I, Subchapter B, Part 20, Subpart K, is amended as follows.

1. The authority citation for Part 20 is revised to read as follows:

Authority: Migratory Bird Treaty Act, sec. 3, Pub. L. 65–186, 40 Stat. 755 (16 U.S.C. 701–718h); sec. 3(h), Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 712); Alaska Game Act of 1925, 43 Stat. 739, as amended, 54 Stat. 1103–04.

Note: The following annual hunting regulations provided for by §§20.101 through 20.106 and 20.109 of 50 CFR Part 20 will not appear in Code of Federal Regulations because of their seasonal nature.

2. Section 20.101 is revised to read as follows:

§ 20.101 Seasons, limits and shooting hours for Puerto Rico and the Virgin Islands.

1. Subject to the applicable provisions of the preceding sections of this part, the open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits, and areas for hunting the species designated in this section are prescribed as follows:

(a) *Puerto Rico*

	Doves	Pigeons
Daily bag limit....	10 singly or in the aggregate of all permitted species.	5
Possession limit.	10 singly or in the aggregate of all permitted species.	5
Season dates....	September 2 to October 30, 1989.	
Shooting hours..	One-half hour before sunrise to sunset daily.	

Restrictions: Only the following species of doves and pigeons may be hunted during the open season: Zenaida dove-Tortola cardosantera; white-winged dove—Tortola aliblanca o cubanita; mourning dove—Tortola rabilarga o rabiche; and scaly-naped pigeon—Paloma turca o torcaz.

Closed Areas

No season is prescribed for doves and pigeons on Mona Island, in the Municipality of Culebra and on Desecheo Island.

No season is prescribed in the El Verde Closure Area consisting of those areas of the municipalities of Rio Grande and Loiza delineated as follows: (1) All lands between Routes 956 on the west and 186 on the east, from Route 3 on the north to the juncture of Routes 956 and 186 (Km 13.2) in the south; (2) all lands between Routes 186 and 966 from the juncture of 186 and 966 on the north, to the Caribbean National Forest Boundary on the south; (3) all lands lying west of Route 186 for one (1) kilometer from the juncture of Routes 186 and 956 south of Km 6 on Route 186; (4) all lands within Km 14 and Km 6 on the west and the Caribbean National Forest Boundary on the east; and (5) all lands within the Caribbean National Forest Boundary whether private or public.

No season is prescribed for doves and pigeons of any species in all of Cidra Municipality and in portions of Aguas Buenas, Caguas, Cayey, and Comerio Municipalities as encompassed within the following boundary: beginning on Highway 172 as it leaves the Municipality of Cidra on the west edge, north to Highway 156, east on Highway 156 to Highway 1, south on Highway 1 to Highway 765, south of Highway 765 to Highway 763, south on Highway 763 to the Rio Guavata, west along the Rio Guavata to Highway 1, southwest on Highway 1 to Highway 14, west on Highway 14 to Highway 729, north on Highway 729 to Cidra Municipality, and westerly, northerly, and easterly along the Cidra Municipality boundary to the point of beginning.

Check Commonwealth Regulations for Additional Restrictions

(b) *Puerto Rico*

	Ducks	Common moorhens (gallinules)	Common snipe
Daily bag limits	3	6	6
Possession limits	6	12	12
Season dates	November 4 to December 4, 1989 & February 3 to February 26, 1990.		
Shooting hours	One-half hour before sunrise until sunset daily.		

Restrictions: No season is prescribed for waterfowl in the Municipality of Culebra and on Desecheo Island. The season is closed on the ruddy duck *(Oxyura jamaicensis)*; Bahama pintail *(Anas bahamensis)*; West Indian whistling (tree) duck *(Dendrocygna arborea)*; fulvous whistling (tree) duck *(Dendrocygna bicolor)*; masked duck *Oxyura dominica)*; purple gallinule *(Porphyrula martinica)*; American coot *Fulica americana)*; and Caribbean coot *(Fulica carbaea)*.

Check Commonwealth Regulations for Additional Restrictions

Note: Local names for game bird: Ruddy duck *(Oxyura jamaicensis)*—Pato rojo (protected); purple gallinule *(Porphyrula martinica)*—Gallareta azul (protected); and Puerto Rican plain pigeon *Columba inornata wetmorei)*—Paloma sabanera (protected).

(c) *Virgin Islands*

	Zenaida dove	Scaly-naped pigeon	Ducks
Daily bag limits	10	5	3
Possession limits	10	5	6
Season dates:			
Zenaida dove and scaly-naped pigeon	September 1 through October 30, 1989.		
Ducks only			December 6, 1989, through January 29, 1990.
Shooting hours	One half-hour before sunrise until sunset.		

Restrictions: Seasons are closed for ground or quail doves and pigeons (except scaly-naped pigeon) in the Virgin Islands. The season is closed on the ruddy duck *(Oxyura jamaicensis)*; White-cheeked pintail *(Anas bahamensis)*; West Indian whistling (tree) duck *(Dendrocygna arborea)*; fulvous whistling (tree) duck *(Dendrocygna bicolor)*; masked duck *(Oxyura dominica)*, and purple gallinule *(Porphyrula martinica)*.

Note: Local names for game birds: Zenaida dove—mountain dove; Bridled quail dove—Barbary dove, partridge (protected); Ground dove—stone dove, tobacco dove, rola, tortolita (protected); Scaly-naped pigeon—red-necked pigeon, scaled pigeon.

Check Commonwealth Regulations for Additional Restrictions

3. Section 20.102 is revised to read as follows:

§ 20.102 Seasons, limits, and shooting hours for Alaska.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

Shooting and hawking hours: One-half hour before sunrise to sunset daily.

Check State Regulations for Additional Restrictions, Including Area Descriptions

Open Seasons	Ducks, Geese (including Brant), Cranes, and Snipe
Area	
State Game Mgmt. Units: 11–13 and 17–26.	Sept. 1–Dec. 16.
State Game Mgmt. Units: 5–7, 9, 14–16 & 10 (Unimak Island only).	Sept. 1–Dec. 16.
State Game Mgmt. Units: 1–4.	Sept. 1–Dec. 16.
State Game Mgmt. Units: 8 and 10 (except Unimak Island).	Oct. 8–Jan. 22.

DAILY BAG AND POSSESSION LIMITS

Area	Ducks [1]	Geese [2]	Emperor Geese	Brant	Common Snipe	Sandhill Cranes
Units 11–13 and 17–26	8–24	6–12	Closed	2–4	8–16	Units 11–13 and 18–26, 3–6; unit 17, 2–4.
Units 5–7, 9, 14–16 and 10 (Unimak Island only)	6–18	6–12	Closed	2–4	8–16	2–4.
Units 1–4	5–15	6–12	Closed	2–4	8–16	2–4.
Unit 10 (except Unimak Island)	5–15	6–12	Closed	2–4	8–16	2–4.
Unit 8	5–15	6–12	Closed	2–4	8–16	2–4.

[1] In Units 1–26 (Statewide) the basic bag limits may include not more than 2 pintails daily and 6 pintails in possession, and 1 canvasback daily and 1 canvasback in possession. In addition to the basic daily bag and possession limits, a daily bag limit of 15 and a possession limit of 30 is permitted singly or in the aggregate of the following species: scoter, eider, oldsquaw, harlequin, and common and red-breasted mergansers.

