

federal register

Tuesday
November 21, 1989

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Federal Register

Tuesday
November 21, 1989

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WHAT IT IS AND HOW TO USE IT

- FOR:** Any person who uses the Federal Register and Code of Federal Regulations.
- WHO:** The Office of the Federal Register.
- WHAT:** Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
 2. The relationship between the Federal Register and Code of Federal Regulations.
 3. The important elements of typical Federal Register documents.
 4. An introduction to the finding aids of the FR/CFR system.
- WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

SAN FRANCISCO, CA

WHEN: November 29; at 9:00 a.m.

WHERE: Room 15138,
450 Golden Gate Avenue,
San Francisco, CA.

RESERVATIONS: Call Mary Walters at the San Francisco Federal Information Center, 415-556-6600.

SEATTLE, WA

WHEN: November 30; at 1:00 p.m.

WHERE: South Auditorium, 4th Floor,
915 2nd Avenue,
Seattle, WA.

RESERVATIONS: Call Carmen Meler or Peggy Groff at the Portland Federal Information Center on the following numbers:
Seattle: 206-442-0570,
Tacoma: 206-383-7970,
Portland: 503-326-2222.

WASHINGTON, DC

WHEN: December 7, at 9:00 a.m.

WHERE: Office of the Federal Register,
First Floor Conference Room,
1100 L Street NW., Washington, DC.

RESERVATIONS: 202-523-5240.

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Proclamation 6072 of November 16, 1989

The President

Hunger Education Month, 1989

By the President of the United States of America

A Proclamation

Famines create headlines. When famine strikes in any region of the world, millions of people rally to help those at risk of starving to death. Chronic hunger, however, often receives far less attention, even though millions of people around the world suffer daily from its effects. Hunger is particularly acute in a number of less developed countries where food supplies have been depleted by poverty, political strife, and civil war.

Over the years, the American people have responded generously to the needs of those affected by famine and chronic hunger. The United States has not only met but exceeded its pledge to the international Food Aid Convention. Through U.S. Food for Peace and other programs, Americans provided more than half of all the grain shipped worldwide through food aid programs during the year that ended in June—more than all other contributing nations combined.

However, we know that contributions of food alone will not provide a lasting solution to chronic hunger. As the ancient proverb so eloquently reminds us, "Give a man a fish, and you have fed him for a day. Teach a man how to fish, and you have fed him for a lifetime."

Poverty and hunger cannot be eliminated simply by donations of food. The development of free market economies also plays a vital role. The United States is working to alleviate hunger in poor nations by encouraging the development of policies that harness the power of individual initiative and free enterprise. We are working to help these countries increase their food production, and we are exploring ways to help them generate sufficient revenues to buy, store, and distribute essential agricultural goods.

If our Nation is to remain responsive to the needs of those who suffer from hunger, and if we are to continue to use our resources effectively in the fight against it, all Americans need to understand its causes and effects. Our schools and community organizations can play vital roles in heightening public awareness of world hunger by conducting educational programs designed to examine this tragic problem and the means we can use to help solve it.

To focus attention on the importance of education in the fight against world hunger, the Congress, by Senate Joint Resolution 198, has designated the month of November 1989 as "An End to Hunger Education Month" and has authorized and requested the President to issue a proclamation in observance of this month.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the month of November 1989 as Hunger Education Month. I urge all Americans to take time to study the problem of world hunger and discover how they can help alleviate it.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of November, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and fourteenth.

George Bush

[FR Doc. 89-27534

Filed 11-17-89; 4:15 pm]

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Rules and Regulations

Federal Register

Vol. 54, No. 223

Tuesday, November 21, 1989

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

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 401

[Amdt. 53; Docket No. 7423S]

General Crop Insurance Regulations; ELS Cotton Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends the General Crop Insurance Regulations (7 CFR part 401), effective for the 1990 and succeeding crop years, by revising and reissuing 7 CFR 401.121, the ELS Cotton Endorsement. The intended effect of this rule is to: (1) Provide cotton insureds a unit division by share, section, and practice (irrigated and non-irrigated) instead of the previous unit division based on Agricultural Stabilization and Conservation (ASCS) Farm Serial Number; and (2) remove a reference to Late Planting Agreement Option being available.

EFFECTIVE DATE: November 21, 1989.

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: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is June 1, 1994.

John Marshall, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in:

(a) An annual effect on the economy of \$100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons and will not have a significant economic impact on a substantial number of small entities.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

FCIC amends the General Crop Insurance Regulations (7 CFR part 401), by revising and reissuing 7 CFR 401.121, the ELS Cotton Endorsement, effective for the 1990 and succeeding crop years, to provide cotton insureds a unit division by share, section, and practice (irrigated and non-irrigated) instead of the previous unit division based on (ASCS) Farm Serial Number.

Subsection 1.c.(2) contains language to clarify that FCIC will only insure that acreage of cotton allowed by mandatory limitations imposed by any program administered by the U.S. Department of Agriculture.

Minor editorial changes have been made to improve compatibility with the General Crop Insurance Policy. These changes do not affect meaning or intent of the provisions. In revising and reissuing the ELS Cotton Endorsement, FCIC makes other changes in the

provisions for insuring ELS cotton as follows:

1. Section 1—Remove the reference to Late Planting Agreement Option. This reference was included in error in the current regulations. A Late Planting Agreement Option will not be offered on this crop.

2. Section 5—Change unit division language to allow division by share, section, and practice (irrigated-nonirrigated). ELS Cotton insureds were previously allowed unit division only by ASCS Farm Serial Number. The new unit division language for cotton will now be identical to the methods used for wheat, corn, etc.

On Tuesday, August 15, 1989, FCIC published a notice of proposed rulemaking in the Federal Register at 54 FR 33562 to: (1) Provide cotton insureds a unit division by share, section, and practice (irrigated and non-irrigated) instead of the previous unit division based on Agricultural Stabilization and Conservation (ASCS) Farm Serial Number; and, (2) remove a reference to Late Planting Agreement Option being available.

The public was given 30 days in which to submit written comments, data, and opinions on the proposed rule, but none were received. Therefore, the rule published at 54 FR 33562 is hereby adopted as a final rule.

After publication of the proposed rule FCIC's Board of Directors adopted a change which allows a discount against the premium for insureds who choose not to divide their acreage into optional units. Since this discount is available for cotton, appropriate explanatory language has been added to the annual premium and unit division sections of this endorsement.

Since the date for filing policy changes is November 30, 1989, good cause is shown for making this rule effective in less than 30 days.

List of Subjects in 7 CFR Part 401

Crop insurance, ELS cotton.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation amends the General Crop Insurance Regulations (7 CFR part 401) by revising and reissuing the ELS Cotton Endorsement (7 CFR 401.121), to be

effective for the 1990 and succeeding crop years, as follows:

PART 401—[AMENDED]

1. The authority citation for 7 CFR part 401 continues to read as follows:

Authority: 7 U.S.C. 1506, 1516.

2. 7 CFR 401.121, the ELS Cotton Endorsement, is revised and reissued, effective for the 1990 and Succeeding Crop Years, to read as follows:

§ 401.121 ELS Cotton Endorsement.

The provisions of the ELS Cotton Crop Insurance Endorsement for the 1990 and subsequent crop years are as follows:

Federal Crop Insurance Corporation

Extra Long Staple Cotton Endorsement

1. Insured Crop and Acreage

a. The crop insured will be Extra Long Staple cotton ("ELS") and American Upland lint cotton ("AUP") if the acreage was first planted in the crop year to ELS cotton.

b. The acreage of skip-row cotton insured will be the acreage occupied by the rows of cotton after eliminating the skipped-row portions.

c. In addition to the cotton not insurable in section 2 of the general crop insurance policy, we do not insure any cotton:

- (1) Which is not irrigated if it is grown:
 - (a) Where a hay crop was harvested in the same calendar year; or
 - (b) Where a small grain crop reached the heading stage in the same calendar year;
 - (2) Planted in excess of any mandatory acreage limitations applicable to the farm by any program administered by the United States Department of Agriculture; or
 - (3) Destroyed, or put to another use in order to comply with other United States Department of Agriculture programs.
- d. In lieu of subsection 2.e.(7) of the general crop insurance policy, we do not insure any cotton planted with another spring planted crop.

2. Causes of Loss

The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

- a. Adverse weather conditions;
 - b. Fire;
 - c. Insects;
 - d. Plant disease;
 - e. Wildlife;
 - f. Earthquake;
 - g. Volcanic eruption; or
 - h. Failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting;
- unless those causes are expected, excluded, or limited by the actuarial table or section 9 of the general crop insurance policy.

3. Annual Premium

The annual premium amount is computed by multiplying the production guarantee

times the price election, times the premium rate, times the insured acreage, times your share at the time of planting, times any applicable premium adjustment percentage for which you may qualify as shown in the actuarial table, because you have not selected optional units as provided by the actuarial table.

4. Insurance Period

a. In lieu of subsection 7.(b) of the general crop insurance policy, (harvest of the unit) insurance will end upon removal of the cotton from the field.

b. The calendar date for the end of the insurance period is January 31.

5. Unit Division

Cotton acreage that would otherwise be one unit, as defined in section 17 of the general crop insurance policy, may be divided into more than one optional unit, if for each proposed unit:

a. You maintain written, verifiable records of planted acreage and harvested production for at least the previous crop year and production reports based on those records records are filed to obtain an insurance guarantee; and

b. Acreage planted to insured cotton is located in separate, legally identifiable sections (except in Florida) or, in the absence of section descriptions (and in all of Florida), the land is identified by separate ASCS Farm Serial Numbers, provided:

- (1) The boundaries of the sections or ASCS Farm Serial Numbers are clearly identified and the insured acreage is easily determined; and
- (2) The cotton is planted in such a manner that the planting pattern does not continue into the adjacent section or ASCS Farm Serial Number; or

c. The acreage planted to the insured cotton is located in a single section or ASCS Farm Serial Number and consists of acreage on which both an irrigated and nonirrigated practice are carried out, provided:

- (1) Cotton planted on irrigated acreage does not continue into nonirrigated acreage in the same rows or planting pattern; and
- (2) Planting, fertilizing, and harvesting are carried out in accordance with recognized good dryland and irrigated farming practices for the area.

If you have a loss on any unit, production records for all harvested units must be provided to us. Production that is commingled between optional units will cause those units to be combined. If your cotton acreage is not divided into optional units as provided in this section, your premium amount will be reduced as provided on the actuarial table.

6. Notice of Damage or Loss

In addition to the provisions in section 8 of the general crop insurance policy:

a. You may not destroy any cotton on which an indemnity will be claimed until we give consent.

b. You must give us notice if you are going to replant any acreage originally planted to ELS cotton to AUP cotton.

c. For purposes of section 8 of the general crop insurance policy the representative

sample of the unharvested crop must be at least 10 feet wide and the entire length of the field.

7. Claim for Indemnity

a. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of cotton to be counted (see subsection 7.b.);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this product by your share.

b. The total production to be counted for a unit will include all harvested and appraised production.

(1) Any mature ELS cotton production will be reduced when, due solely to insured causes, the quality of the ELS cotton produced is such that the price quotation for ELS cotton of like grade, staple length, and micronaire reading (price A) is less than 75 percent of price B. Price B is defined as the market price quotation for ELS cotton of the grade, staple length, and micronaire reading designated in the actuarial table for this purpose. The price quotations for prices A and B will be the market price quotations at the recognized market closest to the unit on the earlier of the day the loss is adjusted or the day the damaged ELS cotton is sold. In the absence of a price quotation on such date, the price quotations for the nearest prior date for which an ELS cotton price quotation was listed for both prices A and B will be used. The pounds of production to be counted will be determined by multiplying the number of pounds of mature production by price A and dividing the result by 75 percent of price B.

(2) Any AUP cotton harvested from acreage originally planted to ELS cotton in the same growing season will be reduced by the factor obtained by dividing the price of the AUP cotton by the price of ELS cotton of the grade, staple length, and micronaire reading shown in our actuarial table. The prices will be determined at the closest recognized market to the insured unit of the earlier of the date the loss is adjusted or the date the AUP cotton was sold.

(3) Appraised production to be counted will include:

(a) Mature and potential production on unharvested acreage;

(b) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good cotton farming practices;

(c) Not less than the applicable guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause; and

(d) Not less than 25 percent of the production guarantee per acre for any acreage of cotton that is immature when we determine that harvest of cotton becomes general in the county.

(4) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use will be considered production unless such acreage is:

(a) Not put to another use before harvest of cotton becomes general in the county and is reappraised by us;

(b) Further damaged by an insured cause and is reappraised by us; or

(c) Harvested.

(5) Any appraisal of the AUP cotton on acreage originally planter to ELS cotton will be reduced by the factor determined in section 7.b.(2) above. If prices are not yet available, the previous year's season average price will be used.

(6) The cotton stalks must not be destroyed on any acreage for which an indemnity is claimed, until we give consent. An appraisal of not less than the guarantee may be made on acreage where the stalks have been destroyed without our consent.

8. Cancellation and Termination Dates

The cancellation and termination dates are:

States	Cancellation and termination dates
New Mexico	April 15
All other states	March 31

9. Contract Changes

The date by which contract changes will be available in your service office is November 30 preceding the cancellation date.

10. Meaning of Terms

a. *Cotton* means Extra Long Staple cotton and acreage replanted to American Upland Cotton after ELS was destroyed by an insured cause.

b. *ELS Cotton* means Extra Long Staple cotton (also called Pima Cotton and American-Egyptian Cotton).

c. *Harvest* means the removal of the seed cotton on each acre from the open cotton boll or the severance of the open cotton boll from the stalk by either manual or mechanical means.

d. *Mature cotton* means ELS cotton which can be harvested either manually or mechanically and will include both unharvested and harvested cotton.

e. *Replanted* means performing the cultural practices necessary to replant acreage to AUP cotton after ELS cotton was destroyed by an insured cause in the same growing season.

f. *Skip-row* means planting patterns consisting of alternating rows of cotton and fallow rows as defined by ASCS (if non-cotton rows are occupied by another crop any yield factor normally applied for skip-row cotton will not be applicable).

Done in Washington, DC on November 1, 1989.

John Marshall,
Manager, Federal Crop Insurance
Corporation.

[FR Doc. 89-27259 Filed 11-20-89; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 401

[Amdt. 20; Docket No. 7452S]

General Crop Insurance Regulations; Tobacco (Guaranteed Plan) Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends the General Crop Insurance Regulations (7 CFR part 401), effective for the 1990 and succeeding crop years, to add a new § 401.129, Tobacco (Guaranteed Plan) Endorsement. The intended effect of this rule is to provide the regulations for insuring tobacco in an endorsement to the general crop insurance policy.

EFFECTIVE DATE: December 31, 1989.

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: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is May 1, 1994.

John Marshall, Manager, FCIC, (1) Has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of \$100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons and will not have a significant impact on a substantial number of small entities.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental

consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

On Thursday, May 11, 1989, FCIC published a notice of proposed rulemaking in the *Federal Register* at 54 FR 20392, amending 7 CFR 401 General Crop Insurance Regulations to add a new § 401.129, Tobacco (Guaranteed Plan) Endorsement to provide the provisions of crop insurance protection on tobacco in an endorsement to the general crop insurance policy.

On Monday, August 21, 1989, FCIC published a notice of additional proposed rulemaking in the *Federal Register* at 54 FR 35419, to further amend the Tobacco (Guaranteed Plan) Endorsement (7 CFR § 401.129) to remove restrictions in existing unit division language to standardize the unit structure to allow standard policy units currently in existence for all tobacco (guaranteed plan) program counties.

The public was given 30 days in which to submit written comments, data, and opinions on the additional notice of proposed rulemaking. One comment was received from the National Association of Crop Insurance Agents (NACIA) on the method of determining units on the basis of separate Agricultural Stabilization and Conservation Service (ASCS) Farm Serial Numbers (FSN's), and on commingling of production between optional units.

FCIC responds by stating the unit definition is now identical to most other row crops in the area where guaranteed types of tobacco are insured and provides a flexible approach for administering unit determination for guaranteed tobacco types. The unit definition will correspond to the ASCS FSN whether as a basic unit or an optional unit.

Under the insurance contract and for insurance purposes only the insured may elect to combine all FSNs into one basic unit. Coverage applicable to the single unit (or optional units) will be based on the insured's producer classification (representing the combined average production for all FSNs managed by the insured) or in a small number of cases, individually classified FSNs. For loss purposes, individual FSN production reported to and maintained by ASCS will be combined on the claim form for basic

units. For optional units by FSN, the individual ASCS information would be recorded on separate claim forms.

FCIC requires that production which is commingled between optional units will cause those units to be combined. This is consistent with FCIC's General Policy which provides consequences when separate unit production records are not maintained (indicating possible combination).

Further, for those types of tobacco where production is not controlled by ASCS, a very real possibility of combined production exists between FSN's. The provision contained in the rule is essential in order to deal with such instances allowing the combination of optional units. For those types which are tightly controlled by ASCS, the insured will continue to report acreage and production to ASCS on that basis.

In order to assure that insurance principles are maintained when production is commingled, FCIC has added the words "for insurance purposes only" to this provision to clarify that this restriction against commingling has no effect on ASCS requirements and is used for insurance purposes only. For the reasons stated above, the unit definition will remain unchanged.

Another comment from the National Crop Insurance Service (NCIS) questioned the requirement of record reporting to FCIC since the insured producer reports production records to ASCS.

FCIC's response is that the production reporting requirements of the rule will be considered met when the insured reports his production to the ASCS office. No additional reporting requirements will be required. In addition, the same commenter questioned the words "with the intent of marketing" in the definition of "Harvest," as creating an additional determination to be made at loss adjustment time since, if determining "intent" is not administratively possible, the statement should be removed from the rule.

FCIC's response is that establishing intent can be determined. If the harvested tobacco will be prepared to be, and is, cured, then intent to market would be established. FCIC has determined that this section will remain as published.

Accordingly, with the changes outlined above, the rule published at 54 FR 20392, as amended by the additional notice of proposed rulemaking published at 54 FR 35419, is hereby adopted as a final rule.

After publication of the proposed rule FCIC's Board of Directors adopted a

change which allows a discount against the premium for insureds who choose not to divide their acreage into optional units. Since this discount is available for tobacco, appropriate explanatory language has been added to the annual premium and unit division sections of this endorsement.

List of Subjects in 7 CFR Part 401

Crop Insurance, Tobacco (Guaranteed Plan).

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the General Crop Insurance Regulations (7 CFR part 401), to be effective for the 1990 and succeeding crop years, as follows:

1. The authority citation for 7 CFR part 401 continues to read as follows:

Authority: 7 U.S.C. 1506, 1516.

2. 7 CFR part 401 is amended to add a new § 401.129, Tobacco (Guaranteed Plan) Endorsement, effective for the 1990 and Succeeding Crop Years, to read as follows:

§ 401.129 Tobacco (Guaranteed Plan) Endorsement.

The provisions of the Tobacco (Guaranteed Plan) Crop Insurance Endorsement for the 1990 and subsequent crop years are as follows:

Federal Crop Insurance Corporation

Tobacco (Guaranteed Plan) Endorsement

1. Insured Crop and Acreage.

a. The crop insured will be any of the following tobacco types you elect which are grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table:

Flue Cured

Type 11A

Type 11B

Type 12

Type 13

Type 14

Maryland

Type 32

Cigar Filler

Type 41

Type 42

Type 44

Cigar Wrapper

Type 61

Type 55

Fire Cured

Type 21

Type 22

Type 23

Burley

Type 31

Dark Air

Type 35

Type 36

Type 37

Cigar Binder

Type 51

Type 52

Type 54

b. In addition to the acreage not insurable under section 2 of the general crop insurance policy, we do not insure any acreage:

(1) On which the tobacco was destroyed or put to another use for the purpose of conforming with any other program administered by the United States Department of Agriculture; or

(2) Planted to tobacco of a discount variety under provisions of the tobacco price support program.

2. Causes of Loss.

The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

a. Adverse weather conditions;

b. Fire;

c. Insects;

d. Plant disease;

e. Wildlife;

f. Earthquake;

g. Volcanic eruption; or

h. If applicable, failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting; unless those causes are excepted, excluded, or limited by the actuarial table or section 9 of the general crop insurance policy.

3. Annual Premium.

a. The annual premium amount is computed by multiplying the production guarantee for the unit times the applicable price election, times the premium rate, times the insured acreage, times your share at the time of planting, applying any applicable premium adjustment percentage for which you may qualify as shown on the actuarial table.

b. If you are eligible for a premium reduction in excess of 5 percent based on your insurance experience through the 1985 crop year under the terms of the experience table contained in the guaranteed tobacco policy in effect for the 1986 crop year, you will continue to receive the benefit of the reduction subject to the following conditions:

(1) No premium reduction will be retained after the 1991 crop year;

(2) The premium reduction amount will not increase because of favorable experience;

(3) The premium reduction amount will decrease because of unfavorable experience in accordance with the terms of the policy in effect for the 1986 crop year;

(4) Once the loss ratio exceeds .80, no further premium reduction will apply; and

(5) Participation must be continuous.

4. Insurance Period.

In lieu of the provisions of section 7 of the general crop insurance policy the following will apply:

Insurance attaches on each unit or part of a unit when the tobacco is planted (see subsection 10(e)) and ends at the earliest of:

a. Total destruction of the tobacco;

b. Weighing-in at the tobacco warehouse;

c. Removal of the tobacco from the unit (except for curing, grading, packing, or

immediate delivery to the tobacco warehouse);

d. Final adjustment of a loss; or

e. On the following dates of the crop year:

- (1) Types 11 and 12—November 30;
- (2) Type 13—October 31;
- (3) Type 14—October 15;
- (4) Types 31 & 36—February 28;
- (5) Types 21, 35 and 37—March 15;
- (6) Types 22 and 23—April 15;
- (7) Type 32—May 15;
- (8) All other types—April 30.

5. Unit Division.

1. Tobacco acreage of an insurable type that would otherwise be one unit, as defined in section 17 of the general crop insurance policy, may be divided into more than one unit if for each proposed unit:

a. You maintain written verifiable records of planted acreage and harvested production for at least the previous crop year and production reports based on those records are filed to obtain an insurance guarantee; and

b. Acreage planted to insured tobacco is located on land identified by separate ASCS Farm Serial Numbers, provided:

(1) The boundaries of the ASCS Farm Serial Numbers are clearly identified and the insured acreage is easily determined; and

(2) The tobacco is planted in such a manner that the planting pattern does not continue into an adjacent ASCS Farm Serial Number.

If you have a loss on any unit, production records for all harvested units must be provided. If your tobacco acreage is not in a divided unit as provided above, your premium will be reduced as provided by the actuarial table. Production that is commingled between optional units will cause those units to be combined for insurance purposes only.

6. Notice of Damage or Loss.

For purposes of section 8 of the general crop insurance policy; the representative sample of the unharvested crop must be at least 10 feet wide and the entire length of each field.

7. Claim for Indemnity.

a. An indemnity will be determined for each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of tobacco to be counted (see subsection 7.b.);

(3) Multiplying the remainder by the applicable price election; and

(4) Multiplying this result by your share.

b. The total production (in pounds) to be counted for a unit will include all harvested and appraised production.

(1) Harvested tobacco production which, due to insurable causes, has a value less than the market price for tobacco of the same type, will be adjusted by:

(a) Dividing the average value per pound of the harvested production by the market price per pound; and

(b) Multiplying that result by the number of pounds of such damaged harvested tobacco.

(c) If due to insurable causes there is no market price available for the grade being adjusted, the production to count will be

reduced 20% for each grade that the production falls below the lowest grade with a market price (see subsection 10.d.(2)).

(2) All harvested tobacco production which is not damaged by insurable causes and cannot be sold in the current market year will be considered production to count.

(3) To enable us to determine the fair market value of tobacco not sold through auction warehouses, we must be allowed:

(a) To inspect such tobacco before it is sold, contracted to be sold, or otherwise disposed of; and

(b) At our option to obtain additional offers on your behalf.

(4) Appraised production to be counted will include:

(a) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(b) Not less than 35 percent of the guarantee for all unharvested acreage;

(c) Unharvested production on harvested acreage; and

(d) Potential production lost due to uninsured cause and to failure to follow recognized good tobacco farming practices.

(5) We may appraise any acreage of tobacco types 11, 12, 13, or 14 on which the stalks have been destroyed without our consent at not less than the guarantee.

(6) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use will be considered production unless such acreage is:

(a) Not put to another use before harvest of tobacco becomes general in the county and reappraised by us; or

(b) Further damaged by an insured cause and reappraised by us; or

(c) Harvested.

(7) The commingled production of units will be prorated to such units in proportion to our liability on the harvested acreage of each unit.

(8) No replanting payment will be made under this endorsement.

8. Cancellation and Termination Dates.

State and county	Cancellation and termination dates
Alabama; Florida; Georgia; South Carolina; and Surry, Wilkes, Caldwell, Burke, and Cleveland Counties, North Carolina, and all North Carolina counties east thereof.	March 31
All other North Carolina Counties and all other states.	April 15

9. Contract Changes.

Contract changes will be available at your service office by December 31 prior to the cancellation date.

10. Meaning of Terms.

a. "Average value per pound" means the total value of all harvested production from the unit divided by the harvested pounds and may include the value of any harvested production which is not sold.

b. "County" means the land defined in the general crop insurance policy and any land

identified by an ASCS Farm Serial Number for the county but physically located in another county.

c. "Harvest" means the completion of cutting or priming of tobacco on any acreage from which at least 20 percent of the production guarantee per acre shown by the actuarial table is cut or primed with the intent of marketing.

d. "Market price":

(1) For types 11, 12, 13, 14, 21, 22, 23, 31, 35, 36, 37, 42, 44, 54, and 55, means the average price support level per pound for the insured type of tobacco as announced by the United States Department of Agriculture under the tobacco price support program (if for any crop year price support for the insured type is not in effect, we will use the season average price in the belt or area through the day tobacco sales are completed on any unit or part thereof which is harvested); and

(2) For types 32, 41, 51, 52, and 61 means the season average price for the applicable type of tobacco, (such price will be the season average price for the current crop year for any unit or part thereof which is harvested) and may be established by including the value of sold and unsold production.

e. "Planting" means transplanting the tobacco plant from the bed into the field.

Done in Washington, DC on October 30, 1989.

John Marshall,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 89-27261 Filed 11-20-89; 8:45 am]

BILLING CODE 3410-06-M

7 CFR Part 401

[Amdt. 31; Docket No. 7445S]

General Crop Insurance Regulations; Soybean Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final Rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends the General Crop Insurance Regulations (7 CFR part 401), effective for the 1990 and succeeding crop years, by amending the Soybean Endorsement (7 CFR 401.117) with respect to removing restrictions in existing unit division language to standardize the unit structure across commodity program corps.

EFFECTIVE DATE: November 21, 1989.

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: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action does not

constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is October 1, 1992.

John Marshall, Manager, FCIC, (1) Has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of \$100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons and will not have a significant economic impact on a substantial number of small entities.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

FCIC amends the Soybean Endorsement (7 CFR 401.117) to remove restrictions in existing unit division language to standardize the unit structure for soybeans, and to remove the reference to additional premium for optional units.

On Tuesday, August 15, 1989, FCIC published a notice of proposed rulemaking in the Federal Register at FR 33566, to remove restrictions in existing unit division language. The public was given 30 days in which to submit written comments, data, and opinions on the proposed rule, but none were received. Therefore, the rule published at 54 FR 33566 is hereby adopted as a final rule, with changes as outlined below.

After publication of the proposed rule FCIC's Board of Directors adopted a change which allows a discount against the premium for insureds who choose

not to divide their acreage into optional units. Since this discount is available for soybeans, appropriate explanatory language has been added to the annual premium and unit division sections of this endorsement.

Since the date by which policy changes must be on file by November 30, 1989, good cause is shown for making this rule effective in less than 30 days.

List of Subjects in 7 CFR Part 401

Crop insurance, Soybeans.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation amends the General Crop Insurance Regulations (7 CFR part 401), to be effective for the 1990 and succeeding crop years, as follows:

PART 401—[AMENDED]

1. The authority citation for 7 CFR part 401 continues to read as follows:

Authority: 7 U.S.C. 1506, 1516.

2. The Soybean Endorsement (7 CFR 401.117) is amended by revising subsections 3. and 5. to read as follows:

§ 401.117

3. Annual premium.

The annual premium amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting, times any applicable premium adjustment percentage for which you may qualify as shown in the actuarial table, because:

- (a) You have not selected optional units; or
- (b) You are eligible for a good insuring experience discount.

5. Unit Division.

Soybean acreage that would otherwise be one unit, as defined in section 17 of the general crop insurance policy, may be divided into more than one unit if for each proposed unit:

- a. You maintain written verifiable records of planted acreage and harvested production for at least the previous crop year and production reports based on those records are filed to obtain an insurance guarantee; and
- b. Acreage planted to the insured soybeans is located in separate, legally identifiable sections (except in Florida) or, in the absence of section descriptions (and in Florida) the land is identified by separate ASCS Farm Serial Numbers, provided:

(1) The boundaries of the section or ASCS Farm Serial Number are clearly identified and the insured acreage is easily determined; and

(2) The soybeans are planted in such a manner that the planting pattern does not continue into an adjacent section or ASCS Farm Serial Number; or

c. The acreage planted to the insured soybeans is located in a single section or ASCS Farm Serial Number and consists of acreage on which both an irrigated and non-irrigated practices are carried out, provided:

(1) Soybeans planted on the irrigated acreage do not continue into non-irrigated acreage in the same rows or planting pattern; and

(2) Planting, fertilizing and harvesting are carried out in accordance with recognized good irrigated and non-irrigated farming practices for the area.

If you have a loss on any unit, production records for all harvested units must be provided to us. Production that is commingled between optional units will cause those units to be combined. If your soybean acreage is not divided into optional units as provided in this section, your premium amount will be reduced by the factor contained in the actuarial table.

Done in Washington, DC on October 24, 1989.

John Marshall,
Manager Federal Crop Insurance
Corporation.

[FR Doc. 89-27260 Filed 11-20-89; 8:45 am]
BILLING CODE 3410-08-M

7 CFR Part 401

[Amdt. 29; Docket No. 7484S]

General Crop Insurance Regulations; Fresh Market Tomato Minimum Value Option

AGENCY: Federal Crop Insurance
Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1991 and succeeding crop years, by adding a new section, 7 CFR § 401.137, the Fresh Market Tomato Minimum Value Option. The intended effect of this rule is to provide the provisions of crop insurance protection on minimum value tomatoes as an option to the Fresh Market Tomato Endorsement to the general crop insurance policy.

EFFECTIVE DATE: December 21, 1989.

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: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those

procedures. The sunset review date established for these regulations is established as May 1, 1994.

John Marshall, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of \$100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons and will not have a significant economic impact on a substantial number of small entities.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

FCIC adds to the General Crop Insurance Regulations (7 CFR part 401), a new section to be known as 7 CFR 401.137, the Fresh Market Tomato Minimum Value Option, effective for the 1991 and succeeding crop years, to provide the provisions for insuring minimum value tomatoes.

On Tuesday, August 15, 1989, FCIC published a notice of proposed rulemaking in the *Federal Register* at 54 FR 33565, to provide the provisions of crop insurance protection on minimum value tomatoes as an option to the Fresh Market Tomato Endorsement to the general crop insurance policy. The public was given 30 days in which to submit written comments, data, and opinions on the rule, but none were received. Therefore, FCIC herewith adopts the rule published at 54 FR 33565 as a final rule.

List of Subjects in 7 CFR Part 401

Crop insurance, Fresh market tomato minimum value option.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation herewith amends the General Crop Insurance Regulations (7 CFR part 401), to be effective for the 1991 and succeeding crop years, as follows:

PART 401—[AMENDED]

1. The authority citation for 7 CFR part 401 continues to read as follows

Authority: 7 U.S.C. 1506, 1516.

2. 7 CFR part 401 is amended to add a new section to be known as 7 CFR 401.137, Fresh Market Tomato Minimum Value Option, effective for the 1991 and Succeeding Crop Years, to read as follows:

§ 401.137 Fresh Market Tomato Minimum Value Option.

The provisions of the Fresh Market Tomato Minimum Value Option for the 1991 and subsequent crop years are as follows:

Federal Crop Insurance Corporation

Fresh Market Tomato Minimum Value Option

(This is a continuous option. Refer to section 15 of the General Crop Insurance Policy)

Insured's Name _____
Contract No. _____
Address _____
Crop Year _____
Identification No. _____
SSN _____ Tax _____

It is hereby agreed to amend the Dollar Plan of Fresh Market Tomato Endorsement in accordance with the following terms and conditions.

1. This option must be submitted to us on or before the final date for accepting applications for the initial crop year in which you wish to insure your tomatoes under this Option.

2. You must have a Federal Crop Insurance General Policy and Dollar Plan Fresh Market Tomato Endorsement ("basic policy") in force.

3. You must select either Option I or II below by marking the appropriate space below. All insurable acreage in which you have a share in the county will be covered under the option you select.

[] Option I:

(a) Upon purchase of this option, subsection 9.b.(1)(a) of the Dollar Plan of Fresh Market Tomato Endorsement will be amended to change the reference from \$3.00 to \$2.00 in determining the total value of harvested production to count.

(b) The premium rate for this option will be an additional 30 percent of your premium for basic coverage.

[] Option II:

(a) Upon purchase of this option, subsection 9.b.(1)(a) of the Dollar Plan Fresh Market Tomato Endorsement will not apply to your tomato acreage. The total value of harvested production will be the dollar amount obtained by multiplying the number of 25-pound cartons of tomatoes sold by the price received minus allowable costs as contained in the actuarial table; however, such price must not be less than zero for any carton.

(b) The premium rate for this option will be an additional 50 percent of your premium for basic coverage.

4. All provisions of the General Policy and Dollar Plan of Fresh Market Tomato Endorsement not in conflict with this Option are applicable.

5. All determinations under this Option will be made by us.

6. This Option may be cancelled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date provided by the "basic policy," preceding such crop year.

Insured's Signature _____

Date _____

Corporation Representative's

Signature and Code Number _____

Date _____

Done in Washington, DC on October 30, 1989.

John Marshall,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 89-27264 Filed 11-20-89; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 401

[Amdt. 52; Docket No. 7435S]

General Crop Insurance Regulation; Cotton Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends the General Crop Insurance Regulations (7 CFR part 401), effective for the 1990 and succeeding crop years, by revising and reissuing 7 CFR 401.119, the Cotton Endorsement. The intended effect of this rule is to provide cotton insureds a unit division by share, section, and practice (irrigated and non-irrigated) instead of the previous unit division based on Agricultural Stabilization and Conservation (ASCS) Farm Serial Number.

EFFECTIVE DATE: November 21, 1989.

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: This action has been reviewed under USDA procedures established by Department Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is May 1, 1994.

John Marshall, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of \$100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons and will not have a significant economic impact on a substantial number of small entities.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

FCIC amends the General Crop Insurance Regulations (7 CFR part 401), by revising and reissuing 7 CFR 401.119, the Cotton Endorsement, effective for the 1990 and succeeding crop years, to provide cotton insureds a unit division by share, section, and practice (irrigated and non-irrigated) instead of the previous unit division based on (ASCS) Farm Serial Number.

Minor editorial changes have been made to improve compatibility with the General Crop Insurance Policy. These changes do not affect meaning or intent of the provisions. In revising and reissuing the Cotton Endorsement, FCIC

makes other changes in the provisions for insuring cotton as follows:

1. Section 1—Contains language in subsection 1.c.(2) intended to mean that FCIC will only insure that acreage of cotton allowed by mandatory limitations imposed on the insured by any program administered by the U.S. Department of Agriculture. The current Cotton Crop Insurance Endorsement contains the statement in subsection 1.c.(3) to the effect that FCIC does not insure any cotton * * * "Destroyed, designated to be destroyed, or put to another use to comply with other United States Department of Agriculture programs. FCIC has removed the words "designated to be destroyed" from this subsection because even if the crop is designated to be destroyed, this does not mean that it will not be harvested. FCIC assumes that the insured intends to insure all crops which will be harvested from acreage which is otherwise insurable.

2. Section 3—Add language to allow for a premium adjustment for insureds with good experience.

The applicable premium adjustment percentage will be shown on the actuarial table.

3. Section 5—Change unit division language to allow division by share, section, and practice (irrigated-nonirrigated). Cotton insureds were previously allowed unit division only by ASCS Farm Serial Number. The new unit division language for cotton will now be identical to the methods used for wheat, corn, etc.

4. Section 7—Change language to correspond with the way the Agriculture Marketing Service (AMS) identifies and reports spot cotton prices as codified in the Code of Federal Regulations (7 CFR part 27).

5. Section 10.—Add definition of "Growth Area" as the geographic area designated by the Secretary of Agriculture for the purpose of reporting cotton prices.

On Tuesday, August 15, 1989, FCIC published a notice of proposed rulemaking in the *Federal Register* at 54 FR 33557 to provide cotton insureds a unit division by share, section, and practice (irrigated and non-irrigated) instead of the previous unit division based on Agricultural Stabilization and Conservation (ASCS) Farm Serial Number. The public was given 30 days in which to submit written comments, data, and opinions on the proposed rule, but none were received. Therefore, the rule published at 54 FR 33557 is hereby adopted as a final rule.

After publication of the proposed rule FCIC's Board of Directors adopted a change which allows a discount against

the premium for insureds who choose not to divide their acreage into optional units. Since this discount is available for cotton, appropriate explanatory language has been added to the annual premium and unit division sections of this endorsement.

Since the earliest date by which all policy changes must be placed on file in the service office is November 30, 1989, good cause is shown for making this rule effective in less than 30 days.

List of Subjects in 7 CFR Part 401

Crop insurance; Cotton.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation amends the General Crop Insurance Regulations (7 CFR part 401) by revising and reissuing the Cotton Endorsement (7 CFR 401.119), to be effective for the 1990 and succeeding crop years, as follows:

PART 401—[AMENDED]

1. The authority citation for 7 CFR part 401 continues to read as follows:

Authority: 7 U.S.C. 1506, 1516.

2. 7 CFR 401.119, the Cotton Endorsement, is revised and reissued, effective for the 1990 and Succeeding Crop Years, to read as follows:

§ 401.119 Cotton Endorsement.

The provisions of the Cotton Crop Insurance Endorsement for the 1990 and subsequent crop years are as follows:

Federal Crop Insurance Corporation

Cotton Endorsement

1. Insured Crop and Acreage

a. The crop insured will be American Upland lint cotton.

b. The acreage insured of skip-row cotton will be the acreage occupied by rows of cotton after eliminating the skipped-row portions.

c. In addition to the cotton not insurable under section 2 of the general crop insurance policy, we do not insure any cotton:

(1) Which is not irrigated and, in the same calendar year, is grown:

(a) Where a hay crop was harvested; or
(b) Where a small grain crop reached the heading stage.

(2) Planted in excess of any mandatory acreage limitations applicable to the farm by any program administered by the United States Department of Agriculture; or
(3) Destroyed, or put to another use in order to comply with other United States Department of Agriculture programs.

d. In lieu of subsection 2.e.(7) of the general crop insurance policy, we do not insure any cotton planted with another spring planted crop.

e. A late planting agreement will be available for cotton.

2. Causes of Loss

The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

- a. Adverse weather conditions;
- b. Fire;
- c. Insects;
- d. Plant disease;
- e. Wildlife;
- f. Earthquake;
- g. Volcanic eruption; or
- h. If applicable, failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting; unless those causes are excepted, excluded, or limited by the actuarial table or section 9 of the general crop insurance policy.

3. Annual Premium

The annual premium amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting, times any applicable premium adjustment factor for which you may qualify as contained in the actuarial table, because: (1) You have not selected optional units; or (2) You are eligible for good insuring experience discount.

4. Insurance Period

a. In lieu of subsection 7.b of the general crop insurance policy (harvest of the unit), insurance will end upon removal of the cotton from the field.

b. The calendar dates for the end of the insurance period are as follows:

- (1) Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, September 30.
Karnes, Goliad, Victoria, and Jackson counties, Texas, and all Texas counties lying south thereof.
- (2) Arizona, California, New Mexico, Oklahoma, and all other Texas counties. January 31.
- (3) All other states. December 31.

5. Unit Division

Cotton acreage that would otherwise be one unit, as defined in section 17 of the general crop insurance policy, may be divided into more than one optional unit, if for each proposed unit:

a. You maintain written, verifiable records of planted acreage and harvested production for at least the previous crop year and production reports based on those records are filed to obtain an insurance guarantee; and

b. Acreage planted to insured cotton is located in separate, legally identifiable sections (except in Florida) or, in the absence of section descriptions (and in Florida), the land is identified by separate ASCS Farm Serial Numbers, provided:

(1) The boundaries of the sections or ASCS Farm Serial Numbers are clearly identified and the insured acreage is easily determined; and

(2) The cotton is planted in such a manner that the planting pattern does not continue into the adjacent section or ASCS Farm Serial Number; or

c. The acreage planted to the insured cotton is located in a single section or ASCS Farm Serial Number and consists of acreage on which both an irrigated and nonirrigated practice are carried out, provided:

(1) Cotton planted on irrigated acreage does not continue into nonirrigated acreage in the same rows or planting pattern; and

(2) Planting, fertilizing and harvesting are carried out in accordance with recognized good dryland and irrigated farming practices for the area.

If you have a loss on any unit, production records for all harvested units must be provided to us. Production that is commingled between optional units will cause those units to be combined. If your cotton acreage is not divided into optional units as provided in this section, your premium amount will be reduced as provided on the actuarial table.

6. Notice of Damage or Loss

For purposes of section 8 of the general crop insurance policy the representative sample of the unharvested crop must be at least 10 feet wide and the entire length of the field.

7. Claim for Indemnity

a. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of cotton to be counted (see subsection 7.b.);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this product by your share. b. The total production to be counted for a unit will include:

(1) All harvested production; and

(2) All appraised production which will include:

(a) Mature and potential production on unharvested acreage;

(b) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good cotton farming practices;

(c) Not less than the applicable guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause; and

(d) Not less than 25 percent of the production guarantee per acre for any acreage of cotton that is immature when we determine that harvest of cotton becomes general in the county.

(e) Production on insured acreage for which we have given written consent to be put to another use, unless such acreage is:

(i) Not put to another use before harvest of cotton becomes general in the county and is reappraised by us;

(ii) Further damaged by an insured cause and is reappraised by us; or

(iii) Harvested; and

(f) Production of not less than the harvested guarantee on acreage where the stalks have been destroyed without our written consent.

c. When mature cotton (harvested or unharvested) has been damaged solely by insured causes, the production to count will be reduced if, on the date the final notice of loss is given by the insured, the price quotation for cotton of like quality (price quotation "A") for the applicable growth area is less than 75 percent of price quotation "B." Price quotation "B" will be that day's growth area price quotation for the same area for cotton of the grade, staple length, and micronaire reading shown by the actuarial table for this purpose. The pounds of production to be counted will be determined by multiplying the number of pounds (harvested and appraised) of mature cotton by price quotation "A" and dividing the result by 75 percent of price quotation "B."

8. Cancellation and Terminations Dates.

The cancellation and termination dates are:

State and County:

Val Verde, Edwards, Kerr, February
Kendall, Bexar, Wilson, 15.

Karnes, Goliad, Victoria, and Jackson Counties, Texas, and all Texas counties lying south thereof.

Alabama; Arizona; Arkansas; California; Florida; Georgia; Louisiana; Mississippi; Nevada; North Carolina; South Carolina; and El Paso, Hudspeth, Culberson, Reeves, Loving, Winkler, Ector, Upton, Reagan, Sterling, Coke, Tom Green, Concho, McCulloch, San Saba, Mills, Hamilton, Bosque, Johnson, Tarrant, Wise, Cooke Counties, Texas, and all Texas counties lying south and east thereof to and including Terrell, Crockett, Sutton, Kimble, Gillespie, Blanco, Comal, Guadalupe, Gonzales, De Witt, Lavaca, Colorado, Wharton, and Matagorda Counties, Texas.

All other Texas counties and all other States. March 31.

April 15.

9. Contract Changes

The date by which contract changes will be available in your service office is December 31 preceding the cancellation date for counties with an April 15 cancellation date and November 30 preceding the cancellation date for all other Counties.

10. Meaning of Terms

a. "Cotton" means only American Upland Cotton.

b. "Crop year" means the period beginning at planting and extending through the end of the insurance period shown in section 4 and is designated by the calendar year in which the crop is normally planted.

c. "Harvest" means the removal of the seed cotton on each acre from the open cotton boll or the severance of the open cotton boll from the stalk by either manual or mechanical means.

d. "Mature cotton" means cotton which can be harvested either manually or mechanically and will include both unharvested and harvested cotton.

e. "Skip-row" means planting patterns consisting of alternating rows of cotton and fallow rows or rows of another crop (not spring-planted) as defined by ASCS (if non-cotton rows are occupied by another crop any yield factor normally applied for skip-row cotton will not be applicable).

f. "Growth area" means a geographic area designated by the Secretary of Agriculture for the purpose of reporting cotton prices.

Done in Washington, DC, on November 1, 1989.

John Marshall,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 89-27263 Filed 11-20-89; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 401

[Amdt. 35; Docket No. 7453S]

General Crop Insurance Regulations; Rice Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends the General Crop Insurance Regulations (7 CFR part 401), effective for the 1990 and succeeding crop years, by amending the Rice Endorsement (7 CFR 401.120) to remove restrictions in existing unit division language to standardize the unit structure across commodity program crops. The intended effect of this rule is to standardize units among crops.

EFFECTIVE DATE: November 30, 1989.

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: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is August 1, 1992.

John Marshall, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of

\$100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons and will not have a significant economic impact on a substantial number of small entities.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

FCIC hereby amends the Rice Endorsement (7 CFR 401.120) to remove restrictions in existing unit division language to standardize the unit structure.

On Monday, August 21, 1989, FCIC published a notice of proposed rulemaking in the *Federal Register* at 54 FR 34518, to remove restrictions in existing unit division language to standardize the unit structure across commodity program crops. The public was given 30 days in which to submit written comments on the proposed rule, but none were received. Therefore, the proposed rule published at 54 FR 34518 is hereby adopted as a final rule.

After publication of the proposed rule FCIC's Board of Directors adopted a change which allows a discount against the premium for insureds who choose not to divide their acreage into optional units. Since this discount is available for rice, appropriate explanatory language has been added to the annual premium and unit division sections of this endorsement.

Since the earliest date by which all policy changes must be placed on file in the service office is November 30, 1989, good cause is shown for making this rule effective in less than 30 days.

List of Subjects in 7 CFR Part 401

Crop insurance; Rice.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the General Crop Insurance Regulations (7 CFR part 401), to be effective for the 1990 and succeeding crop years, as follows:

PART 401—[AMENDED]

1. The authority citation for 7 CFR part 401 continues to read as follows:

Authority: 7 U.S.C. 1506, 1516.

2. The Rice Endorsement (7 CFR 401.120) is amended by revising subsections 3., 5., and 10., to read as follows:

§ 401.120 Rice Endorsement.

* * * * *

3. Annual premium.

The annual premium amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting, times any applicable premium adjustment percentage for which you may qualify as contained in the actuarial table, because:

- (a) You have not selected optional units; or
- (b) You are eligible for a good insuring experience discount.

* * * * *

5. Unit Division.

Rice acreage that would otherwise be one unit, as defined in section 17 of the general crop insurance policy, may be divided into more than one unit if for each proposed unit:

a. You maintain written verifiable records of planted acreage and harvested production for at least the previous crop year and production reports based on those records are filed to obtain an insurance guarantee; and

b. Acreage planted to the insured rice is located in separate, legally identifiable sections (except in Florida) or, in the absence of section descriptions (and in Florida) the land is identified by separate ASCS Farm Serial Numbers, provided:

(1) The boundaries of the section or ASCS Farm Serial Number are clearly identified and the insured acreage is easily determined; and

(2) The rice is planted in such a manner that the planting pattern does not continue into an adjacent section or ASCS Farm Serial Number; or

c. If you have a loss on any unit, production records for all harvested units must be provided to us. Production that is commingled between optional units will cause those units to be combined. If your rice acreage is not divided into optional units as provided in this section, your premium amount will be reduced as provided by the actuarial table.

* * * * *

10. *Meaning of Terms.*

a. "Harvest" means the completion of combining or threshing of rice on the unit.

b. "Mill center" means any location in which two or more mills are engaged in milling rough rice.

c. "Replanting" means the performing of cultural practices necessary to replant insured acreage to rice.

d. "Second crop rice" means regrowth of a stand of rice originating from the initially insured rice crop following harvest and which can be harvested in the same crop year.

Done in Washington, DC, on October 30, 1989.

John Marshall,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 89-27265 Filed 11-20-89; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 454

[Amdt. 2; Docket No. 7461S]

Fresh Market Tomato (Guaranteed Production Plan) Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends the Fresh Market Tomato (Guaranteed Production Plan) Crop Insurance Regulations (7 CFR part 454), effective for the 1990 and succeeding crop years, to: (1) Amend the Fresh Market Tomato Crop Insurance Regulations with respect to changing the end of the insurance period and the required date for submitting a notice of loss, to a later date to coincide with fresh market tomato production practices in California; and (2) include California in the cancellation and termination dates provision. The intended effect of this rule is to provide a corrected end of insurance period, change the date for notice of loss and intent to file a claim, and add California to the cancellation and termination dates provision.

EFFECTIVE DATE: November 30, 1989.

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: This action constitutes a review under USDA procedures established by Departmental Regulation 1512-1, as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for the Fresh Market Tomato (Guaranteed Production Plan)

Crop Insurance regulations is February 1, 1994.

John Marshall, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of \$100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons and will not have a significant economic impact on a substantial number of small entities.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

The Board of Directors recently authorized the expansion into California of fresh market tomato crop insurance under a guaranteed production plan. The present production practices for that crop in California are different from other areas where such insurance is offered. This necessitates changes in the present policy to accommodate this expansion.

The present end of insurance period affecting California is September 20. At that time, tomatoes have not yet reached the same stage as other states. For this reason, the date for the end of insurance should be later. A similar rationale is applicable to the date for filing notice of probable loss and intent to make a claim on a unit, and to the cancellation and termination date in the policy.

FCIC is changing, for California only, the end of insurance period from September 20 to November 20; the date for filing notice of loss and intent to file a claim from September 20 to November

20; and, include California under the cancellation and termination date provision. Further, FCIC removes the word "Pennsylvania" from the cancellation and termination date provision and substitutes the words "all other states", because this applies to all states where crop insurance on this crop is offered.

On Thursday, May 11, 1989, FCIC published a notice of proposed rulemaking in the *Federal Register* at 54 FR 20394, to provide a corrected end of insurance period, change the date for notice of loss and intent to file a claim, and add California to the cancellation and termination dates provision. The public was given 30 days in which to submit written comments, data, and opinions on the rule, but none were received.

In the proposed rule, the authority citation was incorrectly cited. That error is corrected herein to revise the citation.

After publication of the proposed rule FCIC's Board of Directors adopted a change which will discount premium for insureds who choose not to divide their acreage into optional units. Since this discount is available for tomatoes, appropriate explanatory language has been added to the annual premium section of this policy. This rule reflects the change in § 454.7(d)5.

Since the date by which policy changes is November 30, 1989, good cause is shown for making this rule effective in less than 30 days.

List of Subjects in 7 CFR 454

Crop insurance, Fresh Market Tomato (Guaranteed Production Plan).

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation amends the Fresh Market Tomato (Guaranteed Production Plan) Crop Insurance Regulations (7 CFR part 454), to be effective for the 1990 and succeeding crop years, in the following instances:

PART 454—[AMENDED]

1. The authority citation for 7 CFR part 454 is revised to read as follows:

Authority: 7 U.S.C. 1506, 1516.

2. 7 CFR 454.7(d) is amended by revising subsection 5, 7(g), 8a, (3)(e), and 15(d), to read as follows:

§ 454.7 Application and policy.

(d) * * *

5. Annual premium.

The annual premium amount is computed by multiplying the final stage production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting, times any applicable premium adjustment factor for which you may qualify as contained in the actuarial table because you did not select optional units.

* * * * *

7. * * *

g. November 20 of the crop year in California and September 20 in all other states.

* * * * *

8. * * *

a. * * *

(3) * * *

(e) November 20 of the crop year in California and September 20 in all other states.

* * * * *

15. * * *

d. The cancellation and termination dates are:

State	Cancellation and termination dates
California, Florida, Georgia, and South Carolina	February 15.
All other states	April 15.

* * * * *

Done in Washington, DC, on October 30, 1989.

John Marshall,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 89-27266 Filed 11-20-89; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 1032

[DA-89-041]

Milk in the Southern Illinois-Eastern Missouri Marketing Area; Order Suspending Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends certain provisions of the Southern Illinois-Eastern Missouri Federal milk marketing order for the months of November 1989 through January 1990. The action reduces the shipping standard for pool supply plants operated by cooperative associations. The action was requested by Mid-America Dairymen, Inc. (Mid-Am), a cooperative association that operates supply plants and represents producers who supply the market. As Mid-Am indicates, the action is

necessary to reflect a reduced need for shipments of milk from supply plants to distributing plants. Mid-Am indicates that less of its supply plant milk will be needed because of the sale of a distributing plant whose fluid milk accounts will be shifted to distributing plants that are regulated under other Federal orders. Absent a suspension, costly and inefficient movements of milk from supply plants would have to be made to continue to pool the milk of dairy farmers who have historically supplied the fluid milk needs of the market.

EFFECTIVE DATE: November 21, 1989.

FOR FURTHER INFORMATION CONTACT: John F. Borovics, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-2089.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of proposed suspension: Issued October 17, 1989; published October 23, 1989 (54 FR 43182).

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

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 the criteria contained therein.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and of the order regulating the handling of milk in the Southern Illinois-Eastern Missouri marketing area.

Notice of proposed rulemaking was published in the *Federal Register* on October 23, 1989 (54 FR 43182) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon. No comments opposing the action were received.

After consideration of all relevant material, including the proposal in the notice, the comments received, and other available information, it is hereby

found and determined that for the months of November 1989 through January 1990 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1032.7(b), the words "and at least 75 percent of the total producer milk marketed in that 12-month period by such cooperative association was delivered", and the words "and physically received at".

Statement of Consideration

This action suspends certain provisions of the order for the months of November 1989 through January 1990. The action reduces the shipping standard for pool supply plants operated by cooperative associations.

Currently, the order provides that a supply plant must ship at least 40 percent of its receipts of milk to distributing plants during December, and 50 percent in other months, to be a pool plant under the order. A supply plant that meets the pooling standard during each of the months of September through January is a pool plant during each of the months of February through August. Also, the order provides a monthly shipping standard of 25 percent for a supply plant operated by a cooperative association if at least 75 percent of the cooperative's total milk supply during the preceding months of September through August is received at distributing plants. The suspension results in reducing the shipping standard for a cooperative association supply plant to 25 percent of receipts during November 1989-January 1990.

The action was requested by Mid-America Dairymen, Inc. (Mid-Am), a cooperative association that operates supply plants under the order and represents producers who supply the market. Mid-Am contends that the action is necessary because of a reduced need for shipments of milk from supply plants to furnish the fluid milk requirements of distributing plants.

Mid-Am indicates that the reduction of the fluid milk requirement for the market is a result of the recent sale of a distributing plant to another handler that is regulated under the order. Mid-Am has maintained pool plant status under the order for one of its supply plants by making shipments to the distributing plant that was sold. The fluid milk accounts of the plant that was sold are to be shifted to distributing plants that are regulated under other Federal orders and the distributing plant ceased receiving milk to supply its current accounts on October 19, 1989. As a result, there will be a reduction in the amount of supplemental supply plant

milk required of Mid-Am to meet the fluid milk needs of the market.

As a result of this structural change in the market, the suspension is necessary to reduce the shipping standard to 25 percent of receipts during November 1989-January 1990. Absent a suspension, costly and inefficient movements of milk would have to be made in order to pool supply plants and the milk of producers who have historically supplied the market.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area in that such action is necessary to permit the continued pooling of supply plants and the milk of dairy farmers who have historically supplied the market without the need for making costly and inefficient movements of milk.

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension. No comments in opposition to this action were received.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1032

Dairy products, Milk, Milk marketing orders.

It is therefore ordered, That the following provisions in § 1032.7(b) of the Southern Illinois-Eastern Missouri order are hereby suspended for the months of November 1989 through January 1990.

PART 1032—MILK IN THE SOUTHERN ILLINOIS-EASTERN MISSOURI MARKETING AREA

1. The authority citation for 7 CFR part 1032 continues to read as follows:

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

§ 1032.7 [Temporarily suspended in part]

2. In § 1032.7(b), the words "and at least 75 percent of the total producer milk marketed in that 12-month period by such cooperative association was delivered", and the words "and physically received at" are hereby suspended for the months of November 1989 through January 1990.

Signed at Washington, DC, on: November 15, 1989.

Jo Ann R. Smith,
Assistant Secretary, Marketing and
Inspection Services.

[FR Doc. 89-27310 Filed 11-20-89; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-NM-146-AD; Amdt. 39-6396]

Airworthiness Directives; Aerospatiale Model ATR42-300 and ATR42-320 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Aerospatiale Model ATR42-300 and ATR42-320 series airplanes, which requires a one-time inspection of the main landing gear (MLG) actuator fitting bolt holes, and rework of the fitting surface and bolt replacement, if necessary. This amendment is prompted by reports of incorrect perpendicularity between the bolt hole axis and the fitting surface. This condition, if not corrected, could lead to failure of the landing gear actuator attachment fitting bolts, which could result in the inability to retract the landing gear and failure to achieve an adequate climb gradient.

EFFECTIVE DATE: December 21, 1989.

ADDRESSES: The applicable service information may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Robert McCracken, Standardization Branch, ANM-113; telephone (206) 431-1979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to certain Aerospatiale Model ATR42-300 and ATR42-320 series airplanes, which

requires a one-time inspection of the main landing gear (MLG) actuator fitting bolt holes, and rework of the fitting surface and bolt replacement, if necessary, was published in the **Federal Register** on August 22, 1989 [54 FR 34780].

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to the proposal.

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

It is estimated that 50 airplanes of U.S. registry will be affected by this AD, that it will take approximately 20 manhours per airplane to accomplish the required actions, and that the average labor cost will be \$40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$40,000.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Aerospatiale: Applies to Model ATR42-300 and ATR42-320 series airplanes, Serial Numbers 003 through 155, which have not been modified in accordance with Service Bulletin ATR42-32-0023, Revision 1, dated April 20, 1989, certificated in any category. Compliance is required within 90 days after the effective date of this AD, unless previously accomplished.

To prevent failure of the main landing gear (MLG) actuator fitting bolts due to an incorrect perpendicularity between the bolt hole axis and the fitting surface, accomplish the following:

A. Inspect the MLG actuator fitting bolt holes for correct perpendicularity, elongation, and alignment between the bolt hole axis and the fitting surface, in accordance with Aerospatiale Service Bulletin ATR42-53-0045, Revision 1, dated April 21, 1989.

1. If no discrepancies are found, reassemble in accordance with the service bulletin.

2. If discrepancies are found, prior to further flight, rework the fitting surface and replace the bolts in accordance with the service bulletin.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective December 21, 1989.

Issued in Seattle, Washington, on November 6, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-27273 Filed 11-20-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 89-NM-213-AD; Amdt 39-6395]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, which requires deactivation at the control wheel input to the Aircraft Integrated Data System (AIDS). This amendment is prompted by reports of binding of the pilot's control wheel in the full right-hand position. This condition, if not corrected, could result in unacceptable handling characteristics during takeoff or landing.

EFFECTIVE DATE: December 1, 1989.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Dan R. Bui, Airframe Branch, ANM-120; telephone (206) 431-1919. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: One operator of a Boeing Model 767 series airplane reported an incident of binding of the pilot's control wheel in the full right-hand position while performing pre-flight ground checks. Investigation revealed that the aileron AIDS transducer input shaft had fractured, allowing the control rod to rotate freely and eventually to wedge in the gap between the transducer and transducer bracket; this situation caused the binding condition. Upon analysis of AIDS data, it was determined that the transducer input shaft had fractured approximately two weeks prior to the actual binding of the control wheel; however, the cause of the fracture is not known at this time. The AIDS is a supplemental data acquisition and storage system which is not required for operation of the airplane.

The lateral control system of the airplane is designed such that binding in one channel of the system can be overcome by breaking out of the detent and using the other channel to maintain control at a reduced level and with

increased control forces. If the binding occurred with the wheel near maximum deflection, then control capability remaining through the unaffected channel of the control system could be insufficient for safe flight and landing.

The FAA has reviewed and approved Boeing Alert Service Bulletin 767-31A0029, dated March 23, 1989, which describes procedures for deactivating the control wheel AIDS by removing the position transducer, crank assembly, and rod assembly.

Since this condition is likely to exist or develop on other airplanes of this same type design, this AD requires deactivating the control wheel AIDS by removing the position transducer, crank assembly, and rod assembly, in accordance with the service bulletin previously described.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

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

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Applies to Model 767 series airplanes, listed in Boeing Alert Service Bulletin 767-31A0029, dated March 23, 1989, certificated in any category. Compliance is required within 45 days after the effective date of this AD, unless previously accomplished.

To prevent binding of the pilot's control wheel, accomplish the following:

A. Deactivate the control wheel Aircraft Integrated Data System (AIDS) by removing the position transducer, crank assembly, and rod assembly in accordance with Boeing Alert Service Bulletin 767-31A0029, dated March 23, 1989.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Seattle Aircraft Certification Office.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective December 1, 1989.

Issued in Seattle, Washington, on November 6, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-27274 Filed 11-20-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 88-AEA-16]

Establish Control Zone; Wheeler Sack, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice establishes the Wheeler Sack Control Zone for the Wheeler Sack Army Air Field (AAF), Fort Drum, NY. This action is necessary due to expanding operations at the field, and the Wheeler Sack AAF meets the requirements set forth in FAA Handbook 7400.2C for the establishment of a control zone.

EFFECTIVE DATE: 0901 UTC January 11, 1990.

FOR FURTHER INFORMATION CONTACT:

Mr. Curtis L. Brewington, Airspace Specialist, System Management Branch, AEA-530, Federal Aviation Administration, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 917-0857.

SUPPLEMENTARY INFORMATION:**History**

The Department of the Army has requested that a control zone be established for the Wheeler Sack AAF, Fort Drum, NY in order to accommodate expanding operations at the field. On July 7, 1989, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing a control zone at the Wheeler Sack AAF, Fort Drum, NY (54 FR 31700). In addition, a minor correction was made to the original proposal (54 FR 40126). The action will establish a control zone at Wheeler Sack, NY. This control zone will also accommodate existing and planned Instrument Approach Procedures into this airfield.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments on the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.171 of part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6E, January 3, 1989.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations establishes a control zone at Wheeler Sack, NY, to contain expanding operations at the Wheeler Sack AAF,

Fort Drum, NY. This control zone will accommodate existing and planned Instrument Approach Procedures into the airfield.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

Adoption of the Amendment

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

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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

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

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Wheeler Sack, NY [New]

Within a 5 mile radius of the center (lat. 44°03'11" N., long. 75°43'17" W.) of the Wheeler Sack Army Airfield, Fort Drum NY; within 2.5 miles each side of the 309°(T) 322°(M) bearing from the Fort Drum RBN (lat. 44°04'07" N. long. 75°44'11" W.), extending from the 5 mile radius zone to 5 miles northwest of the Fort Drum RBN and within 2 miles each side of the Watertown VORTAC (lat. 43°57'00" N. long. 76°04'00" W.) 065°(T) 078°(M) radial extending from the 5 mile radius zone to 12 (nautical) miles northeast of the watertown VORTAC.

Issued in Jamaica, New York, on October 31, 1989.

Billy E. Commander,

Acting Manager, Air Traffic Division.

[FR Doc. 89-27275 Filed 11-20-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71**[Airspace Docket No. 89-AAL-1]****Amendment to Amchitka Island Control Zone and Transition Area; Alaska****AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Final rule.

SUMMARY: This action amends the descriptions of the Amchitka Island, AK, Control Zone and 700-foot Transition Area due to the relocation of the airport reference point (ARP). This action is due to a change in the ARP for the Amchitka Island Airport.

EFFECTIVE DATE: 0901 UTC, January 11, 1990.

FOR FURTHER INFORMATION CONTACT: Betty Harrison, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9255.