[2] No more than 4 daily, or 8 in possession may be any combination of Canada and/or white-fronted geese, provided that: in Units 1–9 and 14–18, no more than 2 daily, or 4 in possession, may be white-fronted geese. In Units 5 and 6, the taking of Canada geese is only permitted from September 21 through December 16. In Units 8, 9(E), 10 (except Unimak Island) and 18, the taking of Canada geese is prohibited. In Unit 1(C), the taking of snow geese is prohibited. In Units 1–26 (Statewide) the taking of Aleutian and cackling Canada geese and emperor geese is prohibited.

Special Tundra Swan Season: In Unit 22 there will be an experimental tundra swan season from September 1 through October 30, 1989, with a limit of 1 swan per hunter per season. This season is by registration permit (300 only).

4. Section 20.103 is revised to read as follows:

§ 20.103 Seasons, limits, and shooting hours for mourning and white-winged doves and wild pigeons.

Subject to the applicable provisions of

the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours and the daily bag and possession limits on the species designated in this section are prescribed as follows:

(a) *Mourning Doves—Eastern Management Unit.*

In Delaware, Florida, Georgia, Louisiana, Maryland, North Carolina, Pennsylvania, Rhode Island, South Carolina, Virginia and West Virginia	
Daily bag limit	12
Possession limit	24
In Illinois, Indiana, Kentucky, Mississippi and Tennessee:	
Daily bag limit	15
Possession limit	30
In Alabama:	
North Zone	
Daily Bag Limit	15
Possession Limit	15
South Zone	
Daily Bag Limit	12
Possession Limit	12

Shooting and hawking hours: One-half hour before sunrise to sunset except as noted otherwise.

Alabama:	
North Zone: [1]	
12 noon to sunset.	Sept. 16.
½ hour before sunrise to sunset.	Sept. 17–Nov. 4 and Dec. 23–Jan. 1.
South Zone: [1]	
½ hour before sunrise to sunset.	Sept. 23–Sept. 24 and Oct. 14–Oct. 31.
12 noon to sunset.	Nov. 1–Dec. 10 and Dec. 23–Jan. 1.
Connecticut	Closed.
Delaware (12 noon to sunset).	Sept. 2–Sept. 23 and Oct. 16–Oct. 28 and Dec. 11–Jan. 13.
Florida (2):	
12 noon to sunset.	Oct. 7–Oct. 29.
½ hour before sunrise to sunset.	Nov. 11–Nov. 26 and Dec. 9–Jan. 7.
Georgia:	
North Zone (3)	
12 noon to sunset.	Sept. 2.
½ hour before sunrise to sunset.	Sept. 3–Oct. 1 and Nov 23–Nov. 26 and Dec. 11–Jan. 15.
South Zone (3)	
12 noon to sunset.	Sept. 23
½ hour before sunrise to sunset.	Sept. 24–Oct. 22 and Nov. 23–Nov. 26 and Dec. 11–Jan. 15.
Illinois (12 noon to sunset)	Sept. 1–Oct. 30.
Indiana:	
12 noon to sunset.	Sept. 1–Oct. 16.
½ hour before sunrise to sunset.	Nov. 10–Nov. 19 and Nov. 23–Nov. 26.
Kentucky:	
11 a.m. to sunset	Sept. 1–Sept. 30 and Oct. 7–Oct. 30.
sunrise to sunset	Dec. 1–Dec. 6.
Louisiana:	
12 noon to sunset.	Sept. 2–Sept. 3 and Oct. 14–Oct. 15 and Dec. 9–Dec. 10.
½ hour before sunrise to sunset.	Sept. 4–Sept. 10 and Oct. 16–Nov. 12 and Dec. 11–Jan. 8.
Maine	Closed.
Maryland:	
12 noon to sunset.	Sept. 1–Oct. 21.
½ hour before sunrise to sunset.	Nov. 11–Nov. 18 and Dec. 18–Dec. 28.
Massachusetts	Closed.
Michigan	Closed.
Mississippi	Sept. 2–Sept. 24 and Oct. 14–Oct. 28 and Dec. 24–Jan. 14.
New Hampshire	Closed.
New Jersey	Closed.
New York	Closed.
North Carolina	Sept. 2–Oct. 7 and Nov. 21–Nov. 25 and Dec. 16–Jan. 13.
Ohio	Closed.
Pennsylvania:	
12 noon to sunset.	Sept. 1–Oct. 14.
½ hour before sunrise to sunset.	Oct. 28–Nov. 18.
Rhode Island:	
12 noon to sunset.	Sept. 11–Sept. 24.
	Oct. 21–Nov. 25 and Dec. 27–Jan. 15.
South Carolina	Sept. 2–Oct. 7 and Nov. 18–Nov. 25 and Dec. 21–Jan. 15.
Tennessee:	
12 noon to sunset.	Sept. 1.
½ hour before sunrise to sunset.	Sept. 2–Sept. 30 and Oct. 7–Oct. 21 and Dec. 9–Dec. 23.
Vermont	Closed.
Virginia:	
12 noon to sunset.	Sept. 2–Nov. 4.
½ hour before sunrise to sunset.	Dec. 25–Dec. 30.
West Virginia:	
12 noon to sunset.	Sept. 1.
½ hour before sunrise to sunset.	Sept. 2–Oct. 14 and Dec. 19–Jan. 13.
Wisconsin	Closed.

[1] In Alabama, the South Zone is defined as: Mobile, Baldwin, Escambia, Covington, Coffee, Geneva, Dale, Houston and Henry Counties. North Zone: remainder of the State.

(2) In Florida, the daily bag limit is 12 mourning and white-winged doves in the aggregate, of which not more than 4 may be white-winged doves. The possession limit is 24 mourning and white-winged doves in the aggregate, of which not more than 8 may be white-winged doves.

(3) In Georgia, the North Zone is defined as that area lying north of a division line as follows: U.S. Highway 280 from Columbus to Wilcox County, thence southward along the western border of Wilcox County, thence east along the southern border of Wilcox County to the Ocmulgee River, thence north along the Ocmulgee River to Highway 280, thence east along Highway 280 to the Little Ocmulgee River; thence southward along the Little Ocmulgee River; to the Ocmulgee River, thence southwesterly along the Ocmulgee River to the western border of Jeff Davis County, south along the western border of Jeff Davis County, east along the southern border of Jeff Davis and Appling Counties, north along the eastern border of Appling County to the Altamaha River, east to the eastern border of Tattnall County; north along the eastern boundary of Tattnall County, north along the western border of Evans County to Candler County, east along the northern border of Evans County to Bulloch County, north along the western border of Bulloch County to Highway 301, then northeast along Highway 301 to the South Carolina line.

(b) *Mourning Doves—Central Management Unit.*

In Missouri:	
Daily bag limit	10
Possession limit	20
In Texas:	
Daily bag limit	12(3)
Possession limit	24(3)
In Arkansas, Colorado, Kansas, Nebraska, North Dakota, New Mexico, Oklahoma, South Dakota, Wyoming and Montana:	
Daily bag limit	15(1)
Possession limit	30(1)

Shooting and hawking hours: One-half hour before sunrise until sunset except as noted otherwise.

Check State Regulations for Additional Restrictions, Including Area Descriptions

Arkansas	Sept 2–Sept. 24 & Oct. 7–Oct. 22 & Dec. 16–Jan. 5.
Colorado	Sept. 1–Oct. 30.
Iowa	Closed.
Kansas	Sept. 1–Oct. 30.
Minnesota	Closed.
Missouri	Sept. 1–Nov. 9.
Montana	Sept. 2–Oct. 11.
Nebraska	Sept. 1–Oct. 30.
New Mexico (1)	Sept. 1–Sept. 30 & Dec. 1–Dec. 30.
North Dakota	Sept. 1–Oct. 30.
Oklahoma	Sept. 1–Oct. 30.
South Dakota	Sept. 1–Oct. 20.
Texas: (2)(3)	
North Zone	Sept. 1–Nov.9.
Central Zone	Sept. 1–Oct. 30 & Jan. 6–Jan. 15.
South Zone (4)	Sept. 20–Nov. 18 & Jan. 6–Jan. 15.
Wyoming	Sept. 1–Oct. 15.