The Rule

This amendment to part 71 of the Federal Aviation Regulations amends the descriptions of the Amchitka Island, AK, Control Zone and 700-foot Transition Area. A new survey contracted by the Department of the Navy resulted in a new ARP for Amchitka Island Airport. As a result, the current descriptions of the Amchitka Island Control Zone and 700-foot Transition Area are technically incorrect and need to be amended to reflect this change. The amendment has no significant effect on the size or configuration of controlled airspace comprising the Control Zone and Transition Area. Accordingly, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor technical amendment in which the public would not be particularly interested. Sections 71.171 and 71.181 of part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6E dated January 3, 1989.

The FAA determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated

impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Transition areas.

Adoption of the Amendment

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

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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

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

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Amchitka Island, AK [Amended]

By removing the words "lat. 51°22'37" N., long. 179°15'57" E." and substituting the words "lat. 51°22'43" N., long. 179°15'32" E."

§ 71.181 [Amended]

3. Section 71.181 is amended as follows:

Amchitka Island, AK [Amended]

By removing the words "lat. 51°22'37" N., long. 179°15'57" E." and substituting the words "lat. 51°22'43" N., long. 179°15'32" E."

Issued in Washington, DC, on November 8, 1989.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 89-27276 Filed 11-20-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71**[Airspace Docket No. 88-AEA-15]****Alteration of Transition Area; Great Bend, NY****AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Final rule.

SUMMARY: This notice modifies the 700 foot transition area established at Great Bend, NY, to accommodate a new NDB Runway 15 Standard Instrument

Approach Procedure (SIAP) to the Wheeler Sack Army Air Field (AAF), Fort Drum, NY. This action establishes that amount of controlled airspace necessary to accommodate the new procedure.

EFFECTIVE DATE: 0901 UTC January 11, 1990.

FOR FURTHER INFORMATION CONTACT:

Mr. Curtis L. Brewington, Airspace Specialist, System Management Branch, AEA-530, Federal Aviation Administration, Fitzgerald Federal Building # 111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 917-0857.

SUPPLEMENTARY INFORMATION:**History**

On July 7, 1989, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend the Great Bend, NY, 700 foot transition area established for the Wheeler Sack AAF, Fort Drum, NY, to accommodate a new SIAP to the AAF (54 FR 31697). In addition, a correction was made to the subject proposal due to incorrect references to the magnetic variation used for the proposal (54 FR 41110). The proposed action will establish the amount of controlled airspace necessary to contain a new arrival procedure for aircraft executing a SIAP to the Wheeler Sack AAF, Fort Drum, NY.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments referencing the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6E, January 3, 1989.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations amends the 700 foot transition area at Great Bend, NY, to accommodate a new NDB Runway 15 SIAP to the Wheeler Sack AAF, Fort Drum, NY.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal.

Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation Safety, Transition Areas.

Adoption of the Amendment

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

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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

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

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Great Bend, NY [Revised]

"That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, lat. 44°03'00" N., long. 75°44'00" W., of Wheeler Sack A.A.F., NY; within an 8-mile radius of the center of the airport, extending clockwise from a 065°(T) 078°(M) bearing to a 135°(T) 148°(M) bearing from the airport; within an 11-mile radius of the center of the airport, extending clockwise from a 135°(T) 148°(M) bearing to a 165°(T) 178°(M) bearing from the airport; within a 13.5-mile radius of the center of the airport, extending clockwise from a 165°(T) 178°(M) bearing to a 195°(T) 208°(M) bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 195°(T) 208°(M) bearing to a 242°(T) 255°(M) bearing from the airport; within 4.5 miles each side of the Watertown, NY VORTAC (lat. 43°57'07" N., long. 76°03'54" W.) 066°(T) 078°(M) radial, extending from the 7-mile radius area and the 10.5 mile radius area to the VORTAC, and within 5 miles each side of the Watertown, NY VORTAC 069°(T) 081°(M) radial, extending from the 7-mile radius area and the 10.5-mile radius area to the VORTAC."

Issued in Jamaica, New York, on October 31, 1989.

Billy E. Commander,

Acting Manager, Air Traffic Division.

[FR Doc. 89-27277 Filed 11-20-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Parts 71 and 73

[Airspace Docket No. 89-ASW-3]

Alteration of Restricted Areas R-2401 and R-2402; Fort Chaffee, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action subdivides existing Restricted Area R-2401 Fort Chaffee, AR, into two areas, R-2401A and R-2401B. This action enables that portion of the area not being used by the military to be released for access by civil traffic. In addition, R-2402 is amended to reflect minor corrections to the boundary description and time of designation. The Continental Control Area is also amended to reflect R-2401A and R-2401B.

EFFECTIVE DATE: 0901 U.T.C., January 11, 1990.

FOR FURTHER INFORMATION CONTACT:

Rich Uhrich, Military Operations Branch (ATO-140), Operations Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-7636.

SUPPLEMENTARY INFORMATION:

History

On July 24, 1989, the FAA proposed to amend parts 71 and 73 of the Federal Aviation Regulations (14 CFR parts 71 and 73) to subdivide Restricted Area R-2401 Fort Chaffee, AR, into two areas, R-2401A and R-2401B, effect minor corrections to the boundary of R-2402, and amend the time of designation for R-2402 [54 FR 30762]. Additionally, this action amends the Continental Control Area to reflect R-2401A and R-2401B. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, these amendments are the same as those proposed in the notice. Sections 71.151 and 73.54 of parts 71 and 73 of the Federal Aviation Regulations were republished in Handbook 7400.6E dated January 3, 1989.

The Rule

These amendments to parts 71 and 73 of the Federal Aviation Regulations divide Restricted Area R-2401 into two areas, R-2401A and R-2401B, and reflect minor corrections to the boundary description and time of designation of R-2402. Restricted Areas R-2401 and R-2402 are amended to allow greater

flexibility and more efficient airspace use by both military and civilian users. Previously, when R-2401 was activated for fast-moving military aircraft, it greatly restricted the movement of air traffic inbound to Fort Smith Airport. Subdividing the area therefore, results in more efficient use of airspace by allowing increased access to Fort Smith Airport by civil traffic. Further, this action amends the time of designation for R-2402 resulting in a decreased restriction on the flying public. The Continental Control Area is amended to reflect Restricted Areas R-2401A and R-2401B. These amendments involve the subdivision of existing restricted areas and do not require any additional airspace.

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

List of Subjects in 14 CFR Parts 71 and 73

Aviation safety, Continental control area, Restricted areas.

Adoption of the Amendments

Accordingly, pursuant to the authority delegated to me, parts 71 and 73 of the Federal Aviation Regulations (14 CFR parts 71 and 73) are amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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

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

§ 71.151 [Amended]

2. Section 71.151 is amended as follows:

R-2401 Fort Chaffee, AR [Remove]

R-2401A Fort Chaffee, AR [New]

R-2401B Fort Chaffee, AR [New]

PART 73—SPECIAL USE AIRSPACE

3. The authority citation for Part 73 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) [Revised Pub. L. 97-449, January 12, 1983]; 14 CFR 11.69.

§ 73.24 [Amended]

4. § 73.24 is amended as follows:

R-2401 Fort Chaffee, AR [Remove]

R-2401A Fort Chaffee, AR [New]

Boundaries: Beginning at lat. 35°18'17" N., long. 94°12'00" W.; to lat. 35°17'45" N., long. 94°15'35" W.; to lat. 35°15'35" N., long. 94°18'00" W.; to lat. 35°13'50" N., long. 94°15'00" W.; to lat. 35°13'50" N., long. 94°12'00" W.; to the point of beginning.

Designated altitudes: Surface to and including 30,000 feet MSL.

Time of designation: Sunrise to sunset, Monday through Sunday; other times by NOTAM.

Controlling agency: FAA, Memphis ARTCC.

Using agency: U.S. Army, Commanding General, Fort Chaffee, AR.

R-2401B Fort Chaffee, AR [New]

Boundaries: Beginning at lat. 35°17'45" N., long. 94°15'35" W.; to lat. 35°17'37" N., long. 94°17'23" W.; to lat. 35°16'06" N., long. 94°19'03" W.; to lat. 35°15'35" N., long. 94°18'00" W.; to the point of beginning.

Designated altitudes: Surface to and including 30,000 feet MSL.

Time of designation: Sunrise to sunset, Monday through Sunday; other times by NOTAM.

Controlling agency: FAA, Memphis ARTCC.

Using agency: U.S. Army, Commanding General, Fort Chaffee, AR.

R-2402 Fort Chaffee, AR [Amended]

By removing the existing boundaries and time of designation and substituting the following:

Boundaries: Beginning at lat. 35°18'09" N., long. 94°03'00" W.; to lat. 35°17'00" N., long. 94°03'00" W.; to lat. 35°17'00" N., long. 94°01'00" W.; to lat. 35°10'20" N., long. 94°01'00" W.; thence west along Arkansas State Highway No. 10 to lat. 35°11'33" N., long. 94°12'00" W.; to lat. 35°13'50" N., long. 94°12'00" W.; to lat. 35°18'10" N., long. 94°12'00" W.; to lat. 35°18'12" N., long. 94°09'51" W.; thence east along Arkansas State Highway No. 22 to the point of beginning.

Time of designation: Sunrise to sunset, Monday through Sunday; other times by NOTAM.

Issued in Washington, DC, on November 9, 1989.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 89-27278 Filed 11-20-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 95

[Docket No. 26061; Amdt. No. 353]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: November 16, 1989.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Manager, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standards Service Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to

the user and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

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

List of Subjects in 14 CFR Part 95

Aircraft, Airspace.

Issued in Washington, DC on November 9, 1989.

Robert L. Goodrich,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 G.m.t.

PART 95—[AMENDED]

1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354 and 1510; 49 U.S.C. 106(g) [Revised, Pub. L. 97-449, January 12, 1983]; and 14 CFR 11.49(b)(2).

2. Part 95 is amended to read as follows:

BILLING CODE 4910-13-M

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES & CHANGEOVER POINTS

AMENDMENT 353 EFFECTIVE DATE, NOVEMBER 16, 1989

FROM	TO	MEA	FROM	TO	MEA
§95.1001 DIRECT ROUTES-U.S.95.102 AMBER FEDERAL AIRWAY 2			§95.1001 DIRECT ROUTES-U.S.—Continued		
IS AMENDED TO READ IN PART			IS AMENDED TO DELETE		
U.S. CANADIAN BORDER *9000 - MOCA	NABESNA, AK NDB	*9600	LYNUS, OA FIX	CHAMP, OA FIX	30000 MAA-45000
EVANSVILLE, AK NDB *9000 - MOCA	BROWERVILLE, AK NDB	*10000			
ATLANTIC ROUTES			R56		
			LINND, OA FIX	SLATN, OA FIX	25000 MAA-45000
AR 8	IS AMENDED TO DELETE		§95.6002 VOR FEDERAL AIRWAY 2		
ELIZABETH CITY, NC VOR/ DME	BACUS, NC FIX	20000 MAA-41000	IS AMENDED TO READ IN PART		
			SALEM, MI VORTAC	U.S. CANADIAN BORDER	3000
A23	IS AMENDED TO READ IN PART		§95.6006 VOR FEDERAL AIRWAY 6		
KENNEDY, NY VORTAC	LEOES, OA FIX	15000 MAA-45000	IS AMENDED TO READ IN PART		
LEOES, OA FIX	LINND, OA FIX	18000 MAA-45000	WATERVILLE, OH VOR/DME	SANDUSKY, OH VOR/DME	3000
			SANDUSKY, OH VOR/DME	DRYER, OH VORTAC	3000
IS AMENDED TO DELETE			§95.6010 VOR FEDERAL AIRWAY 10		
LINND, OA FIX	FLANN, OA FIX	4000 MAA-45000	IS AMENDED TO READ IN PART		
			LITCHFIELD, MI VORTAC	CARLETON, MI VORTAC	3000
A300	IS AMENDED TO READ IN PART		§95.6011 VOR FEDERAL AIRWAY 11		
KENNEDY, NY VORTAC	OWENZ, OA FIX	6000 MAA-45000	IS AMENDED TO READ IN PART		
IS AMENDED TO DELETE			FORT WAYNE, IN VORTAC	EDGE, OH FIX	3000
			EDGE, OH FIX	*PIONS, OH FIX	4000
			*4000 - MRA		
			PIONS, OH FIX	*HIRED, MI FIX	6000
			*6000 - MRA		
BERGH, OA FIX	CHAMP, OA FIX	4000 MAA-45000	HIRED, MI FIX	*CRUXX, MI FIX	7500
			*7500 - MRA		
B24	IS ADDED TO READ		§95.6012 VOR FEDERAL AIRWAY 12		
FISSH, NJ FIX	LYNUS, OA FIX	15000 MAA-45000	IS AMENDED TO READ IN PART		
			AMARILLO, TX VORTAC	GAGE, OK VORTAC	*5500
			*4900 - MOCA		
IS AMENDED TO READ IN PART			§95.6013 VOR FEDERAL AIRWAY 13		
SEA ISLE, NJ VORTAC	FISSH, NJ FIX	15000 MAA-45000	IS AMENDED TO READ IN PART		
			BUTLER, MO VORTAC	NAPOLEON, MO VORTAC	2900

FROM	TO	MEA	FROM	TO	MEA
§95.6016 VOR FEDERAL AIRWAY 16			§95.6042 VOR FEDERAL AIRWAY 42		
IS AMENDED TO READ IN PART			IS AMENDED TO READ		
JACKS CREEK, TN VORTAC	GRAHAM, TN VORTAC	2500	WATERVILLE, OH VOR/DME	VARYS, OH FIX	4000
			VARYS, OH FIX	DROVE, OH FIX	3500
					MAA-14000
			DROVE, OH FIX	YOUNGSTOWN, OH VORTAC	3000
§95.6024 VOR FEDERAL AIRWAY 24			§95.6045 VOR FEDERAL AIRWAY 45		
IS AMENDED BY ADDING			IS AMENDED TO READ IN PART		
PEOTONE, IL VORTAC	KENLA, IN FIX	2400			
KENLA, IN FIX	VAGES, IN FIX	2600			
VAGES, IN FIX	*POTES, IN FIX	**4000			
*4000 - MRA					
**2300 - MOCA					
POTES, IN FIX	JAKKS, IN FIX	*4000	APPLETON, OH VORTAC	DUSKY, OH FIX	3000
*2300 - MOCA			DUSKY, OH FIX	WATERVILLE, OH VOR/DME	2600
JAKKS, IN FIX	INDIANAPOLIS, IN VORTAC	2700	WATERVILLE, OH VOR/DME	*HIRED, MI FIX	3000
			*6000 - MRA		
			HIRED, MI FIX	JACKSON, MI VOR/DME	3000
			SEEKS, MI FIX	ALPENA, MI VORTAC	*3500
			*2600 - MOCA		
§95.6026 VOR FEDERAL AIRWAY 26			IS AMENDED TO DELETE		
IS AMENDED TO READ IN PART					
SALEM, MI VORTAC	U S. CANADIAN BORDER	3000	YOUNGSTOWN, OH VORTAC	DROVE, OH FIX	3000
U.S. CANADIAN BORDER	DRYER, OH VORTAC	3000	DROVE, OH FIX	VARYS, OH FIX	3500
			VARYS, OH FIX	WATERVILLE, OH VOR/DME	*4000
			*2300 - MOCA		
§95.6030 VOR FEDERAL AIRWAY 30			§95.6050 VOR FEDERAL AIRWAY 50		
IS AMENDED TO READ IN PART			IS AMENDED TO READ IN PART		
LITCHFIELD, MI VORTAC	*HIRED, MI FIX	3000			
*6000 - MRA					
HIRED, MI FIX	WATERVILLE, OH VOR/DME	3000			
WATERVILLE, OH VOR/DME	SANDUSKY, OH VOR/DME	3000			
SANDUSKY, OH VOR/DME	DRYER, OH VORTAC	3000			
§95.6031 VOR FEDERAL AIRWAY 31			CAPITAL, IL VORTAC	DECATUR, IL VORTAC	3000
IS AMENDED TO READ IN PART					
AIRCO, NY FIX	U S. CANADIAN BORDER	6000			
§95.6037 VOR FEDERAL AIRWAY 37			DAYTON, OH VOR/DME	FORT WAYNE, IN VORTAC	2800
IS AMENDED TO READ IN PART					
ERIE, PA VORTAC	U.S. CANADIAN BORDER	3000			
§95.6038 VOR FEDERAL AIRWAY 38			MONTROSE, CO VOR/DME	CONES, CO VOR/DME	12000
IS AMENDED TO READ IN PART			CONES, CO VOR/DME	DOVE CREEK, CO VORTAC	12000
CLEFT, IN FIX	FORT WAYNE, IN VORTAC	2800			
§95.6040 VOR FEDERAL AIRWAY 40			§95.6075 VOR FEDERAL AIRWAY 75		
IS AMENDED BY ADDING			IS AMENDED BY ADDING		
U S. CANADIAN BORDER	*KITTY, OH FIX	4000	DRYER, OH VORTAC	VARYS, OH FIX	3000
*4000 - MRA			VARYS, OH FIX	U.S. CANADIAN BORDER	3000
KITTY, OH FIX	DRYER, OH VORTAC	3000			

FROM TO MEA
§95.6077 VOR FEDERAL AIRWAY 77
 IS AMENDED TO READ IN PART

SAN ANGELO, TX VORTAC	ABILENE, TX VORTAC	4000
HEYDN, KS FIX	TOPEKA, KS VORTAC	3500
TOPEKA, KS VORTAC	ST JOSEPH, MO VORTAC	2900

§95.6090 VOR FEDERAL AIRWAY 90
 IS AMENDED TO READ IN PART

U.S. CANADIAN BORDER	DUNKIRK, NY VORTAC	3000
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§95.6095 VOR FEDERAL AIRWAY 95
 IS AMENDED TO READ IN PART

CASTI, AZ FIX	DERMA, NM FIX	*13000
*11400 - MOCA		
DERMA, NM FIX	FARMINGTON, NM VORTAC	
	E BND	*8000
	W BND	*13000
*8300 - MOCA		
TREES, CO FIX	*CHILT, CO FIX	
	SW BND	16300
	NE BND	13000
*13200 - MCA CHILT FIX, SW BND		

§95.6096 VOR FEDERAL AIRWAY 96
 IS AMENDED TO READ IN PART

KOKOMO, IN VORTAC	FORT WAYNE, IN VORTAC	2600
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IS AMENDED TO DELETE

WATERVILLE, OH VOR/DME	U.S. CANADIAN BORDER	3000
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§95.6098 VOR FEDERAL AIRWAY 98
 IS AMENDED BY ADDING

DAYTON, OH VOR/DME	MIZAR, MI FIX	10000
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IS AMENDED TO DELETE

CARLETON, MI VORTAC	U.S. CANADIAN BORDER	2400
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§95.6100 VOR FEDERAL AIRWAY 100
 IS AMENDED TO DELETE

LITCHFIELD, MI VORTAC	ADRAN, MI FIX	3000
ADRAN, MI FIX	CARLETON, MI VORTAC	*2800
*2200 - MOCA		

FROM TO MEA
§95.6103 VOR FEDERAL AIRWAY 103
 IS AMENDED TO READ IN PART

AKRON, OH VOR/DME	U.S. CANADIAN BORDER	3000
U.S. CANADIAN BORDER	LANSING, MI VORTAC	8000
	MAA-16000	

IS AMENDED TO DELETE

CRIBS, OH FIX	U.S. CANADIAN BORDER	*3500
*1700 - MOCA		
SALEM, MI VORTAC	CHEMS, MI FIX	2800
CHEMS, MI FIX	LANSING, MI VORTAC	2900

§95.6116 VOR FEDERAL AIRWAY 116
 IS AMENDED TO READ IN PART

SALEM, MI VORTAC	U.S. CANADIAN BORDER	*3100
*2400 - MOCA		
U.S. CANADIAN BORDER	MUSKK, OH FIX	3000
	MAA-16000	
MUSKK, OH FIX	ERIE, PA VORTAC	3000

§95.6126 VOR FEDERAL AIRWAY 126
 IS AMENDED TO READ IN PART

WATERVILLE, OH VOR/DME	SANDUSKY, OH VOR/DME	3000
SANDUSKY, OH VOR/DME	DRYER, OH VORTAC	3000

§95.6132 VOR FEDERAL AIRWAY 132
 IS AMENDED TO READ IN PART

STEAL, KS FIX	HUTCHINSON, KS VORTAC	3200
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§95.6133 VOR FEDERAL AIRWAY 133
 IS AMENDED TO READ IN PART

MANSFIELD, OH VORTAC	U.S. CANADIAN BORDER	3000
U.S. CANADIAN BORDER	SALEM, MI VORTAC	3000
SALEM, MI VORTAC	SAGINAW, MI VORTAC	3000

§95.6144 VOR FEDERAL AIRWAY 144
 IS AMENDED TO READ IN PART

CLEFT, IN FIX	FORT WAYNE, IN VORTAC	2800
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§95.6160 VOR FEDERAL AIRWAY 160
 IS AMENDED BY ADDING

DENVER, CO VORTAC	PYNNE, CO FIX	10800
PYNNE, CO FIX	*TREES, CO FIX	*15000
*12100 - MCA TREES FIX, SW BND		
**13400 - MOCA		

FROM TO MEA
§95.6161 VOR FEDERAL AIRWAY 161
 IS AMENDED TO READ IN PART

POLKA, TX FIX	MILLSAP, TX VORTAC	3000
NOVEL, OK FIX	OSWEGO, KS VORTAC	2800
BUTLER, MO VORTAC	NAPOLION, MO VORTAC	2900

§95.6176 VOR FEDERAL AIRWAY 176
 IS DELETED

PONTIAC, MI VORTAC	U.S. CANADIAN BORDER	*3000
*2400 - MOCA		

§95.6189 VOR FEDERAL AIRWAY 189
 IS AMENDED TO READ IN PART

HOPEWELL, VA VORTAC	*WAKES, VA FIX	**2000
*3000 - MRA		
**1400 - MOCA		
WAKES, VA FIX	FRANKLIN, VA VORTAC	*2000
*1400 - MOCA		

§95.6210 VOR FEDERAL AIRWAY 210
 IS AMENDED TO READ IN PART

FULLY, NM FIX	FARMINGTON, NM VORTAC	8300
LAMAR, CO VORTAC	LIBERAL, KS VORTAC	6000
ROLLS, OK FIX	*WAXEY, OK FIX	8400
*4400 - MRA		

§95.6214 VOR FEDERAL AIRWAY 214
 IS AMENDED TO READ IN PART

MARION, IN VOR/DME	MUNCIE, IN VOR/DME	2800
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§95.6216 VOR FEDERAL AIRWAY 216
 IS AMENDED TO READ IN PART

MANKATO, KS VORTAC	PAWNEE CITY, NE VORTAC	*3600
*3100 - MOCA		
PECK, MI VORTAC	U.S. CANADIAN BORDER	5000

§95.6217 VOR FEDERAL AIRWAY 217
 IS AMENDED TO READ IN PART

GREEN BAY, WI VORTAC	CECIL, WI FIX	*2700
*2200 - MOCA		

FROM TO MEA
§95.6218 VOR FEDERAL AIRWAY 218
 IS AMENDED TO DELETE

LANSING, MI VORTAC	PONTIAC, MI VORTAC	3000
PONTIAC, MI VORTAC	NOVIE, MI FIX	2800
NOVIE, MI FIX	U.S. CANADIAN BORDER	3000
U.S. CANADIAN BORDER	CRIBS, OH FIX	*3500
*1700 - MOCA		
CRIBS, OH FIX	AKRON, OH VOR/DME	3000

§95.6221 VOR FEDERAL AIRWAY 221
 IS AMENDED TO READ IN PART

SALEM, MI VORTAC	DELOW, MI FIX	3000
DELOW, MI FIX	U.S. CANADIAN BORDER	4000
U.S. CANADIAN BORDER	ERIE, PA VORTAC	3000

§95.6231 VOR FEDERAL AIRWAY 231
 IS AMENDED TO READ IN PART

SALMON, ID VOR/DME	TUFFY, MT FIX	12000
TUFFY, MT FIX	*MISSOULA, MT VORTAC	12000
	S BND	9000
	N BND	
*1000 - MCA MISSOULA VORTAC, S BND		

§95.6232 VOR FEDERAL AIRWAY 232
 IS AMENDED TO DELETE

CRIBS, OH FIX	MENTO, OH FIX	*3000
*2300 - MOCA		
MENTO, OH FIX	CHARDON, OH VORTAC	3000

§95.6260 VOR FEDERAL AIRWAY 260
 IS AMENDED TO READ IN PART

HOPEWELL, VA VORTAC	*WAKES, VA FIX	**2000
*3000 - MRA		
**1400 - MOCA		
WAKES, VA FIX	FRANKLIN, VA VORTAC	*2000
*1400 - MOCA		

§95.6275 VOR FEDERAL AIRWAY 275
 IS AMENDED TO READ IN PART

DAYTON, OH VOR/DME	KLINE, OH FIX	*6000
*3000 - MOCA		

IS AMENDED TO DELETE

SONIL, MI FIX	SALEM, MI VORTAC	*3000
*2300 - MOCA		

FROM	TO	MEA	FROM	TO	MEA
§95.6276 VOR FEDERAL AIRWAY 276 IS AMENDED TO DELETE			§95.6337 VOR FEDERAL AIRWAY 337 IS AMENDED TO READ IN PART		
U.S. CANADIAN BORDER *3100 - MOCA	ERIE, PA VORTAC	*8500	AKRON, OH VOR/DME U.S. CANADIAN BORDER PECK, MI VORTAC	U.S. CANADIAN BORDER PECK, MI VORTAC SAGINAW, MI VORTAC	5000 7000 3000
§95.6277 VOR FEDERAL AIRWAY 277 IS AMENDED TO READ IN PART			§95.6354 VOR FEDERAL AIRWAY 354 IS AMENDED TO READ IN PART		
FORT WAYNE, IN VORTAC BAGEL, IN FIX	BAGEL, IN FIX KEELER, MI VORTAC	2800 2700	PIONEER, OK VORTAC	EMPORIA, KS VORTAC	3500
§95.6280 VOR FEDERAL AIRWAY 280 IS AMENDED TO READ IN PART			§95.6450 VOR FEDERAL AIRWAY 450 IS AMENDED TO READ IN PART		
AMARILLO, TX VORTAC *4900 - MOCA HEYDN, KS FIX	GAGE, OK VORTAC TOPEKA, KS VORTAC	*5500 3500	FLINT, MI VORTAC KATTY, MI FIX	KATTY, MI FIX U.S. CANADIAN BORDER	3000 4000
§95.6287 VOR FEDERAL AIRWAY 287 IS AMENDED TO READ IN PART			§95.6464 VOR FEDERAL AIRWAY 464 IS AMENDED BY ADDING		
FORT JONES, CA VORTAC *9700 - MOCA KLAMA, OR FIX	KLAMA, OR FIX *MEDFORD, OR VORTAC SE BND NW BND *7000 - MCA MEDFORD VORTAC, SE BND **8000 - MOCA	*10000 **10000 **8000	SALEM, MI VORTAC DELOW, MI FIX	DELOW, MI FIX U.S. CANADIAN BORDER	3000 4000
§95.6297 VOR FEDERAL AIRWAY 297 IS AMENDED TO READ IN PART			§95.6502 VOR FEDERAL AIRWAY 502 IS AMENDED TO READ IN PART		
AKRON, OH VOR/DME *4000 - MRA KITTY, OH FIX	*KITTY, OH FIX U.S. CANADIAN BORDER	3000 4000	STEAL, KS FIX EMPORIA, KS VORTAC DESOT, KS FIX	HUTCHINSON, KS VORTAC DESOT, KS FIX NAPOLEON, MO VORTAC	3200 3100 3000
§95.6304 VOR FEDERAL AIRWAY 304 IS AMENDED TO READ IN PART			§95.6507 VOR FEDERAL AIRWAY 507 IS AMENDED TO READ IN PART		
LIBERAL, KS VORTAC	LAMAR, CO VORTAC	6000	WAXEY, OK FIX	ROLLS, OK FIX	8400
§95.6320 VOR FEDERAL AIRWAY 320 IS AMENDED TO READ IN PART			§95.6522 VOR FEDERAL AIRWAY 522 IS AMENDED BY ADDING		
PECK, MI VORTAC	U.S. CANADIAN BORDER	6000	DUNKIRK, NY VORTAC	U.S. CANADIAN BORDER	3000
§95.6578 VOR FEDERAL AIRWAY 578 IS AMENDED BY ADDING			§95.6578 VOR FEDERAL AIRWAY 578 IS AMENDED BY ADDING		
			ALMA, GA VORTAC	SAVANNAH, GA VORTAC	6000

FROM TO MEA MAA
§95.7547 JET ROUTE NO. 547

IS AMENDED TO READ IN PART

FLINT, MI VORTAC U.S. CANADIAN BORDER 18000 45000

[FR Doc. 89-27279 Filed 11-20-89; 8:45 am]

BILLING CODE 4910-13-C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR PART 524

Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject to Certification; Nystatin, Neomycin, Thiostrepton, and Triamcinolone Acetonide Ointment

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) sponsored by A. H. Robins Co., and Biocraft Laboratories, Inc. The NADA provides for the use of nystatin, neomycin, thiostrepton, and triamcinolone acetonide ointment on dogs and cats for the treatment of acute and chronic otitis, interdigital cysts, dermatologic disorders, and for dogs for the treatment of anal gland infections.

EFFECTIVE DATE: November 21, 1989.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Center for Veterinary Medicine (HFV-114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: A. H. Robins Co., 1405 Cummings Dr., P.O. Box 26609, Richmond, VA 23261, and Biocraft Laboratories, Inc., 92 Route 46, P.O. Box 200, Elmwood Park, NJ 07407, filed NADA 140-889, which provides for the use of a nystatin, neomycin, thiostrepton, and triamcinolone acetonide ointment on dogs and cats for the treatment of acute and chronic otitis of varied etiologies, interdigital cysts and anal gland infections in dogs. The product is also indicated in the management of dermatologic disorders characterized by inflammation and dry or exudative dermatitis, particularly those caused, complicated, or threatened by bacterial or candidal (*Candida albicans*) infections. It is also indicated for treatment of exzematous dermatitis, contact dermatitis, and seborrheic dermatitis, and as an adjunct in the treatment of dermatitis due to parasitic infestation. The NADA is approved and 21 CFR 524.1600a is amended in paragraph (b) to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and

information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

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

List of Subjects in 21 CFR Part 524

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 524 is amended as follows:

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 524 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

2. Section 524.1600a is amended by revising paragraph (b) to read as follows:

§ 524.1600a Nystatin, neomycin, thiostrepton, and triamcinolone acetonide ointment.

(b) See Nos. 000031/000332 (cosponsors), 011519, 025463, 051259, and 053501 in § 510.600(c) of this chapter.

Dated: November 9, 1989.

Richard H. Teske,
Deputy Director, Center for Veterinary Medicine.
[FR Doc. 89-27299 Filed 11-20-89; 8:45 am]
BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

(T.D. 8274)

RIN 1545-AN29

Treatment of Partnership Liabilities; Allocations Attributable to Nonrecourse Liabilities

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations that amend §§ 1.752-0T, 1.752-1T, 1.752-2T, 1.752-4T, and 1.704-1T. The text of the temporary regulations set forth in this document also serves as the text of the proposed regulations cross-referenced in the notice of proposed rulemaking in the Proposed Rules section of this issue of the Federal Register.

DATE: The amendments to §§ 1.752-0T, 1.752-1T, 1.752-2T, 1.752-4T and 1.704-1T are effective as of December 29, 1988.

FOR FURTHER INFORMATION CONTACT: Mary Munday, 202-377-9470 (not a toll-free number).

SUPPLEMENTARY INFORMATION:**Background**

This document contains temporary regulations that amend §§ 1.752-0T, 1.752-1T, 1.752-2T, 1.752-4T, and 1.704-1T to make certain clarifying and corrective changes to those regulations in response to questions and comments from taxpayers. The temporary regulations added by this document will remain in effect until superseded by later temporary or final regulations relating to these matters. The Service solicits comment on the changes made to the temporary regulations by this document and the need for additional changes. Pursuant to the extension of time published in the Federal Register for Tuesday, June 20, 1989 (54 FR 25878), comments and requests for a public hearing on PS-229-84 must be delivered or mailed by January 19, 1990.

Explanation of Amendments to Temporary Regulations Under Section 752

The amendments to the temporary regulations under section 752 ("temporary section 752 regulations") are discussed below.

Nonrecourse Debt for Which Partner Has Assumed Obligation To Pay Interest

Under the temporary section 752 regulations, if a partner would be obligated to pay the interest that will accrue on an otherwise nonrecourse liability of the partnership if the partnership failed to pay such interest, then the partner's economic risk of loss for such liability is, under certain circumstances, increased by an amount equal to the present value of the remaining interest payments that such partner would be obligated to make. See § 1.752-1T(d)(3)(v). In cases to which this rule applies, it is intended to cause a partner to bear the economic risk of

loss for an otherwise nonrecourse liability only to the extent that the partner is obligated to pay interest that will accrue economically on such liability after the time of such determination because only such interest may appropriately be taken into account in determining the present value of such liability. See proposed regulation § 1.446-2 for an economic accrual method of computing interest. Any interest that has already accrued economically on such liability but remains unpaid should be considered a separate indebtedness and will, in fact, be treated as a separate partnership liability if such accrued but unpaid interest is deductible by the partnership. See § 1.752-1T(g) regarding the definition of liability for purposes of section 752. Therefore, in order to avoid overstating the amount of a partner's economic risk of loss for an otherwise nonrecourse liability by taking into account interest that has already accrued economically on such liability (and which may itself constitute a separate partnership liability), paragraph (d)(3)(v) of § 1.752-1T has been amended by this document to provide that the economic risk of loss that a partner will be determined to bear for an otherwise nonrecourse liability under that paragraph must be computed with respect to interest accruing economically on such liability after the time of such determination.

For example, assume partner A agrees to pay all of the interest that is payable on an otherwise \$100 nonrecourse liability of the partnership if the partnership fails to pay such interest, and that § 1.752-1T(d)(3)(v) applies to that obligation. At the time the liability is incurred, A will be considered to bear the economic risk of loss for that liability to the extent of the present value of all the interest payable on such liability during its term. At the end of the taxable year in which such liability is incurred, however, A will be considered to bear the economic risk of loss for the otherwise \$100 nonrecourse liability only to the extent of the present value of the remaining interest payable on such liability that accrues economically after the end of such year. Any interest that accrued economically on the liability during that year but was not payable prior to the end of the year (and any interest that may thereafter accrue on such interest) is not taken into account in determining the economic risk of loss that A will be considered to bear for such liability at the end of the year (without regard to whether such accrued but unpaid interest is

deductible under the partnership's method of accounting).

De Minimis Rule

Under the temporary section 752 regulations, if a partner (or a person related to a partner) makes a nonrecourse loan to the partnership, such partner is generally considered to bear the economic risk of loss for that liability. The regulations do, however, provide a de minimis exception to that rule. See § 1.752-1T(d)(3)(vii). The de minimis rule provides that if a partner (or person related to a partner) makes a loan to the partnership that would otherwise be treated as a nonrecourse liability, such partner will not be considered to bear the economic risk of loss for that liability if (1) the partner's interest (including the interest of any person related to such partner) in each item of partnership income, gain, loss, deduction, or credit is 10 percent or less, and (2) the loan constitutes qualified nonrecourse financing within the meaning of section 465(b)(6).

In situations in which a partner's interest in the partnership varies, taxpayers have asked whether a partner's interest in items of partnership income, gain, loss, deduction, or credit should be determined with reference to the partner's interest in such items for the current year or the partner's interest in such items over the life of the partnership. This document amends the de minimis rule to clarify that the rule is inapplicable unless the partner's interest in each item of partnership income, gain, loss, deduction, or credit that may be realized for any year during the life of the partnership is 10 percent or less.

In addition, since the rules of section 465(b)(6) apply solely to financing incurred in the activity of holding real property, the de minimis rule applies only to financing that is borrowed with respect to the activity of holding real property. This document modifies the definition of qualified nonrecourse financing for purposes of the de minimis rule. Under that modification, the determination of whether financing constitutes qualified nonrecourse financing for purposes of the de minimis rule is made without regard to the type of activity with respect to which the financing is borrowed.

Finally, the de minimis rule has also been amended to clarify the application of the rule to tiered partnerships. This modification clarifies that in any case in which the lender (or a person related to the lender) owns an interest in a partnership that is a partner in the partnership to which the loan is made, the de minimis rule is satisfied if the

lender (or related person) has a 10 percent or less interest (directly or indirectly through one or more partnerships) in each item of income, gain, loss, deduction, or credit that may be realized by the partnership to which the loan was actually made.

Related Persons

The related person rules contained in § 1.752-1T(h) are amended by this document in several respects. First, in determining the percentage of related ownership between a person and a partner, natural persons are currently deemed to have a zero percent percentage of related ownership with respect to each other. In some cases, this rule inappropriately prevents partners who are natural persons from bearing a portion of the economic risk of loss for a partnership liability. For example, consider a partnership in which the general partner is an S corporation that is wholly-owned by a natural person and the limited partner is the brother of such natural person. If the partners' father made a loan to the partnership, the related party rules provide that there would be a 100 percent percentage of related ownership between the father and the S corporation (*i.e.*, the general partner) and a zero percent percentage of related ownership between the father and the limited partner. As a result, the general partner would bear the entire economic risk of loss for the loan. In this case, since the father is related to the S corporation solely because it is wholly-owned by one of his children, the percentage of related ownership between the father and the general partner and the father and the limited partner should be the same. Therefore, the temporary section 752 regulations are amended by this document to provide that related natural persons shall be deemed to have a 100 percent percentage of related ownership with respect to each other.

Second, the related person rules currently provide that if related persons own (directly or indirectly) interests in the same partnership, then such persons shall not be treated as related persons for purposes of determining the economic risk of loss borne by each of them for the liabilities of such partnership. See § 1.752-1T(h)(4). The use of the term "indirectly" in the parenthetical has caused some confusion. The term is intended to refer only to interests owned indirectly through one or more partnerships and the regulations are amended accordingly.

The third amendment to the related person rules of § 1.752-1T(h) adds a new

paragraph (h)(5) that provides a special rule for loans from certain entities. Paragraph (h) generally provides that a person is related to a partner if the person and the partner bear a relationship to each other that is specified in section 267(b) or section 707(b)(1) (taking into account certain modifications made to those provisions for purposes of the temporary section 752 regulations). Under these rules as in effect prior to the amendments made by this document, if a partner makes a loan to the partnership through another entity in which the partner's interest is insufficient to cause such entity to bear a relationship to the partner that is specified in section 267(b) or section 707(b)(1) (as modified by the temporary regulations), the partner's interest in that entity will not be taken into account in determining whether such partner bears any of the economic risk of loss for the loan. Paragraph (h)(5) provides, however, that if (1) a liability of a partnership represents an obligation owed to another entity (*i.e.*, another partnership, an S corporation, a C corporation, or a trust), (2) a partner of such partnership owns more than a 20 percent interest (including any interest owned by a person related to such partner) in such other entity, and (3) such other entity is availed of to act as the creditor with respect to such liability (*e.g.*, to make a loan to the partnership) or to act as a guarantor of such liability with a principal purpose of avoiding the determination under § 1.752-1T(d)(3) that such partner bears the economic risk of loss for all or part of such liability, then such partner shall be treated as holding such other entity's interest as a creditor or guarantor to the extent of such partner's ownership interest in such entity.

Effective Dates and Transitional Rules

The effective dates and transitional rules contained in § 1.752-4T are amended by this document in several respects. First, the effective date of the regulations with respect to partner loans and guarantees set forth in paragraph (b) of that section is amended to clarify that the March 1, 1984 effective date specified in that paragraph applies only to certain nonrecourse loans made or guaranteed by partners and not to nonrecourse loans made or guaranteed by persons related to partners. In addition, paragraph (b) of § 1.752-4T is amended to provide that the temporary section 752 regulations do not apply to liabilities incurred or assumed by the partnership prior to March 1, 1984.

Second, a new paragraph is added to § 1.752-4T to address the application of the temporary section 752 regulations to

situations in which taxpayers have filed tax returns that are inconsistent with the regulations. Under that new paragraph, if a partnership liability incurred before January 30, 1989 is subject to the provisions of §§ 1.752-1T, -2T, and -3T pursuant to paragraph (b) of § 1.752-4T, and a partner has filed a tax return reflecting taxable income that has been determined by claiming a share of that liability in excess of that allocable to such partner under the provisions of those sections, then the partner must file subsequent tax returns in a manner that is consistent with such prior return. To the extent that claiming an excessive share of the liability reduced the taxable income reported on the partner's return for a taxable year, the partner must determine taxable income for purposes of filing any subsequent tax returns in a manner that reflects the excessive share of the liability claimed by the partner in determining the taxable income included on such prior return unless the partner amends such prior return to comply with the rules of §§ 1.752-1T, -2T, and -3T. This consistency requirement will not preclude the Internal Revenue Service from examining the taxpayer's prior income tax return and determining a deficiency in the taxpayer's income tax liability for such prior year as a result of the failure to comply with the rules of §§ 1.752-1T, -2T, and -3T. In addition, the consistency requirement imposed by the temporary section 752 regulations under the circumstances described therein is not intended to limit the duty of consistency that may apply to taxpayers in other cases. See, *e.g.*, *Herrington v. Commissioner*, 854 F.2d 755 (5th Cir. 1988).

Miscellaneous Amendments

The definition of a liability for which a creditor's right to repayment is limited to one or more assets of the partnership is amended by this document to clarify the meaning of that term. See § 1.752-1T(d)(3)(ii)(B)(4)(i). Among other things, the amendment clarifies the proper operation of the rules in certain situations. Under the temporary section 752 regulations, a partner may be considered to bear the economic risk of loss for a partnership liability to the extent that the partner is obligated to reimburse another partner for payments made with respect to that liability. The amendment clarifies that the result will be the same in a situation in which the partner's obligation to make the reimbursement is in the form of an obligation to make a contribution to the partnership and the partnership agreement provides for a distribution to

the other partner as reimbursement for the partner's payment with respect to the liability.

This document amends the temporary section 752 regulations to clarify that an increase in a partner's share of partnership liabilities (or the partner's individual liabilities) and a decrease in a partner's share of partnership liabilities (or in partner's individual liabilities) that result from the same transaction may be offset against each other prior to determining the amount of any constructive contribution or distribution of money under section 752 and the regulations thereunder.

Example (1) in paragraph (b) of § 1.752-2T considers a situation in which a partner contributes property subject to a recourse liability to the partnership. This example assumes that the transferor of the property bears the economic risk of loss for the liability encumbering the property after the contribution because the transferor remains personally liable to the creditor. This example is amended to clarify that the transfer is assumed to bear the economic risk of loss for the liability encumbering the property after the contribution because the transferor remains personally liable to the creditor and none of the other partners bears any of the economic risk of loss for the liability under state law or otherwise.

Explanation of Amendments to Temporary Regulations Under Section 704

The amendments to the temporary regulations under section 704 ("temporary section 704 regulations") are discussed below.

Distribution of Nonrecourse Liability Proceeds Allocable to an Increase in Minimum Gain

Under the temporary section 704 regulations as in effect prior to the amendments made by this document, a partner's share of partnership minimum gain is increased by any distribution to such partner of proceeds of any nonrecourse liability of the partnership that are allocable to an increase in partnership minimum gain ("nonrecourse distribution rules"). See § 1.704-1T(b)(4)(iv) (f) and (g). The allocation of a share of partnership minimum gain to a partner to match a distribution to the partner of proceeds of a nonrecourse liability that are allocable to an increase in partnership minimum gain is premised on the assumption that a distribution of proceeds of a nonrecourse liability that is allocable to an increase in minimum gain generally reflects the manner in which the

partners have agreed to share the economic gain corresponding to such minimum gain. In recognition of the fact that this assumption is not always correct and that in cases in which the partnership does not maintain accurate capital accounts it is not clear whether this assumption will be satisfied, the nonrecourse distribution rules have been amended by this document.

As amended, the nonrecourse distribution rules provide that a distribution to the partners of the proceeds of any nonrecourse liability of the partnership may not be treated as a distribution that is allocable to an increase in partnership minimum gain unless (1) throughout the full term of the partnership requirements (1) and (2) of § 1.704-1(b)(2)(ii)(b) are satisfied and (2) all other material allocations and capital account adjustments under the partnership agreement are recognized under §§ 1.704-1(b) and 1.704-1T(b). In addition, the nonrecourse distribution rules, as amended, provide that a partnership may treat any distribution to a partner of the proceeds of a nonrecourse liability that would, but for the rule described in this sentence, be treated as a distribution that is allocable to an increase in partnership minimum gain as a distribution that is not allocable to an increase in partnership minimum gain to the extent that such distribution does not cause or increase a deficit balance in the partner's capital account that exceeds the amount of such deficit balance that the partner is obligated to restore. Therefore, to the extent that a distribution to a partner of proceeds of a nonrecourse liability that are allocable to an increase in partnership minimum gain causes a deficit balance in the partner's capital account that the partner is not obligated to restore, the partner must be allocated a share of the increase in minimum gain allocable to such distribution because the distribution has, in fact, fixed the partner's right to the economic gain corresponding to such minimum gain (i.e., the distribution has fixed the partner's right to economic gain corresponding to the minimum gain because the partner is not obligated to restore the deficit caused by the distribution).

Effective Dates

The effective dates contained in § 1.704-1T(b)(4)(iv)(m) are amended by this document in three noteworthy respects. First, the effective dates have been amended to clarify the treatment of partnership agreements entered into on or before December 29, 1988. See § 1.704-1T(b)(4)(iv)(m)(1). As amended, the effective date provisions specifically

state that if a partnership agreement entered into on or before December 29, 1988 complied with the provisions of § 1.704-1(b)(4)(iv)(d) on or before that date, when (1) the provisions of § 1.704-1(b)(4)(iv) (a) through (f) shall continue to apply to such partnership for any taxable year beginning after that date (unless the partnership otherwise elects) and ending before any subsequent material modification to the partnership agreement and (2) the provisions of paragraph (b)(4)(iv) (a) through (g) of § 1.704-1T shall not apply. Consequently, the regulations, as amended, make clear that paragraphs (h) through (k) of § 1.704-1T apply to all partnerships for partnership taxable years beginning after December 29, 1988.

Second, the effective date of the special rules applicable to nonrecourse debt for which a partner bears the economic risk of loss under § 1.704-1T(b)(4)(iv)(h) ("partner nonrecourse debt rules") has been amended to exclude from the application of those rules certain nonrecourse debt for which a partner bears the economic risk of loss through a related person. Under the temporary section 752 regulations, if a person that is related to a partner makes or otherwise assumes the economic risk of loss (e.g., through a guarantee) for a nonrecourse loan to the partnership ("related party nonrecourse debt"), such partner is generally considered to bear the economic risk of loss for that liability. See § 1.752-1T(d)(3). As a result, the temporary section 752 regulations treat any related party nonrecourse debt as a recourse liability that must be allocated to the partner that is related to the lender or guarantor. The temporary regulations under section 752, however, are generally applicable to liabilities incurred or assumed by a partnership on or after January 30, 1989. See § 1.752-4T(a).

Accordingly, any related party nonrecourse debt incurred or assumed by a partnership before January 30, 1989, is generally treated as a nonrecourse liability of the partnership for purposes of section 752. Under the temporary section 704 regulations, however, deductions attributable to related party nonrecourse debt for partnership taxable years beginning after 1988 must be allocated to the partner that is related to the lender or guarantor without regard to when the liability was incurred or assumed by the partnership. See § 1.704-1T(b)(4)(iv) (h), (k), and (m). The Service has received numerous comments regarding the different effective dates applicable to related party nonrecourse debt under the temporary section 704 and section 752

regulations. Generally, those comments have asserted that the partner nonrecourse debt rules under the temporary section 704 regulations should only apply to related party nonrecourse debt incurred or assumed after the issuance of the temporary regulations because taxpayers have legitimately structured transactions based on the assumption that any new rules dealing with related party nonrecourse debt under sections 704 and 752 would only apply to liabilities incurred or assumed after those rules were issued. After careful consideration, the Service has determined that similar effective date rules should apply to related party nonrecourse debt under both the temporary section 704 and the temporary section 752 regulations. Therefore, the temporary section 704 regulations have been amended generally to provide that any related party nonrecourse debt that is not subject to the temporary section 752 regulations (i.e., any related party nonrecourse debt incurred or assumed by a partnership before January 30, 1989) shall be treated as a "true" nonrecourse liability for purposes of the temporary section 704 regulations.

Third, for partnership taxable years beginning after December 31, 1986, §§ 1.704-1(b)(4)(iv) and 1.704-1T(b)(4)(iv) require that deductions attributable to a nonrecourse liability for which a partner bears the economic risk of loss (through obligations undertaken directly by such partner) must be allocated to that partner ("partner nonrecourse debt"). Under this rule, a partnership liability for a partner nonrecourse debt is not treated as a nonrecourse liability for purposes of section 704(b) for partnership taxable years beginning after December 31, 1986. This rule applies to all partner nonrecourse debt without regard to whether the debt is subject to the temporary section 752 regulations (those regulations generally apply to nonrecourse liabilities made or guaranteed by a partner on or after March 1, 1984 (see § 1.752-4T(b))). As a result, if for taxable years beginning before 1987, partners were allocated deductions attributable to a partner nonrecourse debt that is appropriately treated as a nonrecourse liability under the old section 752 regulations, the treatment of this debt as a liability that is not a nonrecourse liability for taxable years beginning after December 31, 1986 may trigger a minimum gain chargeback that would offset such nonrecourse deductions, effectively recapturing any tax benefits associated with such deductions. This result was unintended

and the temporary section 704 regulations are amended by this document to prevent this result. Under § 1.704-1T(b)(4)(iv)(m)(4) as amended by this document, a portion of any partner nonrecourse debt that is not subject to the temporary regulations under section 752 (*i.e.*, generally any partner nonrecourse debt incurred before March 1, 1984) and that is appropriately treated as a nonrecourse liability of the partnership under the old section 752 regulations will continue to be treated as a nonrecourse liability of the partnership for purposes of section 704 to the extent necessary to prevent this unintended minimum gain chargeback.

Special Analysis

It has been determined that these rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. Chapter 5) and the Regulatory Flexibility Act (5 U.S.C. Chapter 6) do not apply to these regulations, and, therefore, a final Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of the proposed rulemaking for the regulations was submitted to the Administrator of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Mary Munday, Office of the Assistant Chief Counsel (Passthroughs and Special Industries), Internal Revenue Service. However, other personnel from the Internal Revenue Service and Treasury Department participated in developing the regulations of matters of both substance and style.

List of Subjects

26 CFR 1.701-1 through 1.771-1

Income taxes, Partnerships.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1986

Paragraph 1. The authority for Part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805. * * *

§ 1.752-0T [Amended]

Par. 2. Section 1.752-0T is amended as follows:

1. The captions listed under "§ 1.752-1T Treatment of partnership liabilities—General rules (temporary)" are amended by adding entries for paragraph (h)(5) to read as follows:

§ 1.752-1T Treatment of partnership liabilities—General rules (temporary).

- (h) Related person.
- (5) Special rule for loans from certain entities in which a partner owns an interest.
 - (i) In general.
 - (ii) Entity.
 - (iii) Ownership interest.

2. The captions listed under "§ 1.752-4T Effective dates and transition rules (temporary)" are revised to read as follows:

§ 1.752-4T Effective dates and transition rules (temporary).

- (a) In general.
- (b) Partner loans and guarantees.
- (c) Duty of consistency.
- (d) Election.
- (e) Coordination with amendments to section 704(b) regulations.
- (f) Cross reference.

§ 1.752-1T [Amended]

Par. 3. Section 1.752-1T is amended as follows:

1. Paragraph (d)(3)(ii)(B)(4)(i) is amended by revising the first sentence thereof to read as follows:

(i) A partnership liability is a liability with respect to which the creditor's right to repayment is limited to one or more assets of the partnership to the extent, but only to the extent, that the outstanding balance of such liability exceeds the maximum amount that the partners would be required to contribute to the partnership to discharge that liability (or to reimburse a partner or person related to a partner for a payment to a creditor or other person with respect to such liability (within the meaning of paragraph (d)(3)(ii)(A)(2)(i) of this section)) if—

(A) The partnership constructively liquidated (within the meaning of paragraph (d)(3)(iii) of this section, except that subdivision (A) of that paragraph shall be applied as if all of the partnership's assets (including any money or other property that is described in paragraph (d)(3)(ii)(A)(2)(i) of this section were worthless) and no portion of such liability were treated as a liability for which the creditor's right to repayment is limited to one or more assets of the partnership for purposes of

determining the consequences of such constructive liquidation; and

(B) The partners were to fail to discharge their obligations, if any, to make payments to a creditor or other person with respect to such liability (within the meaning of paragraph (d)(3)(ii)(A)(2) of this section), but only to the extent that such failure would increase the amount that the partners could be required to contribute to the partnership to discharge such liability (or to reimburse a partner or person related to a partner for a payment to a creditor or other person with respect to such liability (within the meaning of paragraph (d)(3)(ii)(A)(2)(i) of this section)).

2. Paragraph (d)(3)(v)(A) is amended by revising the first sentence thereof to read as follows:

(A) * * * For purposes of this section, if one or more partners (or persons related to such partners) would be obligated (whether pursuant to the partnership agreement, by operation of law, or otherwise) to pay more than 20 percent of the total interest that will accrue on any nonrecourse liability of the partnership during the term of such liability (or if the liability has an indefinite term, the expected term of such liability) if the partnership fails to pay such interest, then each such partner's economic risk or loss for such liability shall be increased by an amount equal to the sum of the present values of the remaining interest payments that such partner (or any person related to such partner) would be obligated to make if the partnership fails to make those payments, taking into account any payment of interest that such partner or related person may be required to make pursuant to that obligation only to the extent that such interest will accrue economically (determining when interest accrues economically for this purpose in accordance with section 446 and the regulations thereunder) after the time of the determination under this paragraph (d)(3)(v) and such partner or related person would not be entitled to be reimbursed (within the meaning of paragraph (d)(3)(ii)(C) of this section) for such payment.

3. Paragraph (d)(3)(vii)(A) is amended by adding the words "directly or indirectly through one or more partnerships," at the beginning of the parenthetical immediately following the word "interest", by deleting the word "partnership" immediately after the words "item of" and by adding the

words "that may be realized for any taxable year by the partnership to which the loan was actually made" immediately after the word "credit".

4. Paragraph (d)(3)(vii)(B) is amended by adding the parenthetical "(determined without regard to the type of activity with respect to which the financing is borrowed)" immediately after "section 465(b)(6)".

5. Paragraph (h)(3)(ii) is amended by removing the word "zero" from the third sentence and substituting in its place "100 percent" and by removing the parenthetical "(zero)" from the end of the fourth sentence and substituting in its place "(100 percent)".

6. Paragraph (h) is amended by removing from paragraph (h)(4) the parenthetical phrase "(directly or indirectly)" and adding in its place the parenthetical phrase "(directly or indirectly through one or more partnerships)" and by adding the following new paragraph (h)(5) to the end thereof:

(5) *Special rule for loans from certain entities in which a partner owns an interest*—(i) *In general.* For purposes of this section, if—

(A) A liability of a partnership represents an obligation owed to or guaranteed by another entity;

(B) A partner in such partnership owns a 20 percent or more ownership interest in such other entity; and

(C) Such other entity was availed of to act as the creditor with respect to such liability (e.g., to make a loan to the partnership) or to act as a guarantor of such liability, as the case may be, with a principal purpose of avoiding the determination under paragraph (d)(3) of this section that such partner bears the economic risk of loss for all or part of such liability;

then such partner shall be treated as holding such other entity's interest as a creditor or guarantor to the extent of such partner's ownership interest in such entity.

(ii) *Entity.* For purposes of this paragraph (h)(5), the term "entity" means a partnership, S corporation, C corporation, or trust.

(iii) *Ownership interest.* For purposes of this paragraph (h)(5),

(A) A partner's ownership interest in a partnership shall equal the partner's highest percentage interest in any item of partnership loss or deduction that may be realized by the partnership for any taxable year;

(B) An S corporation shareholder's ownership interest in an S corporation shall equal the percentage of the issued

and outstanding stock in the S corporation owned by the shareholder;

(C) A C corporation shareholder's ownership interest in a C corporation shall equal the percentage of the fair market value of the issued and outstanding stock in the C corporation owned by the shareholder;

(D) A beneficial owner's ownership interest in a trust shall equal the percentage of the actuarial interests in the trust owned by the beneficial owner;

(E) A person shall be considered to own the ownership interest in an entity that is owned by—

(1) Any person related to such person (within the meaning of this paragraph (h)); or

(2) Any other entity in which such person owns an interest and that is not related to such person (within the meaning of this paragraph (h)), in proportion to such person's ownership interest in such other entity.

7. Paragraph (j)(3) is revised to read as follows:

(3) *Increase and decrease in share of liabilities resulting from same transaction.* For purposes of section 752 and the regulations thereunder, if as a result of a single transaction (for example, a contribution by a partner to the partnership of property subject to a liability or the termination of the partnership under section 708(b)) a partner incurs both an increase in the partner's share of the liabilities of the partnership (or the partner's individual liabilities) and a decrease in the partner's share of the liabilities of the partnership (or the partner's individual liabilities)—

(i) Such increase and decrease must be offset against each other prior to the application of paragraph (b) or (c) of this section; and

(ii) Only the amount of the net increase or decrease, if any, in the sum of the partner's share of the liabilities of the partnership and the partner's individual liabilities resulting from such transaction shall be treated as a contribution of money by the partner to the partnership or a distribution of money by the partnership to the partner, respectively, under paragraph (b) or (c) of this section.

See § 1.752-2T (b) (Examples (1) and (2)).

8. Paragraph (k), Example (13)(ii), is amended by deleting from the seventh sentence thereof the words "the aggregate amount of the contributions that the partners would be obligated to make" and by substituting in their place the words "the maximum amount that

the partners would be required to contribute".

§ 1.752-2T [Amended]

Par. 4. Section 1.752-2T is amended as follows:

1. Paragraph (b), *Example (1)*, is amended by removing from the end of the first sentence the words "a one-third interest in partnership" and adding in their place "an interest in the partnership" and by revising the sixth sentence thereof to read as follows:

"At the same time, however, A's share of the liabilities of the partnership increases by \$150, assuming for purposes of this example that, after the contribution, A bears the economic risk of loss (within the meaning of § 1.752-1T(d)(3)) for the entire amount of such liability because A remains personally liable to the creditor and none of the other partners bears any of the economic risk or loss for such liability under state law or otherwise."

§ 1.752-4T [Amended]

Par. 5. Section 1.752-4T is amended as follows:

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

(b) *Partner loans and guarantees.* If at any time on or after March 1, 1984—

(1) A partner is the guarantor of the payment of or holds an interest as a creditor in any portion of a partnership liability that is incurred or assumed by the partnership on or after March 1, 1984 and is nonrecourse for purposes of § 1.1001-2; and

(2) Such partner bears the economic risk of loss (within the meaning of § 1.752-1T(d)(3)) for all or part of such liability as a result of making such guarantee or holding such interest as a creditor;

the rules of §§ 1.752-1T, -2T, and -3T shall apply to such liability beginning on the later of March 1, 1984 or the first date on which such partner bears the economic risk of loss with respect to the liability as a result of making such guarantee or holding such interest as a creditor. A liability incurred or assumed by a partnership pursuant to a written binding contract in effect prior to March 1, 1984, and at all times thereafter, shall be treated as a liability incurred or assumed prior to March 1, 1984 for purposes of the preceding sentence.

2. Paragraphs (c), (d), and (e) are redesignated as paragraphs (d), (e), and (f) and the following new paragraph (c) is added:

(c) *Duty of consistency.* If a partnership liability incurred before January 30, 1989 is subject to the provisions of §§ 1.752-1T, -2T, and -3T pursuant to paragraph (b) of this section and a partner has filed a tax return reflecting taxable income that has been determined by claiming a share of that liability in excess of that allocable to him under the provisions of those sections, then to the extent that claiming an excessive share of that liability reduced the partner's taxable income for such year, the partner must determine taxable income for purposes of filing any subsequent tax returns in a manner that reflects the excessive share of the liability claimed by the partner in determining the taxable income included on such prior return unless the partner amends such prior return to comply with the rules of §§ 1.752-1T, 1.752-2T, and 1.752-3T.

Example. A partnership liability for a loan made by a partner to the partnership on March 1, 1984 is subject to the provisions of §§ 1.752-1T, -2T, and -3T pursuant to paragraph (b) of this section. A partner (other than the lending partner) determined the taxable income reported by the partner on the partner's 1986 income tax return by including a portion of that liability in the basis of such partner's interest in the partnership (even though the rules of § 1.752-1T allocate all of that liability to the lending partner) and using that additional basis to offset a distribution from the partnership, thereby avoiding the recognition of gain under section 731 and reducing the taxable income reported on the partner's 1986 return. The partner sells the partner's interest in the partnership in 1989. The partner should amend the partner's 1986 income tax return to reflect taxable income for the year that is determined in accordance with the rules of § 1.752-1T. If the partner's 1986 income tax return is not amended prior to filing the partner's 1989 income tax return, the partner must include the portion of the liability that the partner used to offset the 1986 distribution in the partner's amount realized from the sale of the partnership interest for purposes of determining the taxable income that must be reported on the partner's 1989 income tax return. This consistency requirement does not preclude the Internal Revenue Service from examining the taxpayer's 1986 income tax return and determining a deficiency in the taxpayer's income tax liability for 1986 as a result of the failure to comply with §§ 1.752-1T, 2T, and 3T.

3. Paragraph (d) [as redesignated by this Treasury Decision] is amended by adding "to which the provisions of those sections do not otherwise apply" immediately after the word "liabilities".

4. Paragraph (e) [as redesignated by this Treasury Decision] is amended by removing from the first sentence the reference to "paragraph (d)" and adding

in its place the reference to "paragraph (e)" and by adding to the end of the first sentence the words "as long as the partnership does so for every partnership taxable year for which § 1.704-1T(b)(4)(iv) applies to such partnership."

Par. 6. Section 1.704-1T is amended as follows:

1. Paragraph (b)(9) is amended by revising the entries for § 1.704-1T(b)(4)(iv) (m) through (m)(2) and adding entries for paragraphs (b)(4)(iv)(m) (3) and (4) to read as follows:

(b) *Determination of partner's distributive share—(9) Cross-references.*

Heading	Section
Effective dates	1.704-1T(b)(4)(iv)(m)
In general	1.704-1T(b)(4)(iv)(m)(1)
Special rule	1.704-1T(b)(4)(iv)(m)(2)
applicable to pre-January 30, 1989 related party nonrecourse debt.	
Transition rule for pre-March 1, 1984 partner nonrecourse debt.	1.704-1T(b)(4)(iv)(m)(3)
Election	1.704-1T(b)(4)(iv)(m)(4)

2. Paragraph (b)(4)(iv)(g)(1) is revised to read as follows:

(1) *In general.* Except as otherwise provided in this paragraph (b)(4)(iv)(g), if—

(i) During a partnership taxable year a partnership makes a distribution to the partners that is allocable to the proceeds of any nonrecourse liability of the partnership;

(ii) Throughout the full term of the partnership, requirements (1) and (2) of § 1.704-1(b)(2)(ii)(b) are satisfied; and

(iii) All other material allocations and capital account adjustments under the partnership agreement are recognized under §§ 1.704-1(b) and 1.704-1T(b) (without regard to whether allocations of adjusted tax basis and amount realized under section 613A(c)(7)

(D) Are recognized under § 1.704-1(b)(4)(v); such distribution shall be treated as a distribution that is allocable to an increase in partnership minimum gain to the extent of the amount of the net increase, if any, in partnership minimum gain for such taxable year that is allocated to such nonrecourse liability under paragraph (b)(4)(iv)(g)(2) of this section. A partnership may treat any distribution to a partner of the proceeds of a nonrecourse liability that would, but for this sentence, be treated as a

distribution that is allocable to an increase in partnership minimum gain as a distribution that is not allocable to an increase in partnership minimum gain to the extent that such distribution does not cause or increase a deficit balance in such partner's capital account that exceeds the amount of such deficit balance that the partner is actually obligated or is deemed to be obligated to restore (without regard to any increase in the amount that such partner is deemed to be obligated to restore as a result of such distribution) as of the end of the partnership taxable year in which such distribution occurs.