(1) In New Mexico, the daily bag limit is 15 and the possession limit is 30 white-winged and mourning doves, singly or in the aggregate of these species.

(2) In Texas, the three zones are North, South and Central as follows:

North Zone—That portion of the State north of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to State Highway 20; west along State Highway 20 to State Highway 148; north along State Highway 148 to Interstate Highway 10 at Fort Hancock; east along Interstate Highway 10 to Interstate Highway 20; northeast along Interstate Highway 20 to Interstate Highway 30 at Fort Worth; northeast along Interstate Highway 30 to the Texas-Arkansas State line.

South Zone—That portion of the State south and west of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to State Highway 20; west along State Highway 20 to State Highway 148; north along State Highway 148 to Interstate Highway 10 at Fort Hancock; east along Interstate Highway 10 to Van Horn, south and east on U.S. 90 to San Antonio; then east on Interstate 10 to Orange, Texas.

Central Zone—That portion of the State lying between the North and South Zones. (3) In Texas, the daily bag limit is 12 mourning, white-winged and white-tipped doves in the aggregate, of which no more than 2 can be white-winged doves and 2 can be white-tipped doves; and the possession limit is 24, of which no more than 4 may be whitewings, and 4 may be whitetips, except during the special 4-day white-winged dove season in 2 portions of the Special White-winged Dove Area of the South Zone. In that portion north and west of Del Rio, the aggregate daily bag limit for doves is 10 daily, not to exceed 2 white-tipped doves, while south and east of Del Rio, the aggregate daily bag lmit for doves may not contain more than 5 mourning doves and 2 white-tipped doves. Possession limits are twice the daily bag limit. (4) In Texas, the mourning dove season in the Special White-winged Dove Area of the South Zone is Sept. 20–Nov. 14 and Jan. 6–Jan. 15.

(c) *Mourning Doves—Western Management Unit.*

In Arizona, California, Idaho, Nevada, Oregon, Washington and Utah:	
Daily bag limit	10(1)(2)
Possession limit	20(1)(2)

Shooting and hawking hours: One-half hour before sunrise until sunset.

Check State Regulations for Additional Restrictions, Including Area Descriptions

Arizona (1):	
½ hour before sunrise to noon.	Sept. 1–Sept. 10.
½ hour before sunrise to sunset.	Nov. 24–Jan. 12.
California (2)	Sept. 1-Sept. 15 & Nov. 11–Dec. 25.
Idaho	Sept. 1–Sept. 30.
Nevada (2)	Sept. 1–Sept. 30.
Oregon	Sept. 1–Sept. 30.
Utah	Sept. 1–Sept. 30.
Washington	Sept. 1–Sept. 15.

(1) In Arizona, during September 1 through 10, 1989, the daily bag limit is 10 mourning and white-winged doves in the aggregate of which no more than 6 may be white-winged doves. The possession limit after opening day is 20 mourning and white-winged doves in the aggregate of which no more than 12 may be white-winged doves. During November 24, 1989, through January 12, 1990, the bag and possession limits are 10 and 20 mourning doves, respectively.

(2) In those counties of California (Imperial, Riverside, and San Bernardino) and Nevada (Clark and Nye) having a season on white-winged doves, the daily bag limit is 10 and the possession limit is 20 mourning and white-winged doves, singly or in the aggregate of these species.

Hawaii Regulations. Subject to the applicable provisions of the preceding sections of this part, mourning doves may be taken in accordance with the State regulations.

(d) *White-winged Doves.* Shooting and hawking hours: One-half hour before sunrise until sunset except as noted otherwise.

Check State Regulations for Additional Restrictions, Including Area Descriptions

Seasons in	Season dates	Limits	
		Bag	Poss.
Arizona (Statewide)	Sept. 1–Sept. 10	6(1)	12(1)
California: (2)			
Imperial, Riverside, and San Bernardino Counties	Sept. 1–Sept. 15 & Nov. 11–Dec. 25	10(2)	20(2)
Remainder of State	Closed		
Florida	See Mourning dove regulations		
Nevada: (2)			
Clark and Nye Counties	Sept. 1–Sept. 30	10(2)	20(2)
Remainder of State	Closed		
New Mexico (3)	Sept. 1–Sept. 30 & Dec. 1–Dec. 30	15(3)	30(3)
Texas: (4)(5)			
Area in South Zone	Sept. 2, 3, 9 and 10	10(5)	20(5)

Seasons in	Season dates	Limits	
		Bag	Poss.
Remainder of State	See Mourning dove regulations		

(1) In Arizona, during September 1 through 10 the daily bag limit is 10 mourning and white-winged doves in the aggregate of which no more than 6 may be white-winged doves. The possession limit after opening day is 20 mourning and white-winged doves in the aggregate of which no more than 12 may be white-winged doves.

(2) In designated counties of California and Nevada, the daily bag limit is 10 and the possession limit is 20 white-winged and mourning doves, singly or on the aggregate of both species.

(3) In New Mexico, the daily bag limit is 15 and the possession limit is 30 white-winged and mourning doves, singly or in the aggregate of both species.

(4) *Special White-Winged Dove Area in the South Zone*—That portion of State south and west of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to State Highway 20; west along State Highway 20 to State Highway 148; north along State Highway 148 to Interstate Highway 10 at Fort Hancock; east along Interstate Highway 10 to Van Horn, south and east on U.S. Highway 90 to Uvalde, south on U.S. Highway 83 to State Highway 44; east along State Highway 44 to State Highway 16 at Freer; south along State Highway 16 to State Highway 285 at Hebbronville; east along State Highway 285 to FM 1017; southeast along FM 1017 to State Highway 186 at Linn; east along State Highway 186 to Mansfield Channel at Port Mansfield; east along the Mansfield Channel to the Gulf of Mexico. (5) In Texas, the daily bag limit in the Special White-winged Dove Area during the special hunt is 10 white-winged, mourning and white-tipped doves in the aggregate of which no more than 5 may be mourning doves and 2 may be white-tipped doves in the portion south and east of Del Rio. In the portion of the area north and west of Del Rio, the aggregate daily bag limit is 10, of which no more than 2 may be white-tipped doves. Possession limit is twice the daily bag limit.

(e) *Band-tailed Pigeons.* Shooting and hawking hours: One-half hour before sunrise until sunset.

Check State Regulations for Additional Restrictions, Including Area Descriptions

Seasons in	Season dates	Limits	
		Bag	Poss.
Arizona (1)	Oct. 13–Nov. 11	5	10
California:			
Alpine, Butte, Del Norte, Glen, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity Counties.	Sept. 30–Oct. 15	4	4
Remainder of State	Dec. 9–Dec. 24	4	4
Colorado:			
In all lands west of U.S. Interstate 25 and Small Game Management Units 128, 129, 133–136 and 140–142.	Sept. 1–Sept. 30	5	10
Nevada:			
Carson City, Douglas, Lyon, Washoe, Humboldt, Pershing, Churchill, Mineral, and Storey Counties only.	Sept. 15–Sept. 30	4	4
New Mexico:			
North Zone (2)	Sept. 1–Sept. 20	5	10
South Zone (2)	Oct. 1–Oct. 20	5	10
Oregon	Sept. 15–Sept. 22	2	2
Utah	Sept. 1–Sept. 30	5	10
Washington	Sept. 16–Sept. 24	4	4

(1) In Arizona, each hunter must have a special bird permit stamp issued by the State.