3. Paragraph (b)(4)(iv)(m)(7) is amended by revising the third sentence to read as follows:

"If a partnership agreement entered into on or before December 29, 1988 complied with the provisions of § 1.704-1(b)(4)(iv)(d) on or before that date—

(i) The provisions of § 1.704-1(b)(4)(iv)(a) through (f) shall continue to apply to such partnership for any taxable year beginning after that date (unless the partnership makes an election under paragraph (b)(4)(iv)(m)(2) of this section) and ending before any subsequent material modification to the partnership agreement; and

(ii) The provisions of paragraph (b)(4)(iv)(a) through (g) of this section shall not apply to the partnership for any such taxable year.

4. Paragraph (b)(4)(iv)(m) is amended by redesignating paragraph (b)(4)(iv)(m)(2) as paragraph (b)(4)(iv)(m)(4) and by adding the following new paragraph (b)(4)(iv)(m)(2) and (3):

(2) *Special rule applicable to pre-January 30, 1989 related party nonrecourse debt.* For purposes of this paragraph (b)(4)(iv), if—

(i) A partnership liability would, but for this paragraph (b)(4)(iv)(m)(2), constitute a partner nonrecourse debt; and

(ii) Sections 1.752-1T, -2T, and -3T do not apply to such liability; then such liability shall, notwithstanding paragraph (b)(4)(iv)(h) and (k) of this section, be treated as a nonrecourse liability of the partnership, and not as a partner nonrecourse debt, to the extent that such liability would be so treated under this paragraph (b)(4)(iv) if the determination of the extent to which one or more partners bears the economic risk of loss for such liability under § 1.752-1T were made without regard to the economic risk of loss that any

partner would otherwise be considered to bear for such liability by reason of any obligation undertaken or interest as a creditor acquired prior to January 30, 1989 by a person related to such partner (within the meaning of § 1.752-1T(h)). For purposes of the preceding sentence, if a related person undertakes an obligation or acquires an interest as a creditor on or after January 30, 1989 pursuant to a written binding contract in effect prior to January 30, 1989 and at all times thereafter, such obligation or interest as a creditor shall be treated as if it were undertaken or acquired prior to January 30, 1989.

(3) *Transition rule for pre-March 1, 1984 partner nonrecourse debt.* If a partnership liability would, but for this paragraph (b)(4)(iv)(m)(3), constitute a partner nonrecourse debt and such liability constitutes grandfathered partner debt that is appropriately treated as a nonrecourse liability of the partnership under § 1.752-1 (as in effect prior to December 29, 1988)—

(i) Such liability shall, notwithstanding paragraph (b)(4)(iv)(h) and (k) of this section and § 1.704-1(b)(4)(iv), be treated as a nonrecourse liability of the partnership for purposes of this paragraph (b)(4)(iv) and for purposes of § 1.704-1(b)(4)(iv) to the extent of the amount, if any, by which the smallest outstanding balance of such liability during the period beginning at the end of the first partnership taxable year ending on or after December 31, 1986 and ending at the time of any determination under this paragraph (b)(4)(iv)(m)(3)(i) exceeds the aggregate amount of the adjusted basis (or book value) of partnership property that is allocable to such liability (determined in accordance with § 1.704-1(b)(4)(iv)(c)(i) and (2)) at the end of the first partnership taxable year ending on or after December 31, 1986; and

(ii) In applying this paragraph (b)(4)(iv) to such liability, paragraph (b)(4)(iv)(c) of this section shall be applied as if all of the adjusted basis of partnership property that is allocable to such liability is allocable to the portion of such liability that is treated as a partner nonrecourse debt and as if none of the adjusted basis of partnership property that is allocable to such liability is allocable to the portion of such liability that is treated as a nonrecourse liability under this paragraph (b)(4)(iv)(m)(3). For purposes of the preceding sentence, a grandfathered partner debt is any partnership liability that is not subject to §§ 1.752-1T, -2T, and -3T but which would have been subject to those sections under § 1.752-4T(b) if such liability had arisen (other than pursuant

to a written binding contract) on or after March 1, 1984. A partnership liability shall not be considered to be subject to §§ 1.752-1T, -2T, and -3T solely because a portion of such liability is treated as a liability to which such sections apply under § 1.752-4T(e).

5. Paragraph (b)(4)(iv)(m)(4) (as redesignated by this Treasury Decision) is amended by removing from the third sentence the reference to "paragraph (b)(4)(iv)(m)(2)" and by adding in its place the reference to "paragraph (b)(4)(iv)(m)(4)".

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

Approved: October 27, 1989.

Kenneth W. Gideon,

Assistant Secretary of the Treasury.

[FR Doc. 89-27106 Filed 11-20-89; 8:45 am]

BILLING CODE 4930-01-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 621

Loan and Sale of Property

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Army announces a revision of the regulatory provisions granting the National Rifle Association exclusive purchase rights to M-1 (Garand) semiautomatic rifles. This revision is implemented at direction of the U.S. District Court decision of *Gavett v. Alexander*, issued on September 4, 1979 by Judge Harold Green. The decision struck down 10 U.S.C. 4308(a)(5), which directed the Department of the Army to sell firearms at cost to members of the National Rifle Association, on the grounds that it was a violation of the Constitution. This revision is reflected in Army Regulation 725-1, Special Authorization and Procedures for Issues Sales and Loans. 32 CFR part 621 was never revised.

EFFECTIVE DATE: December 21, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Kris Keydel, Supply Policy Branch, DALO-SMP-S, Washington, DC 20310-0546, (202) 697-6355.

Executive Order 12291

This final rule has been reviewed under Executive Order 12291 and the Secretary of the Army has classified this action as non-major. The effect of the final rule on the economy will be less than \$100 million.

Regulatory Flexibility Act

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 and the Secretary of the Army has certified that this action does not have a significant impact on a substantial number of small entities.

Paper Reduction Act

This final rule does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget under the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

List of Subjects in 32 CFR Part 621

Loan and sale of property.

Kenneth L. Denton,

Alternate Army Liaison Officer With the Federal Register.

In 32 CFR Ch. V, subchapter H, part 621 is amended as follows:

PART 621—LOAN AND SALE OF PROPERTY

1. The authority citation for part 621 continues to read as follows:

Authority: Pub. L. 81-193; 10 U.S.C. secs. 2574, 4308, 4506, 4507, 4627, and 4855; and Pub. L. 92-249.

2. Section 621.2 is amended as set forth below by:

- a. Revising paragraphs (e)(1) and (e)(5);
- b. Removing paragraph (f)(1);
- c. Redesignating paragraphs (f)(2) and (f)(3) as paragraphs (f)(1) and (f)(2) respectively;
- d. Revising paragraphs (g)(1) and (h).

§ 621.2 Sales of ordnance property to individuals, non-federal government agencies, institutions, and organizations.

(e)(1) Sales of small arms weapons and ammunition are limited by statute (10 U.S.C. 4308). Such sales will be made in accordance with the provisions of this paragraph and with other rules and regulations approved by the Secretary of the Army.

(5) Approved, non-profit summer camp organizations that are of a civic nature are allowed to purchase from the DCM at cost plus shipping and handling charges, 300 rounds of .22 caliber ammunition for each junior who is participating in a summer camp marksmanship program.

(g)(1) Individuals desiring to purchase National Match Grade M1 service rifles will submit requests to the Director of Civilian Marksmanship, Department of the Army, Washington, DC 20314-0110. The request should contain the name and address of the shooting club with which the purchaser is affiliated and appropriate evidence of status as a competitive marksman.

(h) Marksmanship clubs affiliated with the DCM and individuals who are members of those clubs are authorized to purchase from the Army targets of types not otherwise available from commercial sources. Request for such purchases will be submitted to the Director of Civilian Marksmanship for approval and processing. Individuals who have in the past purchased rifles from the Army under the authority of 10 U.S.C. 4308(a)(5), may purchase spare parts for those rifles if the parts are available. Requests for purchase of spare parts will be submitted to the Director of Civilian Marksmanship for approval. If he/she approves the application, she/he will forward it to ARRCOM for processing. If he/she disapproves the application, she/he will return it to the applicant stating the reasons for disapproval. Current DA transportation security measures for weapons will be applied under procedures contained in paragraphs (d)(1) (i) and (ii) of this section.

[FR Doc. 89-27357 Filed 11-20-89; 8:45 am]
BILLING CODE 3710-08-M

SELECTIVE SERVICE SYSTEM

32 CFR Part 1697

Salary Offset

AGENCY: Selective Service System.

ACTION: Final rule.

SUMMARY: This part sets forth the Selective Service System's policy and procedures which implement 5 U.S.C. 5514 and 5 CFR part 550, Subpart K for the collection by administrative offset of a federal employee's salary with or without his/her consent to satisfy

certain debts owed to the Federal government.

EFFECTIVE DATE: November 21, 1989.

FOR FURTHER INFORMATION CONTACT: Henry N. Williams, General Counsel, Selective Service System, Washington, DC 20435, Phone: (202) 724-1167.

SUPPLEMENTARY INFORMATION: This part is not published for public comment because it relates to agency management and personnel matters.

List of Subjects in 32 CFR Part 1697

Administrative practice and procedure, Compensation, Debt collection, Personnel.

Dated: November 15, 1989.

Samuel K. Lessey Jr.,
Director.

Part 1697 is added to chapter XVI of title 32 CFR to read as follows:

PART 1697—SALARY OFFSET

Sec.

- 1697.1 Purpose and scope.
- 1697.2 Definitions.
- 1697.3 Applicability.
- 1697.4 Notice requirements.
- 1697.5 Hearing.
- 1697.6 Written decision.
- 1697.7 Coordinating offset with another Federal agency.
- 1697.8 Procedures for salary offset.
- 1697.9 Refunds.
- 1697.10 Statute of Limitations.
- 1697.11 Non-waiver of rights.
- 1697.12 Interest, penalties, and administrative costs.

Authority: 5 U.S.C. 5514, and 5 CFR Part 550, Subpart K.

§ 1697.1 Purpose and scope.

(a) This regulation provides procedures for the collection by administrative offset of a federal employee's salary without his/her consent to satisfy certain debts owed to the federal government. These regulations apply to all federal employees who owe debts to the Selective Service System and to current employees of the Selective Service System who owe debts to other federal agencies. This regulation does not apply when the employee consents to recovery from his/her current pay account.

(b) This regulation does not apply to debts or claims arising under:

- (1) The Internal Revenue Code of 1954, as amended, 26 U.S.C. 1 et seq.;
- (2) The Social Security Act, 42 U.S.C. 301 et seq.;
- (3) The tariff laws of the United States; or
- (4) Any case where a collection of a debt by salary offset is explicitly provided for or prohibited by another statute (e.g., travel advances in 5 U.S.C.

5705 and employee training expenses in 5 U.S.C. 4108).

(c) This regulation does not apply to any adjustment to pay arising out of an employee's selection of coverage or a change in coverage under a federal benefits program requiring periodic deductions from pay if the amount to be recovered was accumulated over four pay periods or less.

(d) This regulation does not preclude the compromise, suspension, or termination of collection action where appropriate under the standards implementing the Federal Claims Collection Act 31 U.S.C. 3711 et seq. 4 CFR Parts 101 through 105 and 45 CFR Part 1177.

(e) This regulation does not preclude an employee from requesting waiver of an overpayment under 5 U.S.C. 5584, 10 U.S.C. 2774 or 32 U.S.C. 716 or in any way questioning the amount or validity of the debt by submitting a subsequent claim to the General Accounting Office. This regulation does not preclude an employee from requesting a waiver pursuant to other statutory provisions applicable to the particular debt being collected.

(f) Matters not addressed in these regulations should be reviewed in accordance with the Federal Claims Collection Standards at 4 CFR 101.1 et seq.

§ 1697.2 Definitions.

For the purposes of the part the following definitions will apply:

"Agency" means an executive agency as is defined at 5 U.S.C. 105 including the U.S. Postal Service and the U.S. Postal Rate Commission; a military department as defined in 5 U.S.C. 102; an agency or court in the judicial branch, including a court as defined in Section 610 of title 28, United States Code, the District Court for the Northern Mariana Islands, and the Judicial Panel on Multidistrict Litigation; an agency of the legislative branch including the U.S. Senate and House of Representatives; and other independent establishments that are entities of the federal government.

"Creditor agency" means the agency to which the debt is owed.

"Debt" means an amount owed to the United States from sources which include loans insured or guaranteed by the United States and all other amounts due the United States from fees, leases, rents, royalties, services, sales of real or personal property, overpayments, penalties, damages, interests, fines, forfeitures (except those arising under the Uniform Code of Military Justice) and all other similar sources.

"Director" means the Director of Selective Service or his designee.

"Disposable pay" means the amount that remains from an employee's federal pay after required deductions for social security, federal, state or local income tax, health insurance premiums, retirement contributions, life insurance premiums, federal employment taxes, and any other deductions that are required to be withheld by law.

"Employee" means a current employee of an agency, including a current member of the Armed Forces or a Reserve of the Armed Forces (Reserves).

"Hearing official" means an individual responsible for conducting any hearing with respect to the existence or amount of a debt claimed, and who renders a decision on the basis of such hearing. A hearing official may not be under the supervision or control of the Director of Selective Service.

"Paying Agency" means the agency that employs the individual who owes the debt and authorizes the payment of his/her current pay.

"Salary offset" means an administrative offset to collect a debt pursuant to 5 U.S.C. 5514 by deduction(s) at one or more officially established pay intervals from the current pay account of an employee without his/her consent.

"Waiver" means the cancellation, remission, forgiveness, or non-recovery of a debt allegedly owed by an employee to an agency as permitted or required by 5 U.S.C. 5584, 10 U.S.C. 2774, 32 U.S.C. 716, 5 U.S.C. 8346(b), or any other law.

§ 1697.3 Applicability.

(a) These regulations are to be followed when:

(1) The Selective Service System is owed a debt by an individual currently employed by another federal agency;

(2) The Selective Service System is owed a debt by an individual who is a current employee of the Selective Service System; or

(3) The Selective Service System employs an individual who owes a debt to another federal agency.

§ 1697.4 Notice requirements.

(a) Deductions shall not be made unless the employee is provided with written notice signed by the Director of the debt at least 30 days before salary offset commences.

(b) The written notice shall contain:

(1) A statement that the debt is owed and an explanation of its nature and amount;

(2) The agency's intention to collect the debt by deducting from the

employee's current disposable pay account;

(3) The amount, frequency, proposed beginning date, and duration of the intended deduction(s);

(4) An explanation of interest, penalties, and administrative charges, including a statement that such charges will be assessed unless excused in accordance with the Federal Claims Collection Standards at 4 CFR 101.1 et seq.;

(5) The employee's right to inspect or request and receive a copy of government records relating to the debt;

(6) The opportunity to establish a written schedule for the voluntary repayment of the debt;

(7) The right to a hearing conducted by an impartial hearing official;

(8) The methods and time period for petitioning for hearings;

(9) A statement that the timely filing of a petition for a hearing will stay the commencement of collection proceedings;

(10) A statement that a final decision on the hearing will be issued not later than 60 days after the filing of the petition requesting the hearing unless the employee requests and the hearing official grants a delay in the proceedings;

(11) A statement that any knowingly false or frivolous statements, representations, or evidence may subject the employee to:

(i) Disciplinary procedures appropriate under chapter 75 of title 5, United States Code, Part 752 of title 5, Code of Federal Regulations, or any other applicable statutes or regulations;

(ii) Penalties under the False Claims Act, sections 3729-3731 of title 31, United States Code, or any other applicable statutory authority; or

(iii) Criminal penalties under sections 286, 287, 1001, and 1002 of title 18, United States Code or any other applicable statutory authority.

(12) A statement of other rights and remedies available to the employee under statutes or regulations governing the program for which the collection is being made; and

(13) Unless there are contractual or statutory provisions to the contrary, a statement that amounts paid on or deducted for the debt which are later waived or found not owed to the United States will be promptly refunded to the employee.

§ 1697.5 Hearing.

(a) *Request for hearing.* (1) An employee must file a petition for a hearing in accordance with the instructions outlined in the agency's notice to offset. (2) A hearing may be

requested by filing a written petition addressed to the Director of Selective Service stating why the employee disputes the existence or amount of the debt. The petition for a hearing must be received by the Director no later than fifteen (15) calendar days after the date of the notice to offset unless the employee can show good cause for failing to meet the deadline date.

(b) *Hearing procedures.* (1) The hearing will be presided over by an impartial hearing official. (2) The hearing shall conform to procedures contained in the Federal Claims Collection Standards 4 CFR 102.3(c). The burden shall be on the employee to demonstrate that the existence or the amount of the debt is in error.

§ 1697.6 Written decision.

(a) The hearing official shall issue a written opinion no later than 60 days after the hearing.

(b) The written opinion will include: a statement of the facts presented to demonstrate the nature and origin of the alleged debt; the hearing official's analysis, findings and conclusions; the amount and validity of the debt, and the repayment schedule, if applicable.

§ 1697.7 Coordinating offset with another federal agency.

(a) *The Selective Service System as the creditor agency.* (1) When the Director determines that an employee of a federal agency owes a delinquent debt to the Selective Service System, the Director shall as appropriate:

(i) Arrange for a hearing upon the proper petitioning by the employee;

(ii) Certify in writing to the paying agency that the employee owes the debt, the amount and basis of the debt, the date on which payment is due, the date the government's right to collect the debt accrued, and that Selective Service System regulations for salary offset have been approved by the Office of Personnel Management;

(iii) If collection must be made in installments, the Director must advise the paying agency of the amount or percentage of disposable pay to be collected in each installment;

(iv) Advise the paying agency of the actions taken under 5 U.S.C. 5514(b) and provide the dates on which action was taken unless the employee has consented to salary offset in writing or signed a statement acknowledging receipt of procedures required by law. The written consent or acknowledgement must be sent to the paying agency;

(v) If the employee is in the process of separating, the Selective Service System

must submit its debt claim to the paying agency as provided in this part. The paying agency must certify any amounts already collected, notify the employee and send a copy of the certification and notice of the employee's separation to the creditor agency. If the creditor agency is aware that the employee is entitled to Civil Service Retirement and Disability Fund or similar payments, it must certify to the agency responsible for making such payments the amount of the debt and that the provisions of this part have been followed; and

(vi) If the employee has already separated and all payments due from the paying agency have been paid, the Director may request, unless otherwise prohibited, that money payable to the employee from the Civil Service Retirement and Disability Fund or other similar funds be collected by administrative offset as provided under 5 CFR 831.1801 or other provisions of law or regulation.

(b) *The Selective Service System as the paying agency.* (1) Upon receipt of a properly certified debt claim from another agency, deductions will be scheduled to begin at the next established pay interval. The employee must receive written notice that the Selective Service System has received a certified debt claim from the creditor agency, the amount of the debt, the date salary offset will begin, and the amount of the deduction(s). The Selective Service System shall not review the merits of the creditor agency's determination of the validity or the amount of the certified claim. (2) If the employee transfers to another agency after the creditor agency has submitted its debt claim to the Selective Service System and before the debt is collected completely, the Selective Service System must certify the total amount collected. One copy of the certification must be furnished to the employee. A copy must be furnished the creditor agency with notice of the employee's transfer.

§ 1697.8 Procedures for salary offset.

(a) Deductions to liquidate an employee's debt will be by the method and in the amount stated in the Director's notice of intention to offset as provided in § 1697.4. Debts will be collected in one lump sum where possible. If the employee is financially unable to pay in one lump sum, collection must be made in installments.

(b) Debts will be collected by deduction at officially established pay intervals from an employee's current pay account unless alternative arrangements for repayment are made with the approval of the Director.

(c) Installment deductions will be made over a period not greater than the anticipated period of employment. The size of installment deductions must bear a reasonable relationship to the size of the debt and the employee's ability to pay. The deduction for the pay intervals for any period must not exceed 15% of disposable pay unless the employee has agreed in writing to a deduction of a greater amount.

(d) Unliquidated debts may be offset against any financial payment due to a separated employee including but not limited to final salary or leave payment in accordance with 31 U.S.C. 3716.

§ 1697.9 Refunds.

(a) The Selective Service System will refund promptly any amounts deducted to satisfy debts owed to the Selective Service System when the debt is waived, found not owed to the Selective Service System, or when directed by an administrative or judicial order.

(b) The creditor agency will promptly return any amounts deducted by the Selective Service System to satisfy debts owed to the creditor agency when the debt is waived, found not owed, or when directed by an administrative or judicial order.

(c) Unless required by law, refunds under this subsection shall not bear interest.

§ 1697.10 Statute of Limitations.

If a debt has been outstanding for more than 10 years after the agency's right to collect the debt first accrued, the agency may not collect by salary offset unless facts material to the government's right to collect were not known and could not reasonably have been known by the official or officials who were charged with the responsibility for discovery and collection of such debts.

§ 1697.11 Non-waiver of rights.

An employee's involuntary payment of all or any part of a debt collected under these regulations will not be construed as a waiver of any rights that employee may have under 5 U.S.C. 5514 or any other provision of contract or law unless there are statutes or contract(s) to the contrary.

§ 1697.12 Interest, penalties, and administrative costs.

Charges may be assessed for interest, penalties, and administrative costs in accordance with the Federal Claims Collection Standards, 4 CFR 102.13

[FR Doc. 89-27256 Filed 11-20-89; 8:45 am]

BILLING CODE 8015-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[FL-027; FRL-3682-1]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants in Florida; Total Reduced Sulfur (TRS) From Kraft Pulp Mills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA approved Florida's 111(d) plan for the control of total reduced sulfur (TRS) emission from Kraft Pulp Mills on August 10, 1988 (53 FR 30051). Final compliance for most TRS sources was due on May 12, 1989. Florida is extending the compliance date for Container Corporation of America, Fernandina Beach, Florida to June 1, 1990. EPA concurs with Florida that the extension is justified and is hereby approving the extended compliance schedule as a SIP revision.

DATE: This action will be effective January 22, 1990 unless notice is received within 30 days that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the *Federal Register*.

ADDRESSES: Copies of the document relevant to this action are available for public inspection at the following locations:

Environmental Protection Agency,
Region IV, Air Programs Branch, 345
Courtland St. N.E., Atlanta, Georgia
30365
Florida Bureau of Air Quality
Management, Twin Towers Office
Bldg., 2600 Blair Stone Road,
Tallahassee, Florida 32301
Public Information Reference Unit,
Library Systems Branch,
Environmental Protection Agency, 401
M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: R. Douglas Neeley, EPA Region IV, Air Programs Branch at above listed address and telephone numbers 404-347-2864 or FTS 257-2864.

SUPPLEMENTARY INFORMATION: In accordance with section 111 of the Clean Air Act, "Standards of Performance for New Stationary Sources," EPA has promulgated standards of performance for criteria pollutants (those for which National Ambient Air Quality Standards have been published) and noncriteria pollutants. The standards apply to "new" sources (i.e., new, modified, or

reconstructed sources) which commenced construction after the date on which EPA proposed standards for that particular source category.

A source in existence prior to the date on which EPA proposed new source performance standards for that particular source category is defined as an "existing source." Paragraph (d) of section 111 of the Clean Air Act requires states to develop plans for the control of emissions of the same non-criteria, or designated, pollutants from such "existing" sources. The requirements for such plans are set forth in subpart B of 40 CFR part 60 (November 17, 1975; 40 FR 53346). Since total reduced sulfur (TRS) is a designated pollutant, regulated under section 111(d) of the CAA, states are required to develop section 111(d) plans for the control of TRS emissions from existing kraft pulp mills contained in the state.

The Florida Department of Environmental Regulations (FDER) submitted its section 111(d) plan for control of TRS emissions from kraft pulp mills and tall oil plants on May 24, 1985. This submittal contained certification that adoption of the plan had been preceded by adequate notice and public hearing.

The plan as submitted contained all the elements needed for an approvable section 111(d) plan pursuant to 40 CFR part 60, subpart B (Adoption and Submittal of State Plans for Designated Facilities), and the guideline document. This plan submittal included: regulations establishing emission standards for all affected sources along with the adoption of necessary definitions; regulations establishing the procedures for the development of individual source compliance schedules to include increments of progress; regulations establishing test methods and procedures for determining compliance with the emission standards; an emission inventory of all designated facilities; regulations establishing procedures for monitoring the status of compliance with emission standards through record-keeping, periodic inspections, and testing; and documentation that the State had legal authority to carry out the plan.

EPA approved the plan on August 10, 1988 (53 FR 30051). As part of that plan, final compliance for digester systems, multiple effect evaporation systems, condensate stripper systems, smelt dissolving tank vents, tall oil plants and combustion devices subject to FDER's Rule 17-2.600(4)(c), FAC was due May 12, 1989. One of the affected sources was Container Corporation of America, Fernandina Beach, Florida, hereinafter referred to as CCA. On March 19, 1987,

CCA petitioned the FDER to issue a variance extending the final compliance date for the No. 5 Multiple Effect Evaporator System (MEES), batch digester system and Kamyr digester system to June 1, 1990. CCA presently operates two lime kilns (Nos. 2 and 3). As part of CCA's current modernization program and proposed "TRS Conceptual Compliance Plan" submitted to FDER on January 30, 1988, the source elected to replace the two lime kilns with a new lime kiln which will be subject to subpart BB (Standards of Performance for kraft pulp mills) of 40 CFR part 60 (Standards of Performance for New Stationary Sources). The new lime kiln will be subject to a TRS emission standard of 8 ppm corrected to 10% oxygen. The existing lime kilns would have had to meet a 20 ppm standard by volume on a dry basis at standard conditions corrected to 10% oxygen as a 12-hour average.

As part of the "TRS Conceptual Compliance" for CCA, the source also elected to install a TRS noncondensable gas (NCG) handling system for capturing and transporting TRS emissions from the existing No. 5 MEES, batch digester system, and Kamyr continuous digester system, to the new lime kiln (No. 4) for incineration. Since the 2 existing lime kilns will be replaced with the No. 4 lime kiln, CCA felt that it would be redundant and not cost-effective to install and operate a temporary or secondary TRS control system connected to the No. 2 or 3 lime kilns, for the existing No. 5 MEES, batch digester system and Kamyr digester. However, since the proposed new No. 4 lime kiln cannot be constructed and in compliance by May 12, 1989 (the final compliance date for the existing No. 5 MEES, batch digester system and Kamyr digester system), the source requested a variance to extend the final compliance date to June 1, 1990 to allow for completion of construction and start-up of the new No. 4 lime kiln. FDER held a public hearing on March 3, 1988 concerning the variance request and issued the variance on March 17, 1988. FDER then submitted the variance request as a SIP revision to EPA on April 15, 1988.

Final Action

EPA is approving the variance as a SIP revision which extends the final compliance date for the three emission sources at CCA from May 12, 1989 to June 1, 1990.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the *Federal Register* on January 19, 1989 (54 FR 2214-2225). On

January 6, 1989, the officer of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 222) from the requirements of Section 3 of Executive Order 12291 for a period of two years.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

Under 5 U.S.C. 805(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities (See 46 FR 8709.)

This action is being taken without prior proposal because the changes are noncontroversial and EPA anticipates no significant comments on them. The public should be advised that this action will be effective 60 days from date of this *Federal Register* notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under section 307(b)(1) of the Act, petition for judicial review of this action must be filed in the United States Court of Appeals or the appropriate circuit by January 22, 1990. This action may not be challenged later in proceedings to enforce its requirements (See section 307(b)(2)).

List of Subjects in 40 CFR Part 62

Air pollution control, Inter governmental relations, Paper and paper products industry, Reporting and Recordkeeping requirements.

Dated: November 6, 1989.

Lee A. DeHihns III,
Acting Regional Administrator.

PART 62—[AMENDED]

Part 62 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

Subpart K—Florida

1. The authority citation for Part 62 continues to read as follows:

Authority 42 U.S.C. 7401-7642.

2. Section 62.2350 is amended by adding paragraph (b)(4) to read as follows:

§ 62.2350 Identification of plan.

(b) * * *

(4) The final compliance date to achieve TRS emission limits for the No. 5 Multiple Effect Evaporation System, batch digester system and Kamyr digester system for Container Corporation of America in Fernandina Beach, Florida is June 1, 1990.

[FR Doc. 89-27329 Filed 11-20-89; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 799

[OPTS-42103A; FRL 3662-9]

RIN 2070-AB07

C.I. Disperse Blue 79:1; Testing Consent Order

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice announces that EPA has signed an enforceable Testing Consent Order with eight companies who have agreed to perform certain health and environmental effects tests with C.I. Disperse Blue 79:1 (DB-79:1) (CAS No. 3618-72-2). This action is in response to the TSCA Interagency Testing Committee's (ITC) recommendation of this substance for priority testing. EPA also announces its decision not to initiate rulemaking for C.I. Disperse Blue 79 (DB-79) (CAS No. 3956-55-6) and two of its analogs (CAS Nos. 21429-43-6 and 3618-73-3) for health and environmental effects and chemical fate testing.

EFFECTIVE DATE: November 21, 1989.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Rm. EB-44, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: Under procedures described in 40 CFR part 790, eight manufacturers of DB-79:1, also known as acetamide, N-5-[bis[2-(acetyloxy)ethyl]amino]-2-[(2-bromo-4,6-dinitrophenyl)azo]-4-methoxyphenyl], have entered into a Testing Consent Order with EPA in which they have agreed to perform certain health and environmental effects tests using DB-79:1. This rule amends subpart C of 40 CFR part 799 to add DB-79:1 to the list of chemical substances and mixtures ("chemicals") subject to Testing Consent Orders for which the export notification requirements of 40 CFR part 707 apply.

I. ITC Recommendations

In its Nineteenth Report to EPA, published in the *Federal Register* of November 14, 1986 (51 FR 41417) the ITC recommended that DB-79 (CAS No. 3956-55-6) be tested for (1) chemical fate (water solubility, and aerobic and anaerobic biodegradation); (2) environmental effects (acute and chronic toxicity to algae, aquatic invertebrates, fish, and benthic organisms, and bioconcentration in fish); and (3) health effects (absorption and chemical disposition, and 90-day subchronic toxicity).

In its Twentieth Report to EPA published in the *Federal Register* of May 20, 1987 (52 FR 19020), the ITC also recommended DB-79:1 (CAS No. 3618-72-2), the chloro/methoxy analog of DB-79 (CAS No. 3618-73-3), and the chloro/ethoxy analog (CAS No. 21429-43-6), for the same testing as DB-79.

II. Testing Consent Order Negotiation

In the *Federal Register* of October 12, 1988 (53 FR 34786) and in accordance with the procedures established in 40 CFR 790.28, EPA requested persons interested in participating in or monitoring testing negotiations for DB-79:1 to contact EPA. EPA held public meetings on October 26, 1988, November 29, 1988, and January 24, 1989, to discuss testing appropriate for this chemical. On October 20, 1989 EPA and eight companies signed a Testing Consent Order for DB-79:1. The eight companies agreed to conduct or to provide for the conducting of the following studies: (1) subchronic oral toxicity in the rat, (2) sex-linked recessive lethal (SLRL) test in *Drosophila*, (3) developmental toxicity in the rat and rabbit, (4) metabolism in the rat, and (5) a rainbow trout fish partial life-cycle test. These tests are to be conducted by specific dates and according to the test standards and the Appendices of the Consent Order.

A group of companies who comprise the manufacturing and importing industry for DB-79:1 and DB-79 and its two analogs, have reported to EPA through the Ecological and Toxicological Association of Dyestuffs Manufacturing Industry (ETAD) that less than 1,000 pounds of DB-79 and less than 25,000 pounds of the chloro/methoxy analog were produced in 1985 (Ref. 1). The chloro/ethoxy analog was not manufactured or imported in 1985. The aggregated TSCA section 8(a) inventory update information supports this industry estimate (Ref. 2). Therefore, EPA is not initiating rulemaking proceedings for health, environmental, and chemical fate testing of these

chemicals because there is little or no production.

However, because analogs of DB-79:1 could be used as substitutes for DB-79:1, EPA will monitor future manufacturing of these chemicals through the section 8(a) TSCA Inventory Update Rule, 40 CFR part 710, published in the *Federal Register* of June 12, 1986 (51 FR 21438), and section 5 TSCA premanufacture notification requirements, to determine whether further testing will be needed.

III. Technical Summary

A. Manufacture and Use

The estimated average annual production from 1980 to 1985 is 2 to 3 million pounds for DB-79:1 and related analogs as active colorants (Ref. 3). ETAD has estimated the current domestic sales market (1985) for DB-79:1 to be 1.8 million pounds of active colorant (Ref. 1). The aggregated TSCA section 8(a) inventory update data for 1987 support this industry estimate (Ref. 2).

Disperse Blue-79:1 and related products are used almost exclusively for dyeing or printing polyester fibers.

B. Human Exposure

1. *Occupational exposure.* Dermal and inhalation/ingestion exposure to DB-79:1 can occur during production, processing, and use of DB-79:1. A maximum of 180 workers (10 to 20 workers at 9 sites) are potentially exposed during production, while a maximum of 66 workers are exposed during processing (3 to 6 workers at 11 sites). In addition, from 1 to 3 dye weighers and 1 to 18 machine operators per site are potentially exposed to DB-79:1 during use according to an EPA engineering analysis of occupational exposure (Ref. 5). If the dye weighers are considered for potential worker exposure at 300 to 400 sites (ETAD estimate), then approximately 900 to 1,200 workers are potentially exposed via both inhalation/ingestion and dermal routes. If the machine operators are included, an additional 7,200 workers are potentially exposed via the dermal route. ETAD agrees that EPA's estimates of the number of workers potentially exposed through use are reasonable (Ref. 1).

The results from a preliminary review of a joint study on the occupational exposure of textile dye color on storeroom workers, conducted by the American Textile Manufacturers Institute (ATMI), EPA, and ETAD, support ETAD's supposition and reports that the average daily level of exposure to dye weighers is 0.09 mg (Ref. 7) and

average daily level of exposure to machine operators is negligible (Ref. 5). The potential remains for more significant single exposures in these cases.

Data available from the National Occupational Exposure Survey (NOES), from 1980 to 1983, reported that 1,450 workers in 25 plants were potentially exposed to DB-79:1 or related compounds. The National Occupational Hazard Survey (NOHS), from 1972 to 1974, reported that 2,305 workers in 107 plants were potentially exposed to DB-79 and related compounds (Ref. 8).

2. *Consumer exposure.* DB-79:1 and related products are fast dyes that are held tightly within the polyester fiber structure and therefore not easily removed (Refs. 5 and 6). Thus, consumer exposure to DB-79:1 and related products is low.

C. Environmental Fate and Exposure

1. *Chemical fate.* The water solubility of DB-79:1 is low (measured between 4.6/1.9 and 6.2/0.5 ug/l); the log octanol/water partition coefficient for DB-79:1 is 4.7/0.1 (Ref. 9). DB-79:1 is not likely to volatilize or photodegrade.

Results of aerobic biodegradation studies using 13 percent liquid, and 26 percent and 52 percent granular formulations of DB-79:1 indicate that at higher concentrations less biodegradation occurs (Ref. 6).

EPA's Environmental Research Laboratory in Cincinnati is completing a study on the adsorption, aerobic, and anaerobic biodegradation of DB-79:1. Early results indicate that DB-79:1 partitions to sludge and is anaerobically biodegraded when added to a model sludge-treatment system in insoluble (particulate) form at its solubility limit (Ref. 10). A recent study from EPA's Environmental Research Laboratory in Athens Georgia reported rapid degradation of DB-79 in anaerobic sediment systems (Ref. 11). The half-life was on the order of minutes.

After reviewing this information, some of which was not available to the ITC, EPA has decided not to include testing for chemical fate as a part of the Consent Order for DB-79:1.

2. *Release and monitoring.* No effluent or ambient monitoring information is available. The majority of releases of DB-79:1 from its manufacturing and use will be to water. Estimated dyestuff pre-treatment losses to water during production are between 0.5 and 1 percent of production (Ref. 5). Estimated dyestuff pre-treatment losses during the use of textile dyestuffs are between 5 and 10 percent. Sludge containing DB-79:1 and products from wastewater

treatment facilities or POTW's may be sent to landfills.

3. *Environmental exposure.* EPA has performed aquatic environmental modeling for DB-79:1 using engineering assessment-based estimated discharge data which suggest that the surface water concentrations of DB-79:1 are relatively low (Ref. 12). The industrial facilities producing DB-79:1 and related compounds were located, and the receiving streams were identified. Releases were estimated to be 1.4 kg per site for 100 days each year, which is the upper bound based on average batch size (Ref. 12). Using a measured log K_{ow} of 4.7, it was estimated that 80 percent of DB-79:1 would be removed by sorption either in the on-site wastewater treatment plant or in a POTW (Ref. 13). Five site-specific surface water concentrations were projected to range from 0.01 to 0.97 ug/l for mean flow conditions, and from 0.04 to 3.9 ug/l for low flow conditions.

4. *Bioconcentration.* The ITC pointed out that no experimental data on the potential for bioconcentration of DB-79:1 by aquatic organisms are available. However, 18 disperse monoazo dyes examined experimentally had log BCF values <1.8 even though the experimental log K_{ow} was 3 in seven out of nine, and the calculated log K_{ow} was 3 in one of the remaining nine (Ref. 14). This suggests that the bioconcentration factor for DB-79:1 would be low. The reason proposed for this behavior was that the relatively high molecular weight (450 to 550 g/mole) of these disperse dyes made transport across the fish gill membrane difficult. Additional studies also suggest that high molecular weight and molecular size limit membrane penetration and thus accumulation through the gills (Refs. 16 and 17). After reviewing this information, some of which was not available to the ITC, EPA has decided not to include bioconcentration testing as a part of the Consent Order for DB-79:1.

IV. Testing Program

A. Environmental Effects

No experimental data on the toxic effects of pure DB-79:1 to fresh water fish are available. The 96-hour LC_{50} of a powder formulation of DB-79:1 was reported to be 390 mg/l in bluegill (*Lepomis macrochirus*) (Ref. 6). Converted to LC_{50} values, the 48-hour median tolerance limits of two granular formulations of 26 and 52 percent, and one liquid formulation of 13 percent of DB-79:1 were reported to be 320, 400, and 700 mg/l respectively in rainbow trout (*Salmo gairdneri*) (Ref. 6). The absence of specific descriptions of

formulation compositions used in these studies precludes an accurate evaluation of the toxic potential of the test substances.

EPA's predicted LC_{50} 's for fish, daphnid, and algae for DB-79:1 are all above the water solubility limit for DB-79:1, so no acute toxicity is likely at or below DB-79:1's solubility limit (Ref. 18). However, toxicity to fish is possible from long-term exposure at the limits of solubility for DB-79:1. No method is available to determine the effects of long term exposure to benthic invertebrates.

In the absence of useful fish toxicity data and any data on the effects of long-term exposure on fish life stages to disperse dyes, eight companies have agreed to conduct rainbow trout early life-cycle testing of DB-79:1, in accordance with 40 CFR 797.1600 as modified for DB-79:1 (Ref. 4) and contained in the public docket. The final report for this test is due 15 months after the effective date of the Testing Consent Order.

EPA will use the data generated by this test to determine the potential risk to the environment from exposure to DB-79:1 and to determine whether any additional testing of DB-79:1 is necessary.

B. Health Effects

Because of the lack of health effects data and the potential for worker exposure to DB-79:1, EPA and the eight companies have decided to include in the Consent Order subchronic toxicity testing, developmental toxicity testing, mutagenic effects testing (SLRL in *Drosophila*), and metabolism testing. The companies have agreed to conduct the following studies in accordance with the cited test guidelines:

(1) An oral subchronic study in the Sprague-Dawley rat.

(2) Developmental toxicity studies in the Sprague-Dawley rat and rabbit by the oral gavage route.

(3) An oral metabolism test in the Sprague-Dawley rat (Ref. 15), and (4) an SLRL test in *Drosophila*. If the SLRL indicates a hazard of genetic toxicity, EPA will consider the need for further testing.

Testing Plan for DB-79:1

Test	Test Standards in 40 CFR	Report Date ¹
SLRL in <i>Drosophila</i> .	\$ 798.5275	12
Subchronic oral toxicity, rat.	\$ 798.2650	15
Developmental toxicity, rat.	\$ 798.4900	12

Testing Plan for DB-79:1—Continued

Test	Test Standards in 40 CFR	Report Date ¹
Developmental toxicity, rabbit.	§ 798.4900	24
Metabolism, rat.....	ETAD Protocol ²	24

¹ Months after effective date of this rule.² ETAD-provided rat oral metabolism protocol (Ref. 15)

The above Table delineates the tests, test standards, and final reporting dates for the health effects tests incorporated in the Testing Consent Order. The test standards with modifications are attached to the Order. EPA will use the data generated by these tests to determine the potential risk to human health from exposure to DB-79:1 and, if any additional testing of DB-79:1 is necessary.

V. Export Notification

The issuance of this Testing Consent Order subjects any person who exports or intends to export DB-79:1 to the export notification requirements of section 12(b) of TSCA. The specific requirements are listed in 40 CFR part 707. Chemicals subject to Consent Orders are listed at 40 CFR 799.5000. This listing serves as notification to persons who export or who intend to export chemical substances or mixtures which are the subject of Testing Consent Orders that 40 CFR part 707 applies.

VI. Rulemaking Record

EPA has established a record for this rule and the Consent Order (docket number OPTS-42103). This record contains the information EPA considered in developing this rule and Consent Order and includes the following:

A. Supporting Documentation

- (1) Testing Consent Order for DB-79:1.
- (2) Federal Register notices pertaining to this rule and the Consent Order consisting of:
 - (a) Notice containing the ITC recommendation of DB-79:1.
 - (b) Rules requiring TSCA section 8(a) and (d) reporting on DB-79:1.
 - (c) Notice soliciting interested parties for Testing Consent Order negotiation on DB-79:1.
 - (3) Communications consisting of:
 - (a) Letters.
 - (b) Contact reports of telephone conversations.
 - (c) Meeting summaries.

B. References

- (1) ETAD. Ecological and Toxicological Association of Dyestuffs Manufacturing

Industry. Letter from E.A. Clarke, Executive Secretary to R.H. Brink, Interagency Testing Committee-USEPA (February 12, 1987) on: Disperse Blue 79, with Appendix I: Disperse Blue 79 and DB79 analogs; and with enclosure: ETAD's comments on the ITC Testing Recommendations for C.I. Disperse Blue 79 (February 12, 1987).

(2) USEPA. Memo from N. Vogel, Confidential Data Branch, to H. Colbert, Test Rules Development Branch, on: Aggregated production volume figures (December 21, 1988).

(3) USEPA. U.S. Environmental Protection Agency. Technical Support Document for C.I. Disperse Blue 79, prepared by Syracuse Research Corp. for Test Rules Development Branch (1987).

(4) USEPA. OTS Guideline § 797.1600 Fish early life stage toxicity test, with modifications. (1989).

(5) USEPA. Memo from G. Heath, Chemical Engineering Branch, to John Walker, Test Rules Development Branch, on: Disperse Blue 79 with attached report-Engineering report worker exposure, and release analysis for Interagency Testing Committee (ITC) Disperse Blue 79 (May 30, 1986).

(6) ETAD. Letter from E. Clarke, Executive Secretary, to R. Brink, Interagency Testing Committee-USEPA on: Disperse Blue 79; with attachments: Comments by ETAD to Dynamac on the ITC recommendations for testing Disperse Blue 79 and added data (August 11, 1986).

(7) USEPA. Memo from G. Heath, Chemical Engineering Branch, to Mike McCommas, Test Rules Development Branch, on: Supplemental Engineering Report- Disperse Blue 79 (January 26, 1987).

(8) NIOSH. National Institute for Occupational Safety and Health. Computer printout of National Occupational Hazard Survey (1972-1974) and National Occupational Exposure Survey (1980-1982) data bases: C.I. Disperse Blue 79. Cincinnati, OH: Department of Health and Human Services (April 28, 1986).

(9) USEPA. Memo from G.L. Baughman, USEPA-ERL Athens, GA, to E. Bryan, Chief, Exposure Assessment Branch, on: Disperse Blue 79 (August 20, 1987).

(10) USEPA. "Aerobic and Anaerobic Treatment of C.I. Disperse Blue 79." D.A. Gardner, T.J. Holdsworth, Radian Corporation; G.M. Shaul, K.A. Dostal, Risk Reduction Engineering Laboratory-USEPA, Cincinnati, OH; and L.D. Betowski, Environmental Monitoring and Support Laboratory-USEPA, Las Vegas, NV; Contract No. 68-03-3371, Volume 1 and 2 (June 1989).

(11) ETAD. Ecological and Toxicological Association of the Dyestuffs Manufacturing Industry. Letter from E.A. Clarke, Executive Secretary, to Document Processing Center-USEPA (April 8, 1988), with enclosure: E.J. Weber. Fate of textile dyes in the aquatic environment: degradation of Disperse Blue 79 in anaerobic sediment-water systems. Environmental Research Laboratory-USEPA, Athens, GA (1988).

(12) USEPA. Memo from M.H. Thomas, Exposure Assessment Branch, to John

Walker, Test Rules Development Branch, on: Predicted surface water concentrations and drinking water exposure of C.I. Disperse Blue 79 (June 24, 1986).

(13) USEPA. Hand-written table from P. Harrigan, Design and Development Branch, to M. McCommas, Test Rules Development Branch, on: Sewage treatment removal estimates for site specific releases of DB-79:1 (December 11, 1987).

(14) Anliker, R., Clarke, E.A., and Moser, P. "Use of the partition coefficient as an indicator of bioaccumulation tendency of dyestuffs in fish." *Chemosphere* 10:263-274 (1981).

(15) ETAD. Protocol outline for oral metabolism study in rats with disperse blue 79 (DB79), with modifications. (1989).

(16) Opperhuizen, A., Velde, E., Gobas, F., Liem D., Steen, J., and Huntzinger, O. "Relationship between bioconcentration in fish and steric factors of hydrophobic chemicals." *Chemosphere* 14:1871-1896 (1985).

(17) Gobas F., Shiu, W., Mackay, D., and Opperhuizen, A. "Bioaccumulation of PCDD's and OCDF in fish after aqueous and dietary exposure." *Chemosphere* 15:1985-1986 (1986).

(18) Memo from R. Jones, Toxic Effects Branch, to M. McCommas, Test Rules Development Branch, on: Review of Disperse Blue 79 (June 3, 1988).

Confidential Business Information, (CBI) while part of the record, is not available for public review. A public version of the record, from which CBI has been deleted, is available for inspection in the OTS Public Information Office, Rm. NE-G004, 401 M St., SW., Washington, DC from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

VII. Other Regulatory Requirements

Paperwork Reduction Act

OMB has approved the information collection requirements in this Testing Consent Order under the provision of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and has been assigned OMB control 2070-0033.

Public reporting burden for this collection of information is estimated to average 564 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. The total estimated testing hours for DB-79:1 is 3386.

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-223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC

20460; and to the Office of Management and Budget, Paperwork Reduction Project (2070-0033), Washington, DC 20503.

List of Subjects in 40 CFR Part 799

Chemical export, Chemicals, Environmental protection, Hazardous substances, Recordkeeping and

reporting requirements, Testing procedures.

Dated: October 20, 1989.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

Therefore, 40 CFR part 799 is amended as follows:

PART 799—[AMENDED]

1. The authority citation for part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

2. Section 799.5000 is amended by adding "C.I. Disperse Blue 79:1" to the table in CAS Number order, and the OMB control number to the end of § 799.5000 to read as follows:

§ 799.5000 Testing consent orders.

CAS Number	Substance or Mixture Name	Testing	FR Citation
3618-72-2	C.I. Disperse Blue 79:1 Acetamide, N-[5-[bis(2-(acetyloxy) ethyl)amino]-2-[(2-bromo-4, 6-dinitrophenyl)azo]-4-methoxyphenyl]-	Health effects Environmental effects	November 21, 1989. -Do-

(Information collection requirements have been approved by the Office of Management and Budget under control number 2070-0033)

[FR Doc. 89-27211 Filed 11-21-89; 8:45am]

BILLING CODE 6560-50-D

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 5, 6, 19, and 52

[Federal Acquisition Circ. 84-52]

RIN 9000-AD31

Federal Acquisition Regulation (FAR); Competitive Thresholds; Correction

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule; correction of effective date.

SUMMARY: This document corrects the effective date of Federal Acquisition Circular (FAC) 84-52 published in the Federal Register on Tuesday, October 31, 1989 (54 FR 46004).

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 523-4755. Please cite FAC 84-52 correction.

SUPPLEMENTARY INFORMATION: In FR Doc. 89-25491 beginning on page 46004, in the first column of page 46004, under effective date, November 30, 1989, is

correct. However, in the second column of page 46004, under "[Number 84-52]", the effective date statement issued under the authority of the DOD, GSA, and NASA is corrected to read as follows:

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 84-52 is effective November 30, 1989.

On pages 46009 and 46010, in the clauses at 52.219-11, 52.219-12, 52.219-17, and 52.219-18, and the Alternates I, II, and III of 52.219-18, the effective date is corrected to read as follows:

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.219-11, 52.219-12, 52.219-17, and 52.219-18 [corrected]

Section 52.219-11, 52.219-12, 52.219-17, and 52.219-18 are corrected by removing in the title of each clause, and in Alternates I, II, and III of 52.219-18, the effective date "OCT 1989" and inserting in each place "NOV 1989".

List of Subjects in 48 CFR Parts 5, 6, 19, and 52

Government procurement.

Dated: November 14, 1989.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

[FR Doc. 89-27149 Filed 11-20-89; 8:45 am]

BILLING CODE 6820-JC-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018-AA24

Migratory Bird Hunting; Late Seasons, and Bag and Possession Limits for Certain Migratory Game Birds in the United States; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; correction.

SUMMARY: The Fish and Wildlife Service is correcting errors in the rule prescribing open seasons on waterfowl that appeared in the Federal Register on September 28, 1989 (54 FR 39940).

DATE: Effective on September 28, 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 20240, telephone 703-358-1714.

SUPPLEMENTARY INFORMATION: Public comment was received on proposed rules involving these seasons and was addressed in the September 19, 1989 Federal Register (54 FR 38614). In that document, final frameworks were published that would allow these seasons. However, there were several errors and omissions in the September 28, 1989 Federal Register (54 FR 39940), prescribing the late open seasons,

hunting hours, hunting areas, and daily bag and possession limits for certain migratory game birds in the United States. The corrections involve no change in the contents of prior proposed or final frameworks.

PART 20—[AMENDED]

The following corrections are made in Migratory Bird Hunting; Late Seasons, and Bag and Possession Limits for Certain Migratory Game Birds in the United States published in the September 28, 1989, Federal Register (54 FR 39940).

§ 20.105 [Corrected]

1. On page 39949 under the heading *Illinois*, subheading "Canada geese(2)(3):" is corrected to read "Geese (2):" with bag and possession limits of 5 and 10, respectively, and followed by a line to read "Canada(3):".
2. On page 39953 under the heading *Wisconsin*, the bag and possession limits for Coots are corrected to read "5" and "10", respectively.
3. On page 39955 under the heading *Colorado*, the bag and possession limits for Geese in the North Park Unit are corrected to read "2" and "4", respectively.
4. On page 39957 under the heading *Texas*, the subheading "Ducks (except masked duck)" is corrected to read "Ducks:".
5. On page 39961 under the heading *Colorado*, the bag and possession limits for geese in Mesa County are corrected by deleting "6 geese per season".
6. On page 39961 under the heading *Colorado*, the subheading "Gunnison County, Saguache City, west of the Continental Divide" is corrected to read "Gunnison County, Saguache County, west of the Continental Divide".
7. On page 39963 under the heading *Washington*, under the subheading "Brant:" a line is added to read "Pacific County only (14)" with season dates of "Dec. 9, 13, 16, 20, and 23." and bag and possession limits of "2" and "4" respectively.
8. On page 39964 following footnote (13) a line is added to read "(14) Brant killed in Pacific County must be checked at the Willapa National Wildlife Refuge by 6 pm on the day of the kill."

Dated: November 14, 1989.

Richard N. Smith,
Acting Director.

[FR Doc. 89-27269 Filed 11-20-89; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register

Vol. 54, No. 223

Tuesday, November 21, 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. 57; Docket No. 7419S]

General Crop Insurance Regulations; Fresh Plum Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the General Crop Insurance Regulations (7 CFR part 410), effective for the 1990 and succeeding crop years, by adding a new section, 7 CFR 401.146, the Fresh Plum Endorsement. The intended effect of this rule is to provide the provisions of crop insurance protection on plums in an endorsement to the general crop insurance policy.

DATES: Written comments, data, and opinions on this proposed rule should be received not later than December 21, 1989, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250.

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: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is established as September 1, 1994.

John Marshall, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive

Order 12291 because it will not result in: (a) An annual effect on the economy of \$100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons and will not have a significant economic impact on a substantial number of small entities.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

FCIC proposes to add to the General Crop Insurance Regulations (7 CFR part 401), a new section to be known as 7 CFR 401.146, the Fresh Plum Endorsement, effective for the 1990 and succeeding crop years, to provide the provisions for insuring plums.

FCIC is soliciting public comments on this proposed rule for 30 days following publication in the Federal Register. Written comments should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250.

All written comments received pursuant to this proposed rule will be available for public inspection and copying in the Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington,

DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 401

Crop insurance, Fresh plums.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the General Crop Insurance Regulations (7 CFR part 401), proposed to be effective for the 1990 and succeeding crop years, as follows:

1. The authority citation for 7 CFR part 401 continues to read as follows:

Authority: 7 U.S.C. 1506, 1516.

2. 7 CFR part 401 is amended by adding a new section to be known as 7 CFR 401.146, Fresh Plum Endorsement, effective for the 1990 and succeeding crop years, to read as follows:

§ 401.146 Fresh Plum Endorsement.

The provisions of the Fresh Plum Crop Insurance Endorsement for the 1990 and subsequent crop years are as follows:

Federal Crop Insurance Corporation

Fresh Plum Endorsement

1. Causes of Loss

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

- (1) Adverse weather conditions;
- (2) Earthquake;
- (3) Fire;
- (4) Wildlife;
- (5) Volcanic eruption;
- (6) An insufficient number of chilling hours to effectively break dormancy; or
- (7) Failure of the irrigation water supply due to an unavoidable cause occurring after insurance attaches;

Unless these causes of loss are excepted, excluded, or limited by the actuarial table or section 9 of the general crop insurance policy.

b. In addition to the causes of loss not insured under section 1b of the general crop insurance policy, we will not insure against any loss of production due to:

- (1) Fire, where weeds and other forms of undergrowth have not been controlled or tree pruning debris has not been removed from the orchard;
- (2) Disease or insect infestation unless specifically caused by adverse weather;
- (3) Fruit cullage caused by: Green; overripe; undersize condition; and mechanical damage which causes rejection of the crop at the packing house; or

(4) Inability to market as a direct result of quarantine, boycott, or refusal of any entity to accept or harvest production unless production has actual physical damage due to a cause specified in subsection 1.a.

2. Insured Crop and Acreage

a. The crop insured will be plums grown for fresh market fruit or processing for which we provide a guarantee and premium rate;

b. In lieu of the provisions of subsection 2e of general crop insurance policy, we do not insure any plum acreage:

(1) Which is not irrigated;

(2) On which the trees have not reached the fifth growing season after being set out;

(3) Which has not produced at least 200 lugs fresh market production in the preceding crop year unless the acreage is inspected by us and approved for coverage;

(4) For which production records acceptable to use for at least the previous crop year are not provided;

(5) Which we consider not acceptable;

(6) Which is interplanted with another crop, unless we inspect such acreage and give our approval in writing;

(7) On which is grown a type or variety not established as adapted to the area; excluded by the actuarial table; not regulated for plums by the California Tree Fruit Agreement, a related crop advisory board or the State;

(8) From which the fruit is harvested directly by the public; or

(9) If the orchard practices carried out are not in accordance with the orchard practices for which the premium rates have been established.

3. Report of Acreage, Share, Type and Practice (Acreage Report)

The acreage report must be filed on or before January 31. You must report the crop type in addition to the information required by section 3 the general crop insurance policy for the acreage report.

4. Production Reporting, Coverage Level, Prices for Computing Indemnities, and Production Guarantees

a. In addition to the production report required in section 4 of the general crop insurance policy, you must report:

(1) The number of bearing trees;

(2) The number of trees planted per acre;

(3) Tree damage or use of production practices which has or may reduce the yield from previous levels; and

(4) If the number of bearing trees (fifth growing season and older) is reduced more than 10% from the preceding calendar year (In such event, the production guarantee will be reduced 1 percent, through adjustment to your average yield for each 1 percent reduction in excess of 10 percent).

b. You may select only one coverage level and price election for plums for the crop year.

5. Annual Premium

The annual premium is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time insurance attaches, times any applicable premium adjustment factor contained in the actuarial table because you did not select optional units.

6. Insurance Period

In lieu of the provisions in section 7 of the general crop insurance policy, coverage begins for each crop year on February 1, following our inspection and determination of acceptability. Insurance ends at the earliest of:

- Total destruction of the insured crop;
- Harvest;
- The date harvest would normally start;
- Final adjustment of a loss; or
- September 30 of the crop year.

7. Units

Plum acreage grown on non-contiguous land that would otherwise be one unit, as defined in section 17 of the general crop insurance policy, may be divided into more than one unit if, for each proposed unit, you maintain written, verifiable records of acreage and harvested production for at least the previous crop year.

If you have a loss on any unit, production records for all harvested units must be maintained and be provided to us. Production that is commingled between optional units will cause those units to be combined.

8. Notice of Damage or Loss

In lieu of the notices required in section 8.a. (2), (3), and (4) of the general crop insurance policy, in case of damage or probable loss you must give us written notice within 72 hours of the date of damage and indicate the causes of damage and whether a claim for indemnity is probable. Notwithstanding the previous sentence, if damage occurs within 72 hours of or during harvest, immediate notice stating the cause of damage and probability of a claim must be given to us. If a notice has been given, we must be notified of the expected time of harvest at the time of notice or not later than 72 hours before harvest begins.

9. Claim for Indemnity

In addition to section 9 of the general crop insurance policy:

a. The indemnity will be determined separately for each unit of plums by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of plums to be counted;

(3) Multiplying the remainder by the price election; and

(4) Multiplying this result by the insured share.

b. The total production (standard lug equivalent) (see section 12.d.) to be counted for a unit will include all production harvested, and all appraised production. Such production must meet U.S. #1 standards as modified (before the date insurance attaches) by the latest California Tree Fruit Agreement Publication for fresh plums.

(1) Mature production of fresh plums damaged by insurable causes within the insurance period that could be marketed for any use as other than fresh packed plums, will be determined by multiplying the number of tons that could be marketed by the value per ton of fruit or \$50.00 per ton, whichever is greater, and dividing that result by the highest price election available for the type. This result will be the number of standard lug equivalents to be considered as production to count.

(2) Appraised production to be counted will include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes;

(b) Not less than the applicable guarantee for any acreage which is abandoned or destroyed by you without our prior written consent; and

(c) Any appraised production on unharvested acreage.

(3) Any appraisal we have made on insured acreage will be considered production to count unless such appraised production is:

(a) Not harvested before the harvest of plum becomes general in the county and is reappraised by us;

(b) Further damaged by an insured cause and is reappraised by us; or

(c) Harvested.

(4) The amount of production of any unharvested plums may be determined on the basis of orchard appraisals conducted after the end of the insurance period or discountinuation of harvest. We may appraise and consider as production to count, any insured fruit remaining on acreage not clean harvested.

(5) We may delay final appraisal until the extent of damage can be determined.

c. In the absence of acceptable records to determine the disposition of harvested plums, we may elect to determine such disposition and the amount of such production to be counted for the unit.

d. You must authorize us in writing to examine and obtain any records pertaining to production and marketing of any plums, whether insured or uninsured, whether this crop year or prior crop years, from the broker, shipper, advisory board, marketing order or any other source we deem necessary.

10. Cancellation and Termination Dates

The cancellation and termination dates are January 31.

11. Contract Changes

The date by which contract changes will be available in your service office is October 31 preceding the cancellation date. Acceptance of any change will be conclusively presumed in the absence of notice from you to cancel the contract.

12. Meaning of Terms

For the purpose of Plum crop insurance:

a. "Appraisal" means an estimate of the potential production determined by our representative using our prescribed procedures.

b. "Crop Year" means the period beginning with the date insurance attaches and extending through the normal harvest time, and will be designated by the calendar year in which the insured plums are normally harvested.

c. "Harvest" means the picking of mature plums from the trees by hand or machine.

d. "Lug" means a packed container of fresh plums weighing 28 pounds. All fresh production to count of varying lug sizes will be converted to standard lug equivalents on the basis of 28 pounds of packed plums.

Done in Washington, DC, on October 30, 1989.

John Marshall,
Manager, Federal Crop Insurance
Corporation.

[FR Doc. 89-27262 Filed 11-20-89; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 405

[Amdt. 3; Docket. No. 7474S]

Apple Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Apple Crop Insurance Regulations (7 CFR part 405), effective for the 1990 and succeeding crop years, by changing the policy to provide that premium reduction gained by insureds through good insuring experience will extend beyond the present 1990 crop year expiration. The intended effect of this rule is to allow a continuation of good experience discount for all present policyholders who are eligible for a premium reduction while FCIC reviews the entire good experience discount issue for all policyholders.

DATES: Written comments, data, and opinions on this proposed rule must be submitted not later than December 21, 1989, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC, 20250.

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: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is April 1, 1990.

John Marshall, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) an annual effect on the economy of \$100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical

region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons and will not have a significant economic impact on a substantial number of small entities.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Under the provisions of subsection 5.c. of the Apple Crop Insurance Regulations (7 CFR part 405), an insured may be eligible for a premium reduction in excess of 5 percent based on that individual's insuring experience through the 1984 crop year under the terms and conditions contained in the apple crop insurance policy in effect for the 1985 crop year. The insured will continue to receive the benefit of such reduction subject to several conditions, one of which being that no premium reduction will be retained after the 1991 crop year.

The FCIC Board of Directors has suggested that the present premium reduction be continued, and directed that a study be made of the entire premium reduction for good experience issue as it might apply to all policyholders.

Accordingly, FCIC proposes to amend the apple crop insurance policy to allow a continuation of the good experience discount provision so that no premium reduction will be retained after the 1991 crop year.

FCIC is soliciting public comment on this proposed rule for 30 days following publication in the *Federal Register*. Written comments received pursuant to this proposed rule will be available for public inspection and copying in the Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of

Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 405

Crop insurance, Apples.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the Apple Crop Insurance Regulations (7 CFR part 405), proposed to be effective for the 1990 and succeeding crop years, as follows:

PART 405—[AMENDED]

1. The authority citation for 7 CFR part 405 is amended to read as follows:

Authority: 7 U.S.C. 1506, 1516.

2. 7 CFR 405.7.(d) is amended by revising subsection 5.c.(1) to read as follows:

§ 405.7 The application and policy.

(d) * * *
5. * * *
c. * * *
(1) No premium reduction will be retained after the 1991 crop year;

Done in Washington, DC on October 30, 1989.

John Marshall,
Manager, Federal Crop Insurance
Corporation.

[FR Doc. 89-27267 Filed 11-20-89; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 415

[Amdt. 1; Docket No. 7388S]

Forage Production Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Forage Production Crop Insurance Regulations (7 CFR Part 415), effective for the 1991 and succeeding crop years, by: (1) adding insurance period ending dates for additional states; and, (2) providing that the premium reduction gained by insureds through good insuring experience will extend beyond the 1989 crop year expiration. The intended effect of this rule is to provide end of insurance dates in states recently added to the forage production crop insurance program, and to allow a continuation of good insuring experience

discount for all present policyholders who are eligible for a premium reduction while FCIC reviews the entire good experience discount issue for all policyholders.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than December 21, 1989, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250.

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: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is September 1, 1994.

John Marshall, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of \$100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons and will not have a significant impact on a substantial number of small entities.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and

safety. Therefore, neither an Environmental Assessment nor an Environment Impact Statement is needed.

FCIC proposes to amend the Forage Production Crop Insurance Regulations (7 CFR part 415), effective for the 1991 and succeeding crop years, to provide an end of insurance period for states recently added to the program, and provide that the premium reduction gained by insureds through good insuring experience will extend beyond the 1989 crop year expiration.

FCIC is soliciting public comment on this proposed rule for 30 days following publication in the *Federal Register*. Written comments on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250.

Written comments received pursuant to this proposed rule will be available for public inspection and copying in the Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 415

Crop insurance, Forage production.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the Forage Production Crop Insurance Regulations (7 CFR part 415), proposed to be effective for the 1991 and succeeding crop years, as follows:

PART 415—[AMENDED]

1. The authority citation for 7 CFR part 415 is revised to read as follows:

Authority: 7 U.S.C. 1506; 1516.