(2) In New Mexico, the *North Zone* is defined as that area lying north and east of a line following U.S. Highway 60 from the Arizona State line east to Interstate Highway 25 at Socorro and then south along Interstate Highway 25 to the Texas State line. The *South Zone* is that area lying south and west of the North Zone.

5. Section 20.104 is revised to read as follows:

§20.104 Seasons, limits, and shooting hours for rails, woodcock, and common snipe.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits on the species designated in this section are as follows:

	Rails—		Woodcock	Common Snipe
	(Sora and Virginia)	(Clapper and King)		
Daily bag limit	25(1)	See footnote (2)	5(3)	8
Possession limit	25(1)	See footnote (2)	10(3)	16

	Rails—		Woodcock	Common Snipe
	(Sora and Virginia)	(Clapper and King)		
Shooting and Hawking Hours: One-half hour before sunrise until sunset daily on all species, except as noted otherwise. *Check State Regulations for Additional restrictions, Including Area Descriptions.*				
Seasons in the Atlantic Flyway:				
Connecticut	Sept. 1–Nov. 9	Sept. 1–Nov. 9	Oct. 21–Dec. 4	Oct. 21–Dec. 4.
Delaware	Sept. 1–Nov. 9	Sept. 1–Nov. 9	Nov. 20–Jan. 3	Nov. 20–Jan. 31.
Florida	Sept. 1–Nov. 9	Sept. 1–Nov. 1	Dec. 9–Jan. 22	Nov. 1–Feb. 15.
Georgia	Sept. 16–Nov. 24	Sept. 16–Nov. 24	Nov. 25–Jan. 8	Nov. 20–Feb. 28.
Maine	Sept. 1–Nov. 9	Closed	Oct. 2–Nov. 15	Sept. 1–Dec. 16.
Maryland	Sept. 1–Nov. 9	Sept. 1–Nov. 9	Oct. 11–Nov. 24	Oct. 2–Nov. 24 and Nov. 27–Jan. 18.
Massachusetts	Sept. 1–Nov. 9	Closed	Oct. 10–Nov. 23	Sept. 1–Dec. 12.
New Hampshire	Closed	Closed	Oct. 1–Nov. 14	Sept. 15–Nov. 30.
New Jersey (4):				
North Zone	Sept. 1–Nov. 9	Sept. 1–Nov. 9	Oct. 14–Nov. 14	Oct. 2–Jan. 16.
South Zone	Sept. 1–Nov. 9	Sept. 1–Nov. 9	Nov. 11–Dec. 2 and Dec. 16–Dec. 28.	Oct. 2–Jan. 16.
New York (10)	Sept. 1–Nov. 9	Closed	Oct. 1–Nov. 14	Sept. 1–Dec. 16.
North Carolina	Sept. 2–Nov. 10	Sept. 2.–Nov. 10	Nov. 18–Jan. 1	Nov. 14–Feb. 28.
Pennsylvania	Sept. 1–Nov. 4	Closed	Oct. 21–Nov. 12	Oct. 21–Dec. 9.
Rhode Island	Sept. 11–Nov. 19	Sept. 11–Nov. 19	Oct. 21Dec. 1	Sept. 11–Dec. 1 and Dec. 11–Jan. 4.
South Carolina	Sept. 13–Nov. 16 and Dec. 10–Dec. 14.	Sept. 13–Nov. 16 and Dec. 10–Dec. 14.	Nov. 23–Dec. 9 and Dec. 24–Jan. 20.	Nov. 14–Feb. 28.
Vermont	Sept. 30–Dec. 8	Closed	Oct. 1–Nov. 14	Sept. 30–Dec. 8.
Virginia	Sept. 7–Nov. 15	Sept. 7–Nov. 15	Nov. 6–Dec 2 and Dec. 20–Jan. 6.	Oct. 17–Jan. 31.
West Virginia	Sept. 1–Nov. 9	Closed	Oct. 14–Nov. 27	Sept. 1–Dec. 16.
Seasons in the Mississippi Flyway:				
Alabama (11)	Nov. 11–Jan. 19	Nov. 11–Jan. 19	Nov. 28–Jan. 31	Nov. 14–Feb. 28.
Arkansas	Sept. 2–Nov. 10	Closed	Nov. 4–Dec. 10 and Jan. 6–Feb. 2.	.Nov. 11–Feb. 25.
Illinois	Sept. 2–Nov. 10	Closed	Oct. 1–Dec. 4	Sept. 2–Dec. 17.
Indiana	Sept. 1–Nov. 9	Closed	Sept. 16–Sept. 24 and Sept. 30–Nov. 24.	Sept. 1–Dec. 16.
Iowa (5)	Sept. 2–Nov. 10	Closed	Sept. 16–Nov. 19	Sept. 2–Dec. 17.
Kentucky	Deferred	Closed	Oct. 1–Dec. 4	Oct. 1–Dec. 4.
Louisiana	Nov. 18–Jan. 20	Nov. 18–Jan. 20	Dec. 9–Feb.11	Nov. 11–Feb. 25.
Michigan (6)	Sept. 15–Nov. 14	Closed	Sept. 15–Nov. 14	Sept. 15–Nov. 14.
Minnesota	Sept. 1–Nov. 4	Closed	Sept. 1–Nov. 4	Sept. 1–Nov. 4.
Mississippi	Oct. 14–Dec. 22	Oct. 14–Dec. 22	Dec. 26–Feb. 28	Nov. 14–Feb. 28.
Missouri	Sept. 1–Nov. 9	Closed	Oct. 15–Dec. 18	Sept. 1–Dec. 16.
Ohio	Sept. 1–Nov. 9	Closed	Sept. 22–Nov. 25	Sept. 1–Nov. 25 and Dec 4–Dec. 23.
Tennessee	Deferred	Closed	Oct. 21–Nov. 26 and Feb. 1–Feb. 28.	Nov. 14–Feb. 28.
Wisconsin	Oct. 7–Nov. 19	Closed	Sept. 16–Nov. 19	Oct. 7–Nov. 19.
Seasons in the Central Flyway:				
Colorado (7)	Sept. 1–Nov. 9	Closed	Closed	Sept. 1–Dec. 2.
Kansas	Sept. 1–Nov. 9	Closed	Oct. 1–Dec. 4	Sept. 1–Dec. 16.
Montana (7)	Closed	Closed	Closed	Sept. 2–Dec. 3.
Nebraska (8)	Sept. 1–Nov. 9	Closed	Sept. 15–Nov. 18	Sept. 1–Dec. 15.
New Mexico (7)(12):				
North Zone	Oct. 8–Nov. 15 and Dec. 9–Dec. 20.	Closed	Closed	Oct. 8–Nov. 15 and Dec. 9–Dec. 20.
South Zone	Nov. 18–Jan. 7	Closed	Closed	Nov. 18–Jan. 7.
North Dakota	Closed	Closed	Closed	Sept. 30–Nov. 26.
Oklahoma	Sept. 1–Nov. 9	Closed	Oct. 28–Dec. 31	Oct. 1–Jan. 15.
South Dakota (9)	Closed	Closed	Closed	Sept. 1–Oct. 31.
Texas	Sept. 1–Nov. 9	Sept. 1–Nov. 9	Deferred	Deferred.
Wyoming(7)	Sept. 16–Nov. 24	Closed	Closed	Sept. 16–Dec. 31.
Seasons in the Pacific Flyway:				
Colorado (7)	Sept. 1–Nov. 9	Closed	Closed	Sept. 1–Dec. 2.
Montana (7)	Closed	Closed	Closed	Sept. 2–Dec. 3.
New Mexico (7)(12) and Nov. 25–Jan. 6.	Oct. 7–Oct. 22	Closed	Closed	Oct. 7–Oct. 22 and Nov. 25–Jan. 6.
Wyoming (7)	Sept. 16–Nov. 24	Closed	Closed	Sept. 16–Dec. 17.