2. 7 CFR part 415 is amended in section 5 by revising paragraph c.(1) and in section 7 by revising and reissuing paragraphs a. and b. to read as follows:

§ 415.7 The application and policy.

* * * * *

(d) * * *

5. Annual premium.

* * * * *

c. * * *

(1) No premium reduction will be retained after the 1991 crop year.

* * * * *

7. Insurance period.

a. Insurance attaches on acreage with an adequate stand:

(1) for the calendar year following the year of seeding on:

(a) February 1 for spring-seeded forage in California;

(b) April 15 for spring-seeded forage in Colorado, Idaho, Nebraska, Nevada, Oregon, Utah, and Washington;

(c) May 22 for spring-seeded forage in Iowa, Minnesota, Montana, New Hampshire, New York, North Dakota, Pennsylvania, Wisconsin, Wyoming and all other states;

(d) October 16 for fall-seeded forage in all states except California; and

(e) December 16 for fall-seeded forage in California.

(2) for subsequent years on:

(a) October 16 in all states except California; and

(b) January 1 in California.

b. Insurance ends at the earliest of:

(1) total destruction of the forage crop;

(2) removal from the windrow or the field;

(3) final adjustment of a loss; or

(4) the following dates of the calendar year in which the majority of the forage is normally harvested:

(a) All states except California..... October 15;

(b) California..... December 31.

Done in Washington, DC, on October 31, 1989.

John Marshall,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 89-27268 Filed 11-20-89; 8:45 am]

BILLING CODE 3410-08-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operations of Federal Credit Unions; Credit Union Service Contracts

AGENCY: National Credit Union Administration ("NCUA").

ACTION: Proposed amendment.

SUMMARY: As part of its ongoing regulatory review policy NCUA has reviewed § 701.26 of its regulations ("Credit Union Service Contracts"). NCUA has received few questions on the regulation since it was last amended in 1982. Major modification appears unnecessary. The Board is proposing one clarifying change.

DATE: Comments must be received by February 20, 1990.

ADDRESS: Send comments to Becky Baker, Secretary of the Board, National Credit Union Administration, 1776 G Street, N.W., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Julie Tamulevitz, Staff Attorney, at the above address, or telephone: 202/682-9630.

SUPPLEMENTARY INFORMATION:**Paperwork Reduction Act**

The proposed regulation does not contain any paperwork requirements. The provision in the regulation that credit union service contracts be in writing is consistent with ordinary business practice.

Background Information

Section 701.26 of NCUA's Rules and Regulations (12 CFR 701.26), "Credit Union Service Contracts," was last amended in 1982. The regulation authorizes a Federal credit union ("FCU") to contract for assets or services which relate to its daily operations. The regulation covers an FCU's contracts with third party vendors and other organizations offering services to credit unions. The regulation also allows one FCU to represent other credit unions in contractual arrangements with a third party and authorizes the sharing of fixed assets.

NCUA has received few questions on this regulation since its 1982 amendment. Since the regulation appears to be working, the Board does not believe that major modification is necessary. The one question that has been asked is whether the regulation authorizes an FCU itself to provide services and activities to other credit unions. Generally, it does not. The services and activities are to be provided by third parties with whom the FCU contracts. The Board is proposing to amend § 701.26(a) to clarify this point.

While § 701.26 does not generally authorize an FCU to provide services to other credit unions, the Board notes that, pursuant to various express powers in the FCU Act and the incidental powers clause (section 107(16) of the FCU Act, 12 U.S.C. 1757(16)), an FCU can provide certain services to other FCU's. For example, an FCU can, on a short-term basis, rent out excess space in its building pursuant to its authority to purchase, hold, and dispose of property (see section 107(4) of the FCU Act, 12 U.S.C. 1757(4)), and the incidental powers clause). Similarly, an FCU has the limited authority under the incidental powers clause to sell data processing capacity in excess of the FCU's immediate needs.

The NCUA Board welcomes comments on the proposed amendment as well as on any other issues.

Regulatory Procedures**Regulatory Flexibility Act**

The NCUA Board has determined and certifies that the proposed amendment, if adopted, will not have a significant economic impact on a substantial number of small credit unions.

Accordingly, the Board has determined that a Regulatory Flexibility Analysis is not required.

Executive Order 12612

Section 701.26 of NCUA's Rules and Regulations applies only to FCU's.

List of Subjects in 12 CFR Part 701

Credit unions, Service contracts, Contracts.

By the National Credit Union Administration Board on November 13, 1989.
Becky Baker,
Secretary of the Board.

Accordingly, NCUA is proposing to amend its regulations as follows:

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1755, 1756, 1757, 1759, 1761a, 1761a, 1766, 1767, 1782, 1784, 1787, and 1789.

In addition, § 701.31 is also authorized by 15 U.S.C. 1601 et seq., 42 U.S.C. 1782 and 42 U.S.C. 3601-3610.

2. Section 701.26 is revised to read as follows:

§ 701.26 Credit Union Service Contracts.

(a) A Federal credit union may act as a representative of and enter into a contractual agreement with one or more credit unions or other organizations for the purpose of sharing, utilizing, renting, leasing, purchasing, selling, and/or joint ownership of fixed assets or engaging in activities and/or services which relate to the daily operations of credit unions. Contracts for activities and services are limited to those where the service/activity is to be provided by a third party to a credit union and/or other parties. Agreements must be in writing, and shall advise all parties subject to the agreement that the goods and services provided shall be subject to examination by the NCUA Board to the extent permitted by law.

(b) Where any agreement calls for, or requires, the payment in advance of the actual or estimated charges for more than 3 months, such payment shall be deemed an investment in a credit union service organization and subject to the limitations delineated in sections 107(7)(I) and 107(5)(D) of the Federal Credit Union Act (12 U.S.C. 1757(7)(I) and 1757(5)(D)).

[FR Doc. 89-27244 Filed 11-20-89; 8:45 am]

BILLING CODE 7535-01-M

12 CFR Part 701**Organization and Operations of Federal Credit Unions; Retirement Benefits for Employees of Federal Credit Unions**

AGENCY: National Credit Union Administration.

ACTION: Request for comments.

SUMMARY: The National Credit Union Administration ("NCUA") Board, as part of its periodic review of its regulations, has reviewed § 701.19—Retirement Benefits for Employees of Federal Credit Unions. The Board does not believe that the regulation is in need of modification. The NCUA Board requests comments on whether any amendments should be made to § 701.19.

DATE: Comments must be received on or before February 20, 1990.

ADDRESS: Send comments to Becky Baker, Secretary of the Board, National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Michael McKenna, Staff Attorney, at the above address, or telephone: (202) 682-9630.

SUPPLEMENTAL INFORMATION: A Paperwork Reduction Analysis is not required since this section contains no paperwork requirements.

Background

Section 701.19 states that Federal credit unions (FCU's) are authorized to provide retirement benefits to employees and compensated officers. Since FCU's do not have general trust powers, the rule sets forth those limited situations where an FCU can occupy the position of trustee or custodian with respect to retirement accounts. The rule also requires that any FCU which occupies the position of fiduciary must provide for appropriate liability insurance. In 1986, Congress changed the types of retirement plans FCU's could offer their employees and officers. Prior to 1986, FCU's could offer deferred compensation plans pursuant to Internal Revenue Code section 401(k). Pursuant to the Tax Reform Act of 1986, tax-exempt employers, including Federal credit unions, who choose to offer deferred compensation plans must do so pursuant to Internal Revenue Code section 457. Section 457 of the Internal Revenue Code provides that if a deferred compensation arrangement qualifies as an "eligible deferred compensation plan", the employees are not taxed on the deferred amounts or any income attributable to it until the compensation is paid or otherwise made

available to the employee. To be eligible, the arrangement must meet the requirements set forth in Internal Revenue Code section 457(b).

Section 701.19 was last reviewed in 1983. (See 48 FR 55423 (6/13/89).) At that time, a technical amendment was made to the rule and it remains in that form today. The NCUA receives few, if any, inquiries concerning the interpretation of § 701.19. The NCUA has reviewed § 701.19 and does not believe any further changes are necessary at this time. Although the NCUA Board does not believe any changes are necessary, the NCUA Board invites public comment on any recommended changes to § 701.19.

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board certifies that § 701.19 does not have a significant impact on a substantial number of small credit unions. Accordingly, the NCUA Board has determined that a Regulatory Flexibility Analysis is not required.

Executive Order 12612

This regulation applies only to federally-chartered credit unions. Any amendment to the regulation would have no effect on the regulation of state-chartered credit unions.

List of Subjects in 12 CFR Part 701.19

Credit unions, Retirement plans, Trustee.

By the National Credit Union Administration Board on November 13, 1989.
Becky Baker,

Secretary of the Board.

[FR Doc. 89-27245 Filed 11-20-89; 8:45 am]

BILLING CODE 7535-01-M

12 CFR Part 724

Trustees and Custodians of Pension Plans

AGENCY: National Credit Union Administration.

ACTION: Proposed rule.

SUMMARY: The National Credit Union Administration ("NCUA") Board, as part of its periodic review of its regulations, has reviewed Part 724. The proposed rule authorizes Federal credit unions to offer self-directed IRA and Keogh accounts and act as the custodian of such accounts. The proposed rule is being added to reflect the guidance issued in Interpretive Ruling and Policy Statement Number 85-1.

DATE: Comments must be received on or before February 20, 1990.

ADDRESS: Send comments to Becky Baker, Secretary of the Board, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Michael McKenna, Staff Attorney, at the above address or telephone: (202) 682-9630.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The Office of Management and Budget has approved the collection requirements contained in part 724 of NCUA's Regulations (OMB No. 3133-0035) relating to Federal credit unions acting as trustees and custodians of pension plans. The proposed rule is within these collection requirements.

Background

Part 724 was last reviewed in 1981. At that time, the regulation was redesignated by NCUA. (See 43 F.R. 47437, September 28, 1981) No other changes have occurred. The NCUA receives few, if any, inquiries concerning the interpretation of part 724.

Part 724 allows Federal credit unions (FCU's) to act as custodians for Individual Retirement and Keogh Accounts provided that the funds are invested in share or share certificate accounts in the FCU. The regulation also requires that the plan provide for the appointment of a successor trustee other than a Federal credit union.

Interpretative Rule and Policy Statement 85-1

In 1985, the NCUA Board issued Interpretive Rule and Policy Statement 85-1 ("IRPS 85-1") (See 50 Fed. Reg. 48176 (11/22/85)). IRPS 85-1 permits Federal credit unions to offer and serve as trustee or custodian of IRA and Keogh accounts where all funds are initially deposited in a share or share certificate account at the FCU and any subsequent transfers of such funds are solely at the discretion and direction of the FCU member establishing the account. The proposed rule will incorporate this authorization to permit FCU's, at the direction of the member, to facilitate transfers of IRA or Keogh funds to other assets when the FCU is the trustee or custodian of the account.

As stated in the preamble to IRPS 85-1, the establishment of self-directed IRA and Keogh accounts at FCU's will require an FCU to engage only in custodial duties, with no exercise of investment discretion. Further, an FCU is not permitted to provide investment advice. An FCU simply arranges for the purchase or sale of assets upon the instructions of the member. The IRA or Keogh participants bear the risks of

their investment decisions. The part of the IRA or Keogh account invested in other than shares or share certificates at the FCU is not insured by the National Credit Union Share Insurance Fund. An FCU should take appropriate measures to ensure that this fact is understood by the member.

IRPS 85-1 did not authorize FCU's to handle member orders to buy or sell securities or to otherwise engage in activities that would require registration by the FCU as a broker-dealer and trigger related responsibilities under Securities and Exchange Commission regulations and Federal securities laws. The proposal also does not authorize this type of activity. Thus, in order to offer self-directed IRA and Keogh accounts to members, and to serve as custodian or trustee for such accounts, it will be necessary for an FCU to have an arrangement with a securities broker-dealer, pursuant to which the broker-dealer receives all buy and sell orders from the member and executes the securities trade.

The NCUA Board invites comments on all aspects of part 724.

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board certifies that the proposed rule, if made final, should not have a significant impact on a substantial number of small credit unions. The proposed rule simply clarifies FCU's existing authority. Accordingly, the NCUA Board has determined that a Regulatory Flexibility Analysis is not required.

Executive Order 12612

This regulation applies to federally-chartered credit unions. Any amendment to the regulation would have no effect on the regulation of state-chartered credit unions.

List of Subjects in 12 CFR part 724

Credit union, Trustees, Pension plans.

By the National Credit Union Administration Board on November 13, 1989.
Becky Baker,
Secretary of the Board.

Accordingly, NCUA proposes to amend 12 CFR Part 724 as follows:

PART 724—[AMENDED]

1. The authority citation for part 724 is revised to read as follows:

Authority: 12 U.S.C. 1766 and 1787.

2. Section 724.1 is revised to read as follows:

§ 724.1 Federal Credit Unions Acting as Trustees and Custodians of Pension Plans.

A Federal credit union is authorized to act as trustee or custodian, and may receive reasonable compensation for so acting, under any written trust instrument or custodial agreement created or organized in the United States and forming part of a pension plan which qualifies or qualified for specific tax treatment under section 401(d) or 408 of the Internal Revenue Code, for its members or groups of its members, provided the funds of such plans are invested in share accounts or share certificate accounts of the Federal credit union. A Federal credit union is authorized to serve as custodian for self-directed IRA and Keogh accounts if funds are initially deposited in a share or share certificate account in the Federal credit union. All funds held in a trustee or custodial capacity must be maintained in accordance with applicable laws and rules and regulations as may be promulgated by the Secretary of Labor, the Secretary of the Treasury, or any other authority exercising jurisdiction over such trust or custodial accounts. The Federal credit union shall maintain individual records for each participant which show in detail all transactions relating to the funds of each participant or beneficiary.

[FR Doc. 89-27247 Filed 11-20-89; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Airspace Docket No. 89-AWP-24]

Proposed Revision of Point Mugu, CA, Control Zone**AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to revise the description of the Point Mugu, California, control zone. This action would eliminate the assumption by Point Mugu of the Oxnard-Ventura control zone when it is not effective.

DATE: Comments must be received on or before January 1, 1990.

ADDRESS: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace and Procedures Branch, AWP-530, Docket No. 89-AWP-24, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The official docket may be examined in the Office of the Regional Counsel, Western-Pacific Region, Federal Aviation Administration, Room 6W14, 15000 Aviation Boulevard, Lawndale, California.

An informal docket may also be examined during normal business hours at the Office of the Manager, System Management Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT:

Daniel K. Martin, System Management Specialist, System Management Branch, AWP-530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (213) 297-0166.

SUPPLEMENTARY INFORMATION:**Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 89-AWP-24." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for commenters will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the System Management Branch, Air Traffic Division, 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal

Aviation Administration, System Management Branch, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2a which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.171 of part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the description of the Point Mugu, CA, control zone. Currently, Point Mugu assumes control of the Oxnard-Ventura County control zone when Oxnard Tower and weather service terminate operations. Since weather reporting service, which is a requirement of a control zone, will be available, control of Oxnard-Ventura will be terminated. The 700 foot transition area surrounding Oxnard-Ventura will provide sufficient controlled area for conduct of instrument approach procedures.

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

List of Subjects in 14 CFR Part 71

Aviation Safety, Control Zones

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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

Authority: 49 U.S.C. 1348(a), 1345(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) [Revised Pub. L. 97-449, January 12, 1983]; 14 CFR 11.69.

2.

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Point Mugu, CA [Revised]

Within a 5-mile radius of NAS Point Mugu (lat. 34°07'05"N., long. 119°07'20"W.) and within the arc of a 12-mile radius circle centered on the Point Mugu TACAN, extending clockwise from the 200° radial to the 252° radial.

Issued in Los Angeles, California, on October 31, 1989.

Jacqueline L. Smith,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 89-27283 Filed 11-20-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 89-ASO-38]

Proposed Alteration of VOR Federal Airway V-179; Georgia

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the description of VOR Federal Airway V-179 by extending the airway from Dublin, GA, to Brunswick, GA, via a direct route. A study of air traffic in that area revealed a need for a direct airway to save fuel and to improve flight planning. This action would reduce controller workload.

DATE: Comments must be received on or before January 2, 1990.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASO-500, Docket No. 89-ASO-38, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue SW., Washington, DC.

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

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation

Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 89-ASO-38." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to extend VOR Federal Airway V-179 from Dublin, GA, direct to Brunswick, GA. A study of air traffic activity revealed a

need for a direct airway between Dublin and Brunswick to improve traffic flow in this area. This action would save fuel and reduce controller workload. Section 71.123 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

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

List of Subjects in 14 CFR Part 71

Aviation safety, VOR federal airways.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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

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

§ 71.123 [Revised]

2. Section 71.123 is amended as follows:

V-179 [Revised]

From Brunswick, GA; Dublin, GA, to INT. Dublin 309°T(310°M) and Athens, GA, 222°T(222°M) radials.

Issued in Washington, DC, on November 8, 1989.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 89-27282 Filed 11-20-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71**[Airspace Docket No. 89-ASW-45]****Proposed Establishment of Transition Area; Taylor, TX****AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a transition area at Taylor, TX. The development of a new VOR/DME-A standard instrument approach procedure (SIAP), utilizing the Austin Very High Frequency Omnidirectional Radio Range/Tactical Air Navigation (VORTAC), has made this proposal necessary. The intended effect of this proposal is to provide adequate controlled airspace for all aircraft executing this new SIAP to the Taylor Municipal Airport. Coincident with this proposal would be the changing of the status of the Taylor Municipal Airport from visual flight rules (VFR) to instrument flight rules (IFR).

DATE: Comments must be received on or before January 5, 1990.

ADDRESS: Send comments on the proposal in triplicate to: Manager, System Management Branch, Air Traffic Division, Southwest Region, Docket No. 89-ASW-45, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530.

The official docket may be examined in the office of the Assistant Chief Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Bruce C. Beard, System Management Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530; telephone: (817) 624-5561.

SUPPLEMENTARY INFORMATION:**Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments

on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 89-ASW-45." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the office of the Assistant Chief Counsel, 4400 Blue Mound Road, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, System Management Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of the Federal Aviation Regulations (14 CFR part 71) to establish a transition area at Taylor, TX. The development of a new VOR/DME-A SIAP, utilizing the Austin VORTAC, has made this proposal necessary. The intended effect of this proposal is to provide adequate controlled airspace for all aircraft executing this new SIAP to the Taylor Municipal Airport. The proposed Taylor, TX, Transition Area will not infringe upon the existing Austin, TX, Transition Area or any other existing transition area. Coincident with this proposal would be the changing of the status of the Taylor Municipal Airport from VFR to IFR. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant

rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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

Authority: 49 U.S.C. 1346(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) [Revised Pub. L. 97-449, January 12, 1983]; 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Taylor, TX [New]

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Taylor Municipal Airport (latitude 30°34'12" N, longitude 97°27'00" W.)

Issued in Fort Worth, TX, on October 31, 1989.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 89-27284 Filed 11-20-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 75**[Airspace Docket No. 89-AGL-15]****Proposed Alteration of Jet Route J-18****AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the description of Jet Route J-18 between St. Joseph, MO, and Joliet, IL. The realignment would allow for more efficient handling of air traffic departing the Chicago metropolitan area.

DATE: Comments must be received on or before January 2, 1990.

ADDRESSES: Send Comments on the proposal in triplicate to: Manager, Air Traffic Division, AGL-500, Docket No. 89-AGL-15, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

The official docket may be examined in the Rules Docket, weekday, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue SW., Washington, DC.

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

FOR FURTHER INFORMATION CONTACT: Jesse B. Bogan, Jr., Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9253.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made:

"Comments to Airspace Docket No. 89-AGL-15." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

FAA is considering an amendment to part 75 of the Federal Aviation Regulations (14 CFR part 75) to alter the description of Jet Route J-18 between St. Joseph, MO, and Joliet, IL. The realignment would allow for more efficient handling of air traffic departing the Chicago metropolitan area. Section 75.100 of part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

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

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 75 of the Federal Aviation Regulations (14 CFR part 75) as follows:

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

1. The authority citation for part 75 continues to read as follow:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g)

(Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 75.100 [Amended]

2. Section 75.100 is amended as follows:

J-18 [Amended]

By removing the words "to Moline, IL," and substituting the words "Bradford, IL; to Joliet, IL."

Issued in Washington, DC, on November 8, 1989.

Harold W. Becker,
Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 89-27285 Filed 11-20-89; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[PS-19-89]

RIN 1545-AN30

Treatment of Partnership Liabilities; Allocations Attributable to Nonrecourse Liabilities

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the rules and regulations portion of this issue of the *Federal Register*, the Internal Revenue Service is issuing temporary regulations concerning the treatment of partnership liabilities and the allocation of deductions attributable to nonrecourse debt. The temporary regulations reflect changes to the applicable tax law made by section 79 of the Tax Reform Act of 1984. The text of the temporary regulations also serves as the comment document for this notice of proposed rulemaking.

DATES: Written comments and requests for a public hearing must be delivered or mailed by January 22, 1990.

ADDRESS: Send comments and requests for a public hearing to: Internal Revenue Service, Attn: CC:CORP:T:R (PS-19-89), Room 4429, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Mary Munday, 202-377-9470 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations in the Rules and Regulations portion of this

issue of the **Federal Register** amend the Income Tax Regulations (26 CFR Part 1) under sections 752 and 704(b) of the Internal Revenue Code of 1986.

For the text of the temporary regulations, see T.D. 8274 published in the Rules and Regulations portion of this issue of the **Federal Register**. The preamble to the temporary regulations explains the amendments to the regulations.

Pursuant to the extension of time published in the **Federal Register** for Tuesday, June 20, 1989, (54 FR 25878), comments and requests for a public hearing on PS-229-84 must be delivered or mailed by January 22, 1990.

Special Analyses

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. Chapter 5) and the Regulatory Flexibility Act (5 U.S.C. Chapter 6) do not apply to these regulations, and, therefore, a final Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of the proposed rulemaking for the regulations was submitted to the Administrator of the Small Business Administration for comment on their impact on small business.

Comments and Request for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably a signed original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying in their entirety. A public hearing will be scheduled and held upon written request by any person who submits written comments on the proposed rules. Notice of the time and place for the hearing will be published in the **Federal Register**.

Michael J. Murphy,
Acting Commissioner of Internal Revenue.

[FR Doc. 89-27105 Filed 11-20-89; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration 30 CFR Part 75

Belt Entry Ventilation Review; Extension of Comment Period

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Extension of comment period.

SUMMARY: The Mine Safety and Health Administration (MSHA) is extending the period for public comment on the Agency's report of findings and recommendations regarding belt conveyor entry ventilation in underground coal mines.

DATE: Written comments must be received on or before February 9, 1990.

ADDRESS: Send comments to the Office of Standards, Regulations and Variances, MSHA, Room 631, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA, (703) 235-1910.

SUPPLEMENTARY INFORMATION: On August 25, 1989, (54 FR 35356) MSHA announced the availability of a report of findings and recommendations regarding belt conveyor entry ventilation in underground coal mines. Belt conveyor entry ventilation and related matters addressed in the new report are subjects of MSHA's proposed ventilation standards for underground coal mines. The Agency is currently preparing the final rule and believes that public comments on these issues will be useful in drafting the final rule.

Based upon requests from the mining community, the original deadline for submitting comments was extended from September 25, 1989, to November 27, 1989. Due to additional requests, the deadline is further extended to February 9, 1990. All interested parties are encouraged to submit comments prior to this date.

Dated: November 17, 1989.

William J. Tattersall,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 89-27473 Filed 11-20-89; 8:45 am]

BILLING CODE 4510-45-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 71

[OST Docket No. 8; Notice 89-23]

RIN 2105-AB55

Standard Time Zone Boundary in State of Kansas; Proposed Relocation

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice of proposed rulemaking.

SUMMARY: At the request of the Board of Commissioners of Kearny County, Kansas, DOT proposes to relocate the boundary between mountain and central time in the State of Kansas in order to place the entire county in the central time zone. Public comment on whether this proposal would "serve the convenience of commerce" is invited. In addition, we invite comment on the appropriate effective date for the change, if a final rule is adopted.

DATES: Comments must be received by January 22, 1990, to be assured of consideration. Comments received after that date will be considered to the extent practical. If the time zone boundary is changed as a result of this rulemaking, the expected effective date is 2 a.m. MST Sunday, April 1, 1990. We request comment, however, on making the change effective 2 a.m. MST, Sunday, October 28, 1990, in order to minimize the inconvenience of moving the clock forward two hours.

Public hearing. The public hearing will be held Thursday, November 30, 1989 at 7 p.m. (MST). The public hearing will be chaired by a representative of DOT. The hearing will be informal and will be tape-recorded for inclusion in the docket. Persons who wish to express opinions or ask questions at the hearing do not have to sign up in advance or give any prior notification. To the greatest extent practicable, the DOT representative will provide an opportunity to speak for all those wishing to do so. Priority will be accorded those who have not previously spoken.

ADDRESS: Comments should be sent to Documentary Services Division, Attention: OST Docket No. 8, Department of Transportation, C-55, Room 4107, Washington, DC 20590. Persons who wish acknowledgement

that their comments have been received should include a self-addressed stamped postcard, on which the Docket Clerk will note the date and time of receipt.

The public hearing will be held at the following location: The Memorial Building, 207 North Main Street, Lakin, Kansas.

FOR INFORMATION CONTACT:

Joanne Petrie, Office of the Assistant General Counsel for Regulation and Enforcement, U.S. Department of Transportation, Room 10424, 400 Seventh Street SW., Washington, DC 20590. (202) 9306.

SUPPLEMENTARY INFORMATION:

Background

Under the Standard Time Act of 1918, as amended by the Uniform Time Act of 1966 (15 USC 260-64), the Secretary of Transportation has authority to issue regulations modifying the boundaries between time zones in the United States in order to move an area from one time zone to another. The standard in the statute for such decisions is "regard for the convenience of commerce and the existing junction points and division points of common carriers engaged in interstate or foreign commerce."

Time Observance in Kansas: Current Situation

The State of Kansas is currently in both the central and mountain time zones. Although most of the state is in the central time zone, all of Sherman, Wallace, Greely and Hamilton Counties, and most of Kearny County, are located in the mountain time zone. Kansas is not unique in spanning two time zones or in having split observance within the county. A total of twelve States are in two time zones, and eleven counties are split by time zone boundaries.

Time Observance in Kansas: History

The appropriate time zone for western Kansas has been the subject of some debate since time zones were first established. The time zone boundary was initially set by the Interstate Commerce Commission in 1919 (51 ICC 273, 555), and amended by the Commission in 1927 (129 ICC 209). The 1927 amendment moved the southern end of the boundary, south of Dodge City, westward to the Colorado border, and placed in the central zone Stanton, Grant, Haskell, Morton, and Stevens Counties, and portions of Gray, Ford, Seward, Meade and Clark Counties that had previously been in the mountain zone. These divisions were based on "the points at which the more important lines of railroad changed from one standard time to another."

In 1967, in response to a Joint Resolution of the State Legislature

signed by the Governor of Kansas, the Department proposed to place all of Kansas in the central time zone and solicited public comments. Three-quarters of the approximately 2,000 comments filed opposed the change, and the Department withdrew the proposal.

In 1969, DOT conducted another proceeding in response to requests from local government officials, businessmen, and residents. The Department proposed to extend the central time zone to include all but the five western counties in Kansas. Over 6,000 comments, a majority supporting the change, were filed. It is interesting to note that nearly 20 percent of the population of Kearny County filed comments, with a ratio of 2.6 to 1 of the comments favoring retention of mountain time.

One month after that final rule was effective, the Department received a petition by 216 voters of Unified School District #218. The petition asked the Department to move the central time zone boundary from the Kearny County line to the school district line. The Department granted the petition and proposed placing the eastern third of Kearny County in the central time zone, and western two-thirds of the county in the mountain time zone. The NPRM noted that "While it is the policy of the Department to establish time zone boundaries along State or county lines, so far as possible, it should be noted that Kearny County presents a unique problem because of Deerfield's nearness to and its social and economic ties with Garden City, a community of significant size a few miles to the east in the Central time zone, and because of its corresponding remoteness from Lakin." Public comments were nearly unanimous in support of the proposal. In addition, the Board of County Commissioners wrote to the Department and stated that the proposed change would not present any problems in the administration of county government, and that the informal observance of two time zones within the county had not, in the past, presented any problems. The Department made the requested change in 1970.

The Current Proposal

The Board of County Commissioners of Kearny County passed a resolution requesting the Department of Transportation to move the central standard time zone line westward to include all of Kearny County. The resolution noted that the major industries of the county currently operate on central time and that the change would unify the whole county. A "straw poll" conducted in the county by the County Commissioners indicated that a majority (61 percent) of those

people expressing their opinions favored the change. The resolution found that it would "serve the convenience of commerce" to move the time zone boundary and called upon the Department to make the change effective October 29, 1989. In a follow-up letter, the representative of the County Commissioners noted that all the state offices and businesses located to the east of the county operate on central time, and that the time difference results in the loss of up to three hours per day in telephone communication time. Both major gas production companies located in Kearny County operate their plants and schedule their field employees on central time. All three of the major feedlots in Kearny County operate on central time. All of the radio and television programming that is broadcast into the County is done so on a central time schedule. Finally, the letter noted that the school system entered into a cooperative agreement with other school systems in the area to obtain satellite television programming for classroom use. The letter noted that because part of the county is on mountain time, there have been numerous scheduling difficulties in implementing programming.

Procedure for Changing a Time Zone Boundary

Under the DOT procedures to change a time zone boundary, the Department will generally begin a rulemaking proceeding if the highest elected officials in the area make a prima facie case for the proposed change. The petitioners have made this showing. In this notice of proposed rulemaking, DOT is proposing to make a change and is requesting public comment. In order to gather the most complete information, we will be holding a public hearing in Kearny County. The decision of whether to actually make the change in Kearny County will be based upon the information received at the hearings, written comments and other information placed in the docket. Persons supporting or opposing the change should not assume that the change will be made merely because DOT is making the proposal.

As is usual in time zone proceedings, DOT reserves the right to grant more or less than what the Board of County Commissioners has requested. It is possible that the information gathered as part of this proceeding will support a time zone boundary change different from what is currently proposed. For example, the information gathered in this proceeding may support moving only part of the county, moving parts of adjoining counties, or making no time

change at all. In addition, it is possible that the information may support moving other areas in western Kansas. DOT is free to act accordingly, and interested persons should direct their comments to these alternatives.

Impact on Observance of Daylight Saving Time

This time zone proposal does not affect the observance of daylight saving time (DST). Under the Uniform Time Act of 1966, as amended, the standard time of each time zone in the United States is advanced one hour from 2:00 a.m. on the first Sunday in April until 2:00 a.m. on the last Sunday in October, except in any State that has, by law, exempted itself from this observance. A State in more than one time zone may have its exemption apply only to that part of the State that is in the more easterly time zone. Kansas has not exempted itself, in whole or in part, from observing daylight saving time. This proceeding will not affect any daylight saving time observance in Kansas.

Regulatory Impact

I certify under the criteria of the Regulatory Flexibility Act that this proposal, if adopted as a final rule, would not have a significant economic impact on a substantial number of small entities because of its highly localized impact. Furthermore, it is not a major rule under Executive Order 12291, nor a significant rule under DOT Regulatory Policies and Procedures, 44 FR 11034, for the same reason. The economic impact is so minimal that it does not warrant preparation of a full regulatory evaluation. The proposal has also been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and I have determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Because of the local impact of this proposal, we will, however, be soliciting the views of the local and state governments. Finally, I have determined that this rulemaking is not a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act and that an environmental impact statement is not required.

List of Subjects in 49 CFR Part 71

Time.

In consideration of the foregoing, DOT proposes to amend title 49, Code of Federal Regulations, part 71 as follows:

(1) Authority for part 71 continues to read:

Authority: Secs. 1-4, 40 Stat. 450, as amended; sec. 1, 41 Stat. 1446, as amended; secs. 2-7, 80 Stat. 107, as amended; 15 U.S.C. 260-267.

(2) Revise paragraph (d) of § 71.7 to read as appears below:

§ 71.7 Boundary line between central and mountain zones.

(d) *Kansas-Colorado.* From the junction of the west line of Hitchcock County, Nebraska, with the Nebraska-Kansas boundary westerly along that boundary to the northwest corner of the State of Kansas; thence southerly along Kansas-Colorado boundary to the north line of Sherman County, Kansas; thence easterly along the north line of Sherman County to the east line of Sherman County; thence southerly along the east line of Sherman County to the north line of Logan County; thence westerly along the north line of Logan County to the east line of Wallace County; thence southerly along the east line of Wallace County to the north line of Wichita County; thence westerly along the north line of Wichita County to the east line of Greeley County; thence southerly along the east lines of Greeley County and Kearny Counties; thence westerly along the south line of Hamilton County to the Kansas-Colorado boundary; thence southerly along the Kansas-Colorado boundary to the junction of that boundary with the north boundary of the State of Oklahoma.

Issued in Washington, DC, on November 15, 1989.

Phillip D. Brady,

General Counsel.

[FR Doc. 89-27258 Filed 11-16-89; 10:15 am]

BILLING CODE 4910-62-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1314

[Ex Parte No. 290; Sub-No. 6]

Amendments to Rail Carrier Cost Recovery Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notice of the discontinuance of proceeding.

SUMMARY: In comments received in response to the Advance Notice of

¹ As a result of the Commission's action in Ex Parte No. 444, *Electronic Filing of Tariffs*, 54 FR 42959, new regulations in 49 CFR Part 1314 became effective November 8, 1989, for rail carriers. 49 CFR 1314.17 is the new regulation dealing with rail carrier cost recovery tariffs.

Proposed Rulemaking for this proceeding, (53 FR 31720, August 19, 1988) the publisher of the Rail Carrier Cost Recovery (RCCR) tariffs indicated that it sought an opportunity to demonstrate its willingness to give more consideration to the user public in the preparation and publication of the RCCR tariffs. Consequently, the Commission announced that further action on the proposal would be held in abeyance until September 5, 1989. During this 180-day period Commission staff would monitor the RCCR tariff filings and review any additional complaints filed by the tariffs' users. In view of the limited number of new complaints and our finding that most of the concerns which prompted the complaints and this proceeding have been alleviated, we will discontinue the proceeding.

DATE: This proceeding is discontinued effective November 21, 1989.

FOR FURTHER INFORMATION CONTACT:

Lawrence C. Herzig, (202) 275-7358, or Charles E. Langyher, (202) 275-7739, [TDD for hearing impaired, (202) 275-1721.]

SUPPLEMENTARY INFORMATION: In 1988 the Commission's staff received informal criticism from users of the Rail Carrier Cost Recovery (RCCR) tariffs asserting that the tariffs had become extremely cumbersome to follow and apply. Considering this, the Commission issued an Advance Notice of Proposed Rulemaking seeking comments and recommendations from interested parties regarding the manner in which information was being conveyed in the RCCR tariffs.

Comments were received which offered many suggestions for improvements of the tariffs. In light of those comments the publisher of the tariffs indicated its intent to make the tariffs more "user friendly." To allow the publisher the opportunity to demonstrate its intentions, we withheld further action for 180 days—until September 5, 1989. The notice of that decision, published at 54 FR 9863, stated that staff would monitor the RCCR filings during the observation period and analyze the merits of any new complaints filed by the tariffs' users.

On September 12, 1989, the Commission received a statement from the publisher of the RCCR tariffs that details the actions taken to address the concerns of tariff users. In an accompanying letter the publisher indicated that copies of the report were sent to all parties to the proceeding. We have not received any comments or criticisms concerning the statement and

have received very few complaints, either in writing or by telephone, from RCCR tariff users during the 180-day period.

The publisher indicates (and the Commission's staff confirms) that the presentation information in the RCCR tariffs has been considerably improved. Of particular significance: (1) the publisher has significantly reduced the use of partial item amendments in the tariffs (the excessive use of partial amendments was particularly troublesome to tariff users); (2) the indices shown in the tariffs are being presented in a much more useful fashion and users are now being provided with complete and fully updated references to any changes in the commodity listings; and (3) the publisher has adopted, as policy, our earlier suggestion that only five supplements to each RCCR tariff be in effect at any one time and that the amount of supplemental matter not exceed 70 percent of the total pages in the original tariff.

We understand that on occasion the number of carrier instructions for prompt amendments will lead to excessive supplemental matter. However, the publisher indicates that this will usually occur only in the first few weeks that a new RCCR tariff is in effect. Therefore, we are satisfied with the publisher's announced intention of meeting the 5 supplement/70-percent limitations is often as possible. This will be a significant improvement over the situation which existed prior to the initiation of this proceeding. We recognize that to place strict regulatory restrictions on the amount of supplemental matter could impede what is now a highly competitive process.

In view of the noteworthy improvements that have been made and the stated intentions of the publisher, we do not, at this point, see a need to continue this rulemaking. Therefore, we will discontinue the proceeding. Should staff receive future complaints concerning the format of RCCR tariffs, however, this proceeding could be

reopened to consider regulatory remedies.

List of Subjects in 49 CFR Part 1314

Railroads.

This action will not significantly affect the quality of the human environment or energy conservation and it will not have a significant economic impact on a substantial number of small entities.

This notice is issued under authority of 49 U.S.C. 10321 and 10762 and 5 U.S.C. 553.

It is ordered:

1. This proceeding is discontinued.
2. This decision is effective November 21, 1989.

Decided: November 14, 1989.

By the Commission, Chairman Gradison,
Vice Chairman Simmons, Commissioners
Andre, Lamboley and Phillips.

Noreta R. McGee,

Secretary.

[FR Doc. 89-27373 Filed 11-20-89; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register

Vol. 54, No. 223

Tuesday, November 21, 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

Agricultural Stabilization and Conservation Service

1989-1990 Marketing Year Penalty Rate for Puerto Rican Cigar-Filler (Type 46) Tobacco

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of determination: 1989-1990 Marketing Year Penalty Rate for Puerto Rican Cigar-Filler (type 46) Tobacco.

SUMMARY: This notice sets forth the determination of the 1989-1990 marketing year penalty rate for excess Puerto Rican Cigar-Filler (type 46) Tobacco. In accordance with section 314 of the Agricultural Adjustment Act of 1938, as amended, marketing quota penalties for a kind of tobacco are assessed at the rate of seventy-five (75) percent of the average market price for that kind of tobacco for the immediately preceding marketing year.

EFFECTIVE DATE: November 21, 1989.

FOR FURTHER INFORMATION CONTACT: Dennis Daniels, Agricultural Program Specialist, Tobacco and Peanuts Divisions, USDA-ASCS, P.O. Box 2415, Washington, DC 20013, (202) 447-4281.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Department Regulation No. 1512-1 and has been classified as "not major." It has been determined that this rule will not result in: (1) An annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of the United States-based enterprises, to compete

with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this rule applies are: Commodity Loan and Purchases; 10.051, as found in the catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposal rulemaking with respect to the subject matter of this notice.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Discussion: Section 314 of the Agricultural Adjustment Act of 1938, as amended, provides that the rate of penalty per pound for a kind of tobacco that is subject to marketing quotas shall be seventy-five (75) percent of the average market price for such tobacco for the immediately preceding marketing year. The Agricultural Statistics Board, National Agricultural Statistical Service (NASS), U.S. Department of Agriculture determines and announces annually the average market prices for each type of tobacco. All Puerto Rican Cigar-Filler (type 46) Tobacco produced in the immediately preceding year was pledged to the Commodity Credit Corporation under the price support loan program. Consequently NASS market prices are not available. The penalty rate will be based on seventy-five (75) percent of the average loan value of Puerto Rican Cigar-Filler (type 46) Tobacco pledged to the Commodity Credit Corporation under the price support loan program.

Since the determination of the 1989-1990 marketing year rates of penalty reflects only a mathematical computation which is required to be made in accordance with a statutory formula, it has been determined that no further public rulemaking is required.

Accordingly, it has been determined that the 1989-1990 marketing year penalty rate for Puerto Rican Cigar-Filler (type 46) Tobacco subject to marketing quotas is as follows:

RATE OF PENALTY

(1989-1990 Marketing Year)

Kind of tobacco	Cents per pound
Puerto Rican Cigar-Filler (Type 46) Tobacco.....	57

Signed at Washington, DC, on November 14, 1989.

Keith D. Bjerke,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc 89-27247 Filed 11-20-89; 8:45 am]

BILLING CODE 3410-05-M

Commodity Credit Corporation

Proposed Determinations With Regard To Planting of Alternative Approved Non-Program Crops Under the 1990 Production Adjustment Programs

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed determinations.

SUMMARY: The Commodity Credit Corporation (CCC) on April 5 requested comments regarding the planting of approved non-program crops (ANPC) on "0/92" and "50/92" conserving use (CU) and acreage conservation reserve (ACR) acres for the 1990 crops. It was announced on August 7 that the production of ANPC's on land in CU and ACR would not be permitted. However, subsequent interest in this provision has prompted CCC to request additional comments on this issue and to obtain information on the need and net return potential of the ANPC's. Accordingly, CCC will further review this issue to determine the feasibility of planting ANPC's on CU and ACR and whether a charge should be established for the privilege of planting on CU and ACR.

These determinations are made pursuant to the Agricultural Act of 1949, as amended (the "1949 Act").

EFFECTIVE DATE: Comments must be received on or before December 11, 1989.

ADDRESS: Bruce R. Weber, Director, Commodity Analysis Division, USDA-ASCS, Room 3741-South Building, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Orville I. Overboe, Agricultural Economist, Commodity Analysis

Division, USDA-ASCS, Room 3744-South Building, P.O. Box 2415, Washington, DC 20013 or call (202) 447-4418.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512-1 and has been designated as "non-major".

This action has been classified "not major" since implementation of these determinations will not result in: (1) An annual effect on the economy of \$100 million or more, (2) a major increase in costs of prices for consumers, individual industries, Federal, State or local Governments, or geographical region, or (3) significant adverse effects on competition, employment investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It has been determined that this action will not increase the Federal paperwork burden for individual, small businessmen and other persons. CCC is also not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this proposed rule. Therefore, the Regulatory Flexibility Act is not applicable.

It has been determined by environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

This program is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the Notice related to CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

BACKGROUND: On April 5, 1989 (FR Vol. 54, No. 64) a Notice of Proposed Determinations was published which set forth provisions common to the 1990 feed grains, wheat, upland cotton, ELS cotton, and rice price support and production adjustment programs.

Comments were requested as to whether to permit the production of ANPC's on acreage otherwise required to be devoted to CU and ACR under the "0/92" and "50/92" programs and the annual acreage reduction programs. Five respondents favored the planting of ANPC's on CU acres while 10 opposed this provision. There respondents favored planting ANPC's on ACR acres with none opposed.

On August 7 it was announced that the production of ANPC's on land idled

under the various acreage reduction programs will not be permitted for the 1990 crop. However, since this announcement, there has been renewed interest with regard to planting various ANPC's on CU and ACR.

Due to the inflexible planting requirements of the 1949 Act with regard to the program crops, the flexibility to plant non-program crops has been severely restricted. As an example, the national acreage of sunflowers has dropped from a high of 5.6 million acres in 1979-80 to 1.8 million acres for 1989/90. Decreased sunflower production has led to lower sun oil exports and has threatened the economic viability of crushing plants currently in operation.

Permitting the planting of ANPC's on CU and ACR acres would provide additional producer flexibility for 1990 crop plantings. Additionally, the planting of ANPC's on CU and ACR acres would provide increased producer net returns, as well as result in lower CCC program outlays.

In an effort to provide producers with a greater degree on planting flexibility, it has been determined that it may be appropriate to permit the production of ANPC's on "0/92" and "50/92" CU and ACR acreage.

Accordingly, CCC seeks further comments and information on the planting of ANPC's on "0/92" and "50/92" and ACR acres.

a. Planting of ANPC's on "0/92" and "50/92" CU Acreage

Sections 101A(c)(1)(G), 103(c)(1)(G), 105C(c)(1)(I), and 107D(c)(1)(K) provide that the Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, any part of acreage otherwise required to be devoted to CU as a condition of qualifying for payments to be devoted to the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye or commodities for which no substantial domestic production or market exists but that could yield industrial raw material being imported, or likely to be imported into the United States, or commodities grown for experimental purposes (including kenaf), except that the Secretary may permit such acreage to be devoted to such production only if the Secretary determines that:

(1) The production is not likely to increase the cost of the price support program and will not effect farm income adversely; and

(2) The production is needed to provide an adequate supply of the commodity or, in the case of commodities for which no substantial

domestic production or market exists but that could yield industrial raw material and could lead to increased industrial use of such raw material to the long-term benefit of United States industry.

Accordingly, it is proposed to permit the planting of ANPC's on "0/92" and "50/92" acres for the following commodities: Guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, industrial raw material commodities and experimental crops.

It is further proposed to either reduce or eliminate "0/92" and "50/92" program payments for the privilege of planting ANPC's on such acreage. Comments related to this issue should include:

- (1) Whether the Secretary should permit the production of ANPC's on wheat, feed grain, upland cotton and rice program CU and ACR or just on specific program crops.
- (2) Identify the industrial raw material commodities and experimental crops that should be permitted.
- (3) Justification of planting various ANPC's.
- (4) Production cost and market price associated with the ANPC.
- (5) The impact that the production of the ANPC's may have on the existing production of program and non-program crops.
- (6) The availability of processing facilities and marketing opportunities for the various ANPC's.
- (7) Whether the Secretary should charge a fee or reduce the deficiency payment for the privilege of planting on ANPC and if so, how much.
- (8) Other pertinent data.

b. Planting of ANPC's on ACR Land

Sections 101A(f)(3)(B), 103(f)(3), 103(h)(8)(A)(B), 105C(f)(4)(B), and 107D(f)(4)(B) of the 1949 Act provide that the Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of such acreage to be devoted to the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or other commodity, if the Secretary determines that such production is needed to provide an adequate supply of such commodities, is not likely to increase the cost of the price support program, and will not adversely affect farm income.

Accordingly, it is proposed to allow ANPC plantings on ACR. Also, it is further proposed that a change should be levied for such privilege. Comments are requested with regard to this issue.

Consideration will be given to any data, views and recommendations that are received relating to these issues.

Authority: 7 U.S.C. 1441-1, 1444-1, 1444e, 1445b-3; 15 U.S.C. 714b and 714c.

Signed at Washington, DC, on November 15, 1989.

John A. Stevenson,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 89-27246 Filed 11-20-89; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee on the Black Population for the 1990 Census; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463 as amended by Pub. L. 94-409), we are giving notice of a meeting of the Census Advisory Committee on the Black Population for the 1990 Census. The meeting will convene on December 8, 1989 at the Howard Johnson Plaza Hotel, 8500 Annapolis Road, New Carrollton, Maryland 20784.

The Committee is composed of 12 members appointed by the Secretary of Commerce. The Committee provides an organized and continuing channel of communication between the communities they represent and the Bureau of the Census on the problems and opportunities of the 1990 decennial census.

The Committee will draw on the knowledge and insight of its members to provide advice during the planning of the 1990 Census of Population and Housing on such elements as improving the accuracy of the population count, suggesting areas of research, recommending subject content and tabulations of particular use to the populations they represent, expanding the dissemination of census results among present and potential users of census data in their communities, and generally improving the usefulness of the census product.

The agenda for the December 8 meeting that will begin at 8:45 a.m. and end at 5:00 p.m. is a continuation of issues of the meetings held October 26-27, 1989 (see *Federal Register*/Volume 54, No. 192/October 5, 1989). The meeting will cover: (1) Review of Census Bureau responses to Committee recommendations; (2) census promotion update; (3) census evaluation of outreach and promotion products, and other items of discussion.

The meeting is open to the public and a brief period is set aside at the end of the meeting for public comment and questions. Those persons with extensive questions or statements must submit them in writing to the Census Bureau official named below at least 3 days before the meeting.

Person wishing additional information regarding the meeting or who wish to submit written statements may contact Ms. Diana Harley, Decennial Planning Division, Bureau of the Census, Room 3541, Federal Building 3, Suitland, Maryland. (Mailing address: Washington, DC 20233) Telephone: (301) 763-4275.

Dated: November 16, 1989.

C. L. Kincannon,

Deputy Director, Bureau of the Census.

[FR Doc. 89-27356 Filed 11-20-89; 8:45 am]

BILLING CODE 3510-07-M

National Oceanic and Atmospheric Administration

Groundfish of the Gulf of Alaska, Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Notice of public hearings on sablefish limited access alternatives and request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) is soliciting comments on its draft Supplemental Environmental Impact Statement/Regulatory Impact Review (SEIS/RIR) which analyzes limited entry alternatives for the longline sablefish fisheries in the Gulf of Alaska and Bering Sea and Aleutian Islands. The document is available upon request from the Council at the address below.

DATES: Comments are invited through January 2, 1990. See "SUPPLEMENTARY INFORMATION" for dates, times, and locations of the five information sessions followed by public hearings. The Council is scheduled to review public comments and take final action at its January 16-19, 1990, meeting.

ADDRESSES: The draft SEIS/RIR document is available upon request from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510. Comments should be sent to Dick Tremaine, at the Council address.

FOR FURTHER INFORMATION CONTACT: Dick Tremaine, 907-271-2809.

SUPPLEMENTARY INFORMATION: The five information sessions followed by public hearings are scheduled as follows:

1. November 20, 1989, 9:00 a.m., Senior Citizens Center, Kodiak, Alaska.

2. November 27, 1989, 7:00 p.m., City Council Chambers, Petersburg, Alaska.

3. November 28, 1989, 1:30 p.m., Centennial Building, Sitka, Alaska.

4. December 13, 1989, 9:00 a.m., NPFMC, 605 W. 4th Avenue, Third Floor, Anchorage, Alaska.

5. December 19, 1989, 9:00 a.m., NMFS Montlake Lab, Seattle, Washington.

Dated: November 15, 1989.

Richard H. Schaefer,

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

[FR Doc. 89-27230 Filed 11-20-89; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic Fishery Management Council; Postponement of Closed Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The closed meeting of the South Atlantic Fishery Management Council's Scientific and Statistical Selection Committee, scheduled for November 9, 1989, at the Council's headquarters, and previously published at 54 FR 46102, has been postponed. Information regarding rescheduling of the meeting will be published in the *Federal Register* at a later date.

For more information contact Carrie R. F. Knight, Public Information Officer, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407, telephone: (803) 571-4366.

Dated: November 14, 1989.

David S. Crestin,

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

[FR Doc. 89-27231 Filed 11-20-89; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic Fishery Management Council Rescheduling of Closed Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The closed meeting of the South Atlantic Fishery Management Council's Advisory Panel Selection Committee, scheduled for November 9-10, 1989, at the Council's headquarters, and previously published at 54 FR 46103, has been rescheduled. The agenda for the closed meeting has also been revised.

The Committee will meet on November 28, 1989, from 10 a.m., to noon at the Council's headquarters (address

below). Due to the shortened meeting time, only the membership of the Shark Advisory Panel will be reformulated. At a later date and closed session, the remaining advisory panels will be reformulated, and new members selected for the Billfish, King and Spanish Mackerel, Law Enforcement, Snapper/Grouper, Spiny Lobster, Swordfish, and Habitat and Environmental Protection Advisory Panels. Information regarding rescheduling of this meeting will be published in the **Federal Register**.

For more information contact Carrie R. F. Knight, Public Information Officer, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407, telephone: (803) 571-4366.

Dated: November 14, 1989.

David S. Crestin,

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

[FR Doc. 89-27232 Filed 11-20-89; 8:45 am]

BILLING CODE 3510-22-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Mercantile Exchange; Proposed Amendments Relating to the Live Hog Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule changes.

SUMMARY: The Chicago Mercantile Exchange (CME or Exchange) has submitted a proposal to amend a number of the terms and conditions of its live hog futures contract relating to the contract's size, par delivery unit specifications, weight requirements and discounts for deliverable hogs, and locational differentials. In accordance with section 5a(12) of the Commodity Exchange Act and acting pursuant to the authority delegated by Commission Regulation 140.96, the Director of the Division of Economic Analysis (Division) of the Commodity Futures Trading Commission (Commission) has determined, on behalf of the Commission, that these proposals are of major economic significance. On behalf of the Commission, the Division is requesting comment on these proposals.

DATE: Comments must be received on or before December 21, 1989.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity

Futures Trading Commission, 2033 K Street NW., Washington, DC 20581.

Reference should be made to the amendments to the CME live hog futures contract.

FOR FURTHER INFORMATION CONTACT:

Fred Linse, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581 (202) 254-7303.

SUPPLEMENTARY INFORMATION: The live hog futures contract currently specifies a par delivery unit of 30,000 pounds of U.S. No. 1, 2, 3 and 4 grade hogs (barrows and gilts) in the weight range of 210 to 240 pounds. The contract stipulates that the average weight of the hogs in the delivery unit and at least 90 hogs in each delivery unit must fall within the 210 to 240 pound weight range. Delivery units containing live hogs weighing under 210 pounds but not less than 200 pounds and weighing over 240 pounds but not more than 250 pounds are deliverable on the current contract at a discount of 50 cents per hundredweight. Hogs weighing less than 200 pounds or more than 250 pounds are not deliverable on the contract.

The existing provisions of the futures contract also specify seven (7) delivery points. At present, the contract provides for par delivery only at Peoria, Illinois; Futures deliveries at Omaha, Nebraska; Sioux City, Iowa; and East St. Louis, Illinois are at a discount of 25 cents per hundredweight. Deliveries at Kansas City, Missouri; Sioux Falls, South Dakota; and St. Joseph, Missouri are at a discount of 50 cents per hundredweight. Delivery of live hogs at St. Paul, Minnesota is at discount of 75 cents per hundredweight.

The proposed amendments would: (1) Increase the size of the contract's delivery unit from 30,000 pounds to 40,000 pounds; (2) increase the par weight range of deliverable hogs from 210 to 240 pounds to a new par weight range of 230 to 260 pounds; (3) increase from 90 to 150 the number of hogs in a delivery unit which must fall into the par weight range; (4) impose a discount of \$3.00 per hundredweight for delivery of hogs weighing under 220 pounds but not less than 215 pounds; (5) specify a discount of \$1.00 per hundredweight for the delivery of hogs weighing under 230 pounds but not less than 220 pounds and for heavier hogs weighing over 260 pounds but not more than 270 pounds; (6) specify a discount of \$2.00 per hundredweight for the delivery of hogs weighing over 270 pounds but not more than 280 pounds; (7) stipulate that hogs weighing under 215 pounds or over 280 pounds are not deliverable on the futures contract; and (8) allow par

delivery of hogs at Omaha, Nebraska; Sioux City, Iowa; and Sioux Falls, South Dakota as well as at Peoria, Illinois, the existing par delivery point, with no changes in the discounts for the remaining delivery points.

The Exchange maintains that the proposed changes reflect current conditions and practices in the cash hog market. In regard to the proposed increase in the contract's size from 30,000 pounds to 40,000 pounds, the Exchange notes that the standard size truckload of hogs has become larger, making it inconvenient and costly to deliver hogs in units of 30,000 pounds. The CME indicates that transporting hogs in truckload sizes of 40,000 pounds is economically more efficient than in truckloads of 30,000 pounds and that hogs can be safely shipped in 40,000-pound truckloads.

The Exchange submits that increasing the par weight range to 230-260 pounds from 210-240 pounds would reflect the average current commercial slaughter weight of hogs, as packers are slaughtering and producers are marketing hogs at heavier weights. In this respect, the CME notes that data on slaughter hog weights reported by the U.S. Department of Agriculture (USDA) for seven primary hog markets show that the average weekly slaughter weight for the period 1984 to 1988 fluctuated between 230 and 260 pounds. The Exchange also states that increasing to 150 from 90 the number of hogs in a delivery unit which fall within the par weight range is necessary because of the larger proposed contract size, and also because packers are demanding more uniform hogs in addition to heavier hogs. According to the CME, the proposed increase in the number of hogs that must fall within the par weight range will result in fewer hogs falling outside the range of weights which are desirable to packers.

The Exchange maintains that the proposed discounts for hogs that weigh outside the par weight range reflect prevailing cash market price differentials. In this regard, the CME indicates that USDA data on price differentials between heavier hogs (230-250 pounds) and lighter hog (210-220 pounds) for 1988 show discounts for the lighter weight hogs which range from \$0.00 to \$4.00 per hundredweight. The Exchange also indicates that packers have reported discounts ranging from 25 cents to \$3.00 per hundredweight for hogs weighing in excess of the proposed par weight range.

As noted above, the Exchange is proposing to expand the number of the par delivery locations to include Sioux

City, Iowa; Omaha, Nebraska; and Sioux Falls, South Dakota in addition to Peoria, Illinois, as currently specified in the futures contract. The CME indicates that these changes are consistent with prevailing cash market pricing relationships among the contract's delivery points. In particular, the CME indicates that its evaluation of data on cash price differentials between the contract's delivery points indicate that cash prices for hogs at Sioux City, Omaha and Sioux Falls are no longer at a discount to cash prices for hogs at Peoria. In addition, the Exchange notes that above 24 percent of the hog production and 28.2 percent of the U.S. hog slaughter occurs in Iowa and that Sioux City, Omaha and Sioux Falls directly serve the Iowa area. The CME also notes that receipts of salable hogs at Sioux City, Omaha and Sioux Falls are comparable to or greater than receipts of saleable hogs at Peoria.

The CME intends to make the proposed amendments effective for all newly listed contract months following Commission approval.

The Commission is seeking comments on the proposed amendments noted above. In particular, the Commission is requesting comment on the extent to which the proposed changes reflect cash market conditions or practices.

Copies of the proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Copies of the amended terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254-6314.

The materials submitted by the Exchange in support of the proposed amendments may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987)). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW.,

Washington, DC 20581, by the specified date.

Issued in Washington, DC, on November 16, 1989.

Steven Manaster,
Director.

[FR Doc. 89-27307 Filed 11-20-89; 8:45 am]
BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

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

Title, Applicable Form, and Applicable OMB Control Number: Bio Data Questionnaire; ATC Forms 161 and 161A; and OMB Control Number 0701-0118.

Type of Request: Reinstatement.
Average Burden Hours/Minutes Per Response: 30 minutes.

Frequency of Response: On occasion.
Number of Respondents: 11,500.
Annual Burden Hours: 5,750/
Annual Responses: 11,500.

Needs and Uses: These forms are used by field recruiters and Air Force ROTC staff in the processing of Officer Training School and AFROTC applications. The data will be used to help determine applicants' potential adaptability to Air Force commissioned service.

Affected Public: Individuals or households.

Frequency: Continuing.
Respondent's Obligation: Voluntary.
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: November 16, 1989.

L.M. Bynum,
Alternate OSD Federal Register Liaison
Officer, Department of Defense.
[FR Doc. 89-27341 Filed 11-20-89; 8:45 am]
BILLING CODE 3810-01-M

Office of the Secretary

Defense Science Board Task Force on Army Subgroup on Low Observable Technologies

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Army Subgroup on Low Observable Technologies will meet in closed session on December 13, 1989, January 17, February 21, and March 22, 1990, at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will examine and provide advice regarding Army activities in the area.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92-463, as amended (5 U.S.C. App. II (1982)), it has been determined that these DSB Task Force meetings concern matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly these meetings will be closed to the public.

Dated: November 16, 1989.

Linda M. Bynum,
Alternate OSD Federal Register Liaison
Officer, Department of Defense.
[FR Doc. 89-27349 Filed 11-20-89; 8:45 am]
BILLING CODE 3810-01-M

Defense Science Board Task Force on Review of the B-2

ACTION: Change in location of Advisory Committee meeting notice.

SUMMARY: The meeting of the Defense Science Board Task Force on Review of the B-2 scheduled for November 7, at the Pentagon, Arlington, Virginia as published in the *Federal Register* (Vol. 54, No. 194, Page 41495, Tuesday, October 10, 1989, FR Doc. 89-23748) will be held at Edwards Air Force Base, California.

Dated: November 16, 1989.

Linda M. Bynum,

Alternate OSD Federal Register Liaison
Officer, Department of Defense.

[FR Doc. 89-27346 Filed 11-20-89; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Defense Management

ACTION: Cancellation of meeting.

SUMMARY: The meeting notice for the Defense Science Board Task Force on Defense Management scheduled for October 16-17, October 30-31, November 14-15, November 28-29, and December 12-13, 1989 as published in the Federal Register (Vol. 54, No. 189, Page 40474, Monday, October 2, 1989, FR Doc. 89-23106) has been cancelled.

Dated: November 16, 1989.

Linda M. Bynum,

Alternate OSD Federal Register Liaison
Officer, Department of Defense.

[FR Doc. 89-27345 Filed 11-20-89; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Review of the B-2

ACTION: Cancellation of meeting.

SUMMARY: The meeting notice for the Defense Science Board Task Force on Review of the B-2 scheduled for October 16-17, 1989 at Edwards Air Force Base, California as published in the Federal Register (Vol. 54, No. 194, Page 41495, Tuesday, October 10, 1989, FR Doc 89-23748) has been cancelled.

Dated: November 16, 1989.

Linda M. Bynum,

Alternate OSD Federal Register Liaison
Officer, Department of Defense.

[FR Doc. 89-27344 Filed 11-20-89; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Low Observable Technology

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Low Observable Technology will meet in close session on December 5, 1989 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will evaluate low observable technology.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c) (1) (1982), and that accordingly this meeting will be closed to the public.

Dated: November 16, 1989.

Linda M. Bynum,

Alternate OSD Federal Register Liaison
Officer, Department of Defense.

[FR Doc. 89-27348 Filed 11-20-89; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Advanced Naval Warfare Concepts

ACTION: Change in date of Advisory Committee meeting notice.

SUMMARY: The meeting of the Defense Science Board Task Force on Advanced Naval Warfare Concepts scheduled for November 14, 1989 as published in the Federal Register (Vol. 54, No. 177, Page 37968, Thursday, September 14, 1989, FR Doc. 89-21628) will be held on November 20, 1989.

Dated: November 16, 1989.

Linda M. Bynum,

Alternate OSD Federal Register Liaison
Officer, Department of Defense.

[FR Doc. 89-27347 Filed 11-20-89; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electron Devices, Meeting

SUMMARY: Working Group B (Microelectronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATE: The meeting will be held at 0900, Thursday, December 14, 1989.

ADDRESS: The meeting will be held at Palisades Institutes for Research Services, Inc., 2011 Crystal Drive, Suite 307, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Warner Kramer, AGED Secretariat, 2011 Crystal Drive, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military propose to initiate with

industry, universities or in their laboratories. The Microelectronics area includes such programs as integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with section 10(d) of Public Law No. 92-463, as amended, (5 U.S.C. App. II 10(d) (1982)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly, this meeting will be closed to the public.

L.M. Bynum,

Alternate OSD Federal Register Liaison
Officer, Department of Defense.

November 15, 1989.

[FR Doc. 89-27342 Filed 11-20-89; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board

ACTION: Notice of Advisory Committee meetings.

SUMMARY: The Defense Science Board will meet in closed session on February 7-8, May 23-24, and October 17-18, 1990 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Defense Science Board will discuss interim findings and tentative recommendations resulting from ongoing Task Force activities. The Board will also discuss plans for future consideration of scientific and technical aspects of specific strategies, tactics, and policies as they may affect the U.S. national defense posture.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that these Defense Science Board meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1982) and that accordingly these meetings will be closed to the public.

Dated: November 16, 1989.

Linda M. Bynum,

Alternate OSD Federal Register Liaison
Officer, Department of Defense.

[FR Doc. 89-27343 Filed 11-20-89; 8:45 am]

BILLING CODE 3810-01-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Supplemental Environmental Impact Statement (SEIS) for the Indian River County, FL, Beach Erosion Control Project

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The SEIS concerns the Vero Beach Segment of the project. The authorized project includes nourishment to a 1.68 mile segment of beach along Sebastian Inlet State Park and restoration of 1.74 miles of Vero Beach. Restoration and nourishment of Vero Beach will be used to provide protection to beach front properties from wave damage and beach erosion.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and SEIS can be answered by: Mr. William J. Fonferek, (904) 791-1690, Environmental Resources Branch, Planning Division, P.O. Box 4970, Jacksonville, Florida 32201-4970.

SUPPLEMENTARY INFORMATION: 1. A Beach Erosion Control Study for Indian River County, Florida, was authorized by section 304 of the 27 October 1965 River and Harbor Act, Public Law 89-298. A Final Environmental Impact Statement