NOTE.— No seasons are prescribed for woodcock. Snipe seasons have been deferred by all other States in the Pacific Flyway.

(1) The bag and possession limits for sora and Virginia rails apply singly or in the aggregate of these two species.

(2) In addition to the limits on sora and Virginia rials, in Connecticut, Delaware, Maryland, New Jersey, and Rhode Island, there is a daily bag limit of 10 and possession limit of 20 clapper and king rails, singly or in the aggregate of these two species, except that the season is closed on king rails in New Jersey by State regulation. In Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and Virginia, there is a daily bag limit of 15 and possession limit of 30 clapper and king rails, singly or in the aggregate of these two species.

(3) In States of the Atlantic Flyway, the woodcock bag limit is 3 daily and 6 in possession.

(4) For description of zones or management units within a State, see State regulations.

(5) In Iowa, rail limits are 15 daily and 25 in possession.

(6) See State regulations for listing of certain Great Lakes waters where the season is to open concurrently with the duck season.

(7) The Central Flyway portion consists of: *Colorado* and *Wyoming*—the area lying east of the Continental Divide; Montana—the area lying east of Hill, Chouteau, Cascade, Meagher, and Park Counties; *New Mexico*—the area lying east of the Continental Divide but outside the Jicarilla Apache Indian Reservation. The remaining portions of these States are in the Pacific Flyway.

(8) In Nebraska, the rail limits are 10 daily and 20 in possession.

(9) In South Dakota, the snipe limits are 5 daily and 15 in possession.

(10) In New York, the seasons for rails (Sora and Virginia) and common snipe are statewide *except* in Long Island.

(11) In Alabama, the rail limits are 15 daily and 15 in possession.

(12) In New Mexico, the rail limits are 10 daily and 10 in possession.

Noted: Some States may select rail, woodcock, and snipe seasons at the time they select their duck seasons in August. Consult waterfowl regulations to be published later for information concerning these seasons.

6. Section 20.105 is amended by revising paragraphs (a) through (c) and by amending paragraph (d) to read as follows:

§ 20.105 Seasons, limits, and shooting hours for waterfowl, coots, and common moorhens and purple gallinules.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

(a) *Sea Ducks.* (1) An open season for taking scoter, eider and oldsquaw ducks is prescribed according to the following table during the period between September 15, 1989, and January 20, 1990, in all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut and New York; in any waters of the Atlantic Ocean and, in addition, in any tidal waters of any bay which are separated by at least one mile of open water from any shore, island and emergent vegetation in New Jersey, South Carolina and Georgia; and in any waters of the Atlantic Ocean and/or in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island and emergent vegetation in Delaware, Maryland, North Carolina and Virginia; and provided that any such areas have been described, delineated and designated as special duck hunting areas under the hunting regulations adopted by the respective States. In all other areas of these States and in all other States in the Atlantic Flyway, sea ducks may be taken only during the regular open season for ducks and they must be included in the regular duck season conventional or point-system daily bag and possession limits.

(2) The daily bag limit is 7 and the possession limit is 14, singly or in the aggregate of these species. Within the special sea duck areas, during the regular duck season in the Atlantic Flyway, States may set, in addition to the regular season limits, a daily bag limit of 7 and a possession limit of 14 scoter, eider and oldsquaw ducks, singly or in the aggregate of these species.

(3) Shooting and hawking hours are one-half hour before sunrise until sunset daily.

Check State Regulations for Additional Restrictions

Seasons in:	
Connecticut	Deferred.
Delaware	Sept. 23–Jan. 6.
Georgia	Nov. 23–Jan. 7.
Maine	Deferred.
Maryland	Oct. 6–Jan. 20.
Massachusetts	Deferred.
New Hampshire	Sept. 15–Dec. 30.
New Jersey	Oct. 2–Jan. 16.
New York (Long Island only).	Sept. 23–Jan. 7.
North Carolina	Deferred.
Rhode Island	Deferred.
South Carolina	Deferred.
Virginia	Deferred.

(4) Notwithstanding the provisions of this part 20, the shooting of *crippled* waterfowl from a motorboat under power will be permitted in Maine, Massachusetts, New Hampshire, Rhode Island, Connecticut, New York, Delaware, Virginia and Maryland in those areas described, delineated and designated in their respective hunting regulations as being open to sea duck hunting.

Note: States with deferred seasons may select sea duck seasons at the time they select their waterfowl seasons in August. Consult waterfowl regulations to be published later for information concerning these later seasons.

(b) *Teal.* The September teal season is suspended in 1989.

(c) *Common Moorhens and Purple Gallinules.*

Bag limit	15 singly or in the aggregate of the two species.
Possession limit	30 singly or in the aggregate of the two species.

Shooting and hawking hours: One-half hour before sunrise to sunset.

Check State Regulations for Additional Restrictions

Seasons in the Atlantic Flyway:	
Connecticut	Sept. 1–Nov. 9.
Delaware	Sept. 1–Nov. 9.
Florida (1)	Sept. 1–Nov. 9.
Georgia	Nov. 23–Nov. 26 & Dec. 13–Jan. 7.
Maine	Sept. 1–Nov. 9.
Maryland	Closed.
Massachusetts	Closed.
New Hampshire	Closed.
New Jersey (2)	Sept. 1–Nov. 9.
New York:	
Long Island	Closed.
Remainder of State.	Sept. 1–Nov. 9.
North Carolina	Sept. 2–Nov. 10.
Pennsylvania	Sept. 1–Nov. 4.
Rhode Island	Sept. 11–Nov. 19.
South Carolina	Sept. 13–Nov. 16 & Dec. 10–Dec. 14.
Vermont	Sept. 30–Dec. 8.
Virginia	Deferred.
West Virginia	Deferred.
Seasons in the Mississippi Flyway:	
Alabama (3)	Nov. 11–Jan. 19.
Arkansas	Sept. 2–Nov. 10.
Illinois	Closed.
Indiana	Sept. 1–Nov. 9.
Iowa	Closed.
Kentucky	Deferred.
Louisiana	Nov. 18–Jan. 20.
Michigan	Deferred.
Minnesota	Oct. 7–Nov. 5.
Mississippi	Oct. 14–Dec. 22.
Missouri	Closed.
Ohio	Sept. 1–Nov. 9.
Tennessee	Deferred.
Wisconsin	Oct. 7–Nov. 19.
Seasons in the Central Flyway:	
Colorado (4)	Closed.
Kansas	Closed.
Montana (4)	Closed.
Nebraska	Closed.
New Mexico (4)(5):	
North Zone	Oct. 8–Nov. 15 & Dec. 9–Dec. 20.
South Zone	Nov. 18–Jan. 7.
North Dakota	Closed.
Oklahoma	Sept. 1–Nov. 9.
South Dakota	Closed.
Texas	Sept. 1–Nov. 9.
Wyoming (4)	Closed.
Seasons in the Pacific Flyway:	
All States and portions thereof.	Deferred.

(1) The season in Florida applies to the common moorhen only. There is no open season on the purple gallinule in Florida.

(2) In New Jersey, the bag limit is 10 daily and 20 in possession.

(3) In Alabama, the bag limit is 15 daily and 15 in possession.

(4) Seasons apply to Central Flyway portion of State only.

(5) In New Mexico, the bag limit is 5 common moorhens daily and 10 in possession; there is no open season on the purple gallinule in New Mexico.

Note: States with deferred seasons may select gallinule seasons at the time they select their waterfowl seasons in August. Consult waterfowl regulations to be published later for information concerning these later seasons.

(d) *Waterfowl and coots in Atlantic, Mississippi, Central and Pacific Flyways.*

Atlantic Flyway

Flywaywide Restrictions

Shooting (including hawking) hours: One-half hour before sunrise to sunset daily except as otherwise restricted.

* * * * *

	Season Dates	Limits	
		Bag	Possession
Florida:			
Wood ducks	Sept. 23–Sept. 27.	3	6
North Carolina:			
Canada Geese	Sept. 1–Sept. 9.	2	4
Mississippi Flyway:			
Illinois (1):			
Canada Geese	Sept. 1–Sept. 10.	5	10
Kentucky:			
Wood ducks	Sept. 6–Sept. 10.	2	4
Michigan (1):			
Canada Geese	Sept. 1–Sept. 10.	3	6
Minnesota (1)(2):			
Canada Geese	Sept. 1–Sept. 10	4	8
Tennessee:			
Wood ducks	Sept. 9–Sept. 13	2	4
Pacific Flyway:			
Wyoming (1):			
Canada Geese	Sept. 2–Sept. 4.	2 per season.	

(1) Check State regulations for areas open to the hunting of Canada geese.
(2) In Minnesota, the bag and possession limits for Canada geese will be 2 and 4, respectively, in the Fergus Falls/Alexandira Zone and Southwest Border Zone.

* * * * *

7. Section 20.106 is revised to read as follows:

§ 20.106 Seasons, limits, and shooting hours for sandhill cranes.

Central Flyway: Subject to the applicable provisions of the preceding sections of this part, open seasons are prescribed for taking sandhill cranes with a daily bag limit of 3 and a possession limit of 6 cranes (unless otherwise noted), and with shooting hours from one–half hour before sunrise until sunset (unless otherwise noted) in the following areas for the dates indicated:

(a) In Colorado (the Central Flyway portion except the San Luis Valley and North Park) the inclusive dates are September 30 through November 26, 1989.

(b) In New Mexico (a) in the counties of Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt, the inclusive dates for the regular season are October 21, 1989, through January 21, 1990; (b) in the Middle Rio Grande Valley Hunt Area (described in State regulations) the inclusive dates for the experimental season are October 18 through October 24, and October 25 through October 30, 1989; and (c) in the Hatch-Deming Zone in the counties of Sierra, Luna, and Dona Ana the inclusive dates are January 5–January 7; January 12–January 14; January 19–January 21; and January 26–January 28, 1990.

Hunting in the experimental seasons is by State permit only, the daily bag limit is 3 sandhill cranes, the possession limit is 6 and the seasonal bag limit is 9, and shooting hours are sunrise to sunset.

(c) In Oklahoma (that portion west of I–35) the inclusive dates are October 21, 1989, through January 21, 1990.

(d) In Texas that portion west of a line from Brownsville along U.S. 77 to Victoria; U.S. 87 to Placedo; Farm Road 616 to Blessing; State 35 to Alvin; State 6 to U.S. 290; U.S. 290 to Sonora; U.S. 277 to Abilene; Texas 351 to Albany; U.S. 283 to Vernon; and U.S. 183 to the Texas-Oklahoma boundary the season has been deferred.

(e) In North Dakota (that portion west of U.S. Highway 281) the inclusive dates are September 9 through November 5, 1989.

(f) In South Dakota, the inclusive season dates are September 30 through November 5, 1989.

(g) In Montana (the Central Flyway portion except that area south of I-90 and west of the Bighorn River), the inclusive dates are September 30 through November 26, 1989.

(h) In Wyoming, in Campbell, Converse, Crook, Goshen, Laramie, Niobrara, Platte, and Weston Counties, the inclusive season dates are September 16 through November 12, 1989.

Each hunter participating in the regular sandhill crane hunting season must obtain and carry in his possession while hunting sandhill cranes a valid Federal sandhill crane hunting permit available without cost from conservation agencies in the States where crane hunting seasons are allowed. The permit must be displayed to any authorized law enforcement official upon request.

Pacific Flyway

(a) In Arizona (within Game Management Units 30A, 30B, 31, and 32), the season selection has been deferred.

(b) In Utah (Cache and Rich Counties), the season dates are September 2 through September 4 and September 9 through September 11. Hunting by State permit only. Season limit is 1 sandhill crane per hunter.

(c) In Wyoming's sandhill crane hunt areas: Hunting by State permit only.

Bear River area in Lincoln County—the season dates are September 2 through September 4, 1989. Season limits are 2 sandhill cranes per hunter.

Riverton-Boysen Unit in Fremont County (Central Flyway)—the season dates are September 9 through September 10, 1989. Season limits are 2 sandhill cranes per hunter.

Salt River (Star Valley) area in Lincoln County—the season dates are September 2 through September 4, 1989. Season limits are 2 sandhill cranes per hunter.

Eden-Farson Agricultural Project in Sweetwater and Sublette Counties—the season dates are September 2 through September 4, 1989. Season limits are 2 sandhill cranes per hunter.

8. Section 20.109 is revised to read as follows:

§ 20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.

Subject to the applicable provisions of this part, the areas open to hunting, the respective open seasons (dates inclusive), the hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

Daily bag limit	3 singly or in the aggregate unless otherwise restricted.
Possession limit	6 singly or in the aggregate unless otherwise restricted.

These limits apply during both regular hunting seasons and extended falconry seasons.

Hawking hours: One-half hour before sunrise until sunset daily unless otherwise restricted.

Check State Regulations for Additional Restrictions

Atlantic Flyway:	
Florida:	
Mourning doves and white-winged doves, moorhens and rails.	Sept. 23–Dec.1.
Woodcock	Oct. 28–Dec. 10.
Snipe	Nov. 1–Feb. 15.
Common moorhens and rails.	Sept. 23–Dec. 1.
Georgia:	
Ducks, mergansers, coots, gallinules and sea ducks.	Nov. 14–Feb. 28.
Maryland:	
Mourning doves	Sept. 1–Oct. 21 & Nov. 3–Dec. 28.
Rails	Sept. 1–Dec. 16.
Woodcock	Oct. 5–Jan. 19.
Snipe	Oct. 2–Nov. 24 & Nov. 27–Jan. 18.
New Jersey:	
Ducks	Oct. 2–Jan. 6 & Mar. 1–Mar. 10.
Pennsylvania:	
Mourning doves	Sept. 1–Dec. 16.
Ducks and geese	Oct. 7–Jan. 7.
Virginia:	
Woodcock and snipe.	Oct. 17–Jan. 31.
Mourning doves and rails.	Sept. 1–Nov. 30 & Dec. 23–Jan. 7
Mississippi Flyway:	
Illinois:	
Ducks, mergansers, coots, mourning doves, woodcock and rails.	Sept. 1–Dec. 16.
Indiana:	
Mourning doves	Oct. 17–Nov. 9 & Jan. 1–Jan. 23.
Woodcock	Sept. 1–Sept. 15.
Iowa:	
Ducks, coots, and geese.	Sept. 1–Dec. 16.
Michigan:	
Snipe, rails and moorhens.	Sept. 1–Dec. 16.
Ducks and coots	Oct. 4–Jan. 18.
Minnesota:	
All migratory game birds.	Sept. 1–Dec. 16.
Missouri:	
Mourning doves	Sept. 1–Dec. 16.
Ohio:	
Rails, gallinules and moorhens.	Sept. 1–Nov. 9.
Snipe	Sept. 1–Nov. 25 & Dec. 4–Dec. 23.
Woodcock	Sept. 22–Nov. 25.
Wisconsin:	
Rails, woodcock, snipe, and gallinules.	Sept. 1–Dec. 16.
Ducks, mergansers, and coots.	Oct. 7–Jan. 21.
Central Flyway:	
Colorado:	
Ducks, mergansers and coots.	Sept. 1–Oct. 6 & Oct. 18–Nov. 3.
Montana: (1)	
Waterfowl and coots.	Sept. 16–Dec. 31.
Doves	Sept. 1.
Nebraska:	
Ducks, mergansers, coots and geese.	Sept. 1–Dec. 16.
New Mexico:	
Doves	Sept. 1–Nov. 5 & Nov. 21–Dec. 30.
Band-tailed pigeons.	Sept. 1–Nov. 30.
Sandhill cranes only in Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt Counties.	Oct. 14–Jan. 28.
Ducks, coots, moorhens and snipe:	
North Zone	Sept. 5–Dec. 20.
South Zone	Nov. 9–Feb. 23.
Canada and white-fronted geese.	Oct. 7–Jan. 21.
Snow, blue, and Ross' geese:	
Middle Rio Grande Valley.	Nov. 1–Feb. 15.
Remainder of State in Flyway.	Nov. 14–Feb. 28.
North Dakota:	
All legal migratory game species.	Sept. 1–Nov. 12.
Oklahoma:	
Duck, mergansers, and coots.	Oct. 7–Jan. 21.
Texas:	
Mourning doves (statewide).	Sept. 1–Nov. 20 & Jan. 1–Jan. 26.
Rails and gallinules.	Sept. 1–Nov. 20 & Jan. 1–Jan. 26.
White-winged doves.	Sept. 1–Nov. 20 & Jan. 1–Jan. 26.
Wyoming:	
Mourning doves	Sept. 1–Oct. 15.
Snipe and rails	Sept. 16–Nov. 24.
Pacific Flyway:	
Colorado:	
Ducks, mergansers and coots.	Sept. 23–Oct. 6 & Oct. 15–Nov. 17.

Idaho:	
Waterfowl and doves.	Sept. 1–Oct. 8 & Mar. 1–Mar. 10.
Montana: (1)	
Waterfowl and coots.	Sept. 16–Dec. 31.
Doves	Sept. 1.
Nevada: (2)	
Ducks, mergansers, coots, moorhens and snipe.	Jan. 12–Feb. 28.
New Mexico:	
Doves	Sept. 1–Nov. 5 & Nov. 21–Dec. 30.
Band-tailed pigeons.	Sept. 1–Nov. 30.
Ducks, coots, moorhens and snipe:	
North Zone	Sept. 22–Jan. 6.
South Zone	Oct. 7–Jan. 21.
Canada and white-fronted geese.	Oct. 7–Jan. 21.
Snow, blue and Ross' geese.	Oct. 7–Jan. 21.
Oregon: (3)	
Doves and pigeons.	Sept. 1–Dec. 16.
Utah:	
Doves and pigeones.	Sept. 1–Dec. 16.
Wyoming:	
Mourning doves	Sept. 1–Oct. 15.
Snipe and rails	Sept. 16–Nov. 24.

Note: See waterfowl season footnotes for descriptions of zones. For some States, the extended falconry season dates also include general season dates.

(1) In Montana, the bag limit is 2 and the possession limit is 6.

(2) In Nevada, the bag limit is 2 and the possession limit is 4. Hawking hours are sunrise to sunset.

(3) In Oregon, no more than 1 pigeon daily in bag or possession.

Dated: August 23, 1989.

Richard N. Smith,

Acting Director.

[FR Doc. 89–20385 Filed 8–29–89; 8:45 am]

BILLING CODE 4310–55

federal register

Wednesday
August 30, 1989

Part IV

Environmental Protection Agency

40 CFR Part 135

Requirements for Citizen Suits Under the Clean Water Act; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 135

[FRL-3429-9]

RIN 2640-AB50

Requirements for Citizen Suits Under the Clean Water Act

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: Section 505 of the Clean Water Act (CWA) authorizes any person to sue an alleged violator of certain requirements of the CWA. The Water Quality Act of 1987 (WQA) amended CWA section 505 to require that the citizen plaintiff shall serve a copy of the complaint filed in such a suit on the Administrator and the Attorney General. The WQA also provides that no consent judgment shall be entered by the court to resolve such a suit prior to 45 days following the receipt of the proposed consent judgment by the Administrator and the Attorney General. EPA is today proposing regulations governing the manner in which parties in citizen suits must provide copies of filed complaints and proposed consent decrees under this new provision.

DATES: Comments on the proposed rule must be received by October 16, 1989.

ADDRESSES: Send comments to: David Drelich, Office of Enforcement and Compliance Monitoring, Water Division (LE-134W), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Persons may inspect all comments and the record of this rulemaking at that address, in Room 3109 Mall, during normal Agency working hours.

FOR FURTHER INFORMATION CONTACT: David Drelich, (same address) (202) 382-2949.

SUPPLEMENTARY INFORMATION:

Section 505 of the Clean Water Act (CWA or the Act) (33 U.S.C. 1365) authorizes any person with an interest which is or may be adversely affected to commence a civil action against anyone alleged to be in violation of certain requirements of the CWA. CWA section 505(a)(1). No such action may be commenced under this citizen suit provision prior to 60 days after the citizen plaintiff has given notice to the Administrator (and others) of the alleged violations. Rules for providing the requisite notice of violation can be found at 40 CFR part 135.

Effective February 4, 1987, Congress amended the Act to require that citizen plaintiffs provide the federal government with copies of complaints filed under CWA 505(a)(1). In addition, the federal government must be provided with copies of proposed "consent judgments" by which the parties intend to resolve such citizen enforcement suits. See Public Law 100-4, February 4, 1987. Specifically, the Water Quality Act of 1987, section 504, amended CWA section 505 as follows:

Section 505(c) is amended by adding at the end thereof the following new paragraph:

(3) PROTECTION OF INTERESTS OF UNITED STATES.—Whenever any action is brought under this section in a court of the United States, the plaintiff shall serve a copy of the complaint on the Attorney General and the Administrator. No consent judgment shall be entered in an action in which the United States is not a party prior to 45 days following the receipt of a copy of the proposed consent judgment by the Attorney General and the Administrator.

Although CWA section 505(c)(3) (WQA section 504) is self-implementing, the Environmental Protection Agency (EPA or the Agency) is proposing to amend 40 CFR part 135 in order to clarify the statutory requirement and to ensure that the amendment will be implemented in a consistent way, and in accordance with the purpose of the statutory amendment.

The purpose of the statutory amendment is to facilitate the ability of the United States to monitor the quantity and nature of citizen enforcement activity under the Act. In addition, the purpose of the statutory amendment is to provide an opportunity for the United States to take appropriate action when its interests may be affected by citizen suit activity. However, the legislative history of WQA section 504 is clear that the United States' review and/or receipt of these complaints and proposed consent judgments in no way affects the United States' ability to bring a separate federal enforcement action on the same violations addressed by the citizen complaint or consent judgment to which the U.S. is not a party. Remarks of Sen. Chafee, Debate on S. 1128, June 12 and 13, 1985, reprinted in 2 A Legislative History of the Water Quality Act of 1987 1351 (1988). *See also U.S.* v. *Atlas Powder Co.*, 26 Env't Rep. Cas. (BNA) 1391 (1987).

Congress also passed another provision which affects citizen enforcement. Section 309(g) (also amended by the WQA, section 314) now provides that citizen enforcement actions for civil penalties for the same violations are generally precluded if the Administrator, the Secretary of the Army or the State has commenced and is diligently prosecuting an administrative penalty action under a State law comparable to section 309(g) or one of these authorities has issued a final order not subject to further judicial review and the violator has paid a penalty assessed under section 309(g) or comparable state law. Exceptions to these limits on citizen civil penalty actions are provided for circumstances in which (a) the citizen enforcement suit is filed prior to commencement of the government administrative penalty action, or (b) the citizen's sixty-day notice of violation is given in accordance with 40 CFR part 135 prior to the commencement of the government administrative penalty action, and the citizen enforcement action is filed before the 120th day after the date on which such notice is given. (The Agency's regulations and procedures implementing the new section 309(g) administrative penalty authorities were noticed at 52 FR 30671 (Aug. 17, 1987), and 52 FR 30730 (Aug. 17, 1987).)

Thus, citizen compliance with the statutory and regulatory requirements concerning service of notices of violation may have consequences as to whether or not a citizen penalty suit is barred by a government administrative penalty action. Furthermore, the timely filing of citizen complaints (after notices of violation) takes on added importance in light of the new administrative penalty provisions, and prompt service upon the federal government of such complaints is needed.

Existing procedures for notices of violations are not affected by this proposed rule. Note that today's proposed regulations are designated as part of "subpart A" of part 135. This is based on the changes in the rule governing notices of intent to sue under the Safe Drinking Water Act, which was published as a final rule at 54 FR 20770 (May 12, 1989).

Today's proposed rule is straightforward. Citizen plaintiffs are required to send copies of complaints to the Administrator, the Regional Administrator of the EPA Region in which the violations allegedly occurred, and the Attorney General of the United States. Proposed consent judgments must be sent via certified mail to the same persons. The court must be notified of the statutory requirement not to enter the proposed consent judgment prior to 45 days following receipt of the proposed settlement by the Administrator and the Attorney General.

Paperwork Reduction Act

EPA has not prepared an information collection request under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) for the reporting requirements contained in this rule. EPA has received approximately nine notices of citizens suits under the CWA per month. The public reporting burden for individuals complying with this rule is estimated to average one hour or less. If the number of notices received by EPA substantially increases in succeeding years, EPA will prepare and solicit comment on an information collection request for today's rule, in accordance with 5 CFR 1320.14. In the meantime, any comments on the estimate of burden or any other aspect of the information collection requirements contained in this rule, including suggestions to reduce the burden, should be sent to: Chief, Information Policy Branch (PM–223), U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460 or Director, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Regulatory Impact Analysis

The Administrator has determined that this is a minor regulation under the terms of E.O. 12291 and does not require a regulatory impact analysis.

Regulatory Flexibility Act

There are no significant impacts on small entities as defined under the Regulatory Flexibility Act.

This proposed regulation has been reviewed by the Office of Management and Budget.

List of Subjects in 40 CFR Part 135

Litigation notices, Service of intent to sue, Service of proposed settlement, water pollution control.

Dated: July 19, 1989.

William K. Reilly,

Administrator.

It is proposed that part 135 of Title 40 of the Code of Federal Regulations be amended as follows:

PART 135—[AMENDED]

1. The authority citation for part 135 is revised to read as follows:

Authority: Sec. 505, Clean Water Act, as amended 1987; Sec. 504, Pub. L. 100–4; 101 Stat. 7 (33 U.S.C. 1365).

2. Section 135.1 of subpart A is revised to read as follows:

§ 135.1 Purpose.

(a) Section 505(a)(1) of the Clean Water Act (hereinafter the Act) authorizes any person or persons having an interest which is or may be adversely affected to commence a civil action on his own behalf to enforce the Act or to enforce certain requirements promulgated pursuant to the Act. In addition, section 505(c)(3) of the Act provides that, for purposes of protecting the interests of the United States, whenever a citizen enforcement action is brought under Section 505(a)(1) of the Act in a court of the United States, the Plaintiff shall serve a copy of the complaint on the Attorney General and the Administrator. Section 505(c)(3) also provides that no consent judgment shall be entered in any citizen action in which the United States is not a party prior to 45 days following the receipt of a copy of the proposed consent judgment by the Attorney General and the Administrator.

(b) The purpose of this subpart is to prescribe procedures governing the giving of notice required by section 505(b) of the Act as a prerequisite to the commencing of such actions, and governing the service of complaints and proposed consent judgments as required by section 505(c)(3) of the Act.

4. Sections 135.4 and 135.5 are added to subpart A to read as follows:

§ 135.4 Service of complaints.

(a) A citizen plaintiff shall mail a copy of a complaint filed against an alleged violator under section 505(a)(1) of the Act to the Administrator of the Environmental Protection Agency, the Regional Administrator of the EPA Region in which the violations are alleged to have occurred, and the Attorney General of the United States.

(b) The copy so served shall be of a filed, date-stamped complaint, and shall indicate the assigned civil action number.

(c) A citizen plaintiff shall mail a copy of the complaint on the same date on which the plaintiff files the complaint with the court, or as expeditiously thereafter as practicable.

(d) If the alleged violator is a Federal agency, a citizen plaintiff must serve the complaint on the United States in accordance with relevant Federal law and court rules affecting service on defendants, in addition to complying with the service requirements of this subpart.

§ 135.5 Service of proposed consent judgment.

(a) Service of a copy of a proposed consent judgment, signed by all parties to the lawsuit, in a citizen enforcement suit filed against alleged violations under section 505(a)(1) of the Act, shall be accomplished by certified mail (return receipt requested) addressed to, or by personal service upon, the Administrator, Environmental Protection Agency, Washington, DC 20460, and the Attorney General, Department of Justice, Citizen Suit Coordinator, Room 2615, Washington, DC 20530. A copy of a proposed consent judgment shall also be mailed at the same time to the Regional Administrator of the EPA Region in which the violations were alleged to have occurred.

(b) When the proposed consent judgment is filed or lodged with the court, the parties shall notify the court:

(1) Of the statutory requirement that the consent judgment shall not be entered prior to 45 days following receipt by both the Administrator and the Attorney General of a copy of the consent judgment, and

(2) Of the date(s) on which the Administrator and the Attorney General received copies of the proposed consent judgment.

[FR Doc. 89–20436 Filed 8–29–89; 8:45 am]

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federal register

Wednesday
August 30, 1989

Part V

Department of Defense

Department of the Air Force

USAF Scientific Advisory Board; Meeting

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

August 28, 1989.

The USAF Scientific Advisory Board Munitions Systems Division Advisory Group has postponed the meeting previously scheduled for 30 Aug–1 Sep 89 until 14–15 Sep 1989 from 8:00 AM to 5:00 PM at Eglin AFB, Florida.

The purpose of this meeting is to review developments in the field of tactical missiles. This meeting will involve discussions of classified defense matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 89–20637 Filed 8–29–89; 11:04 am]

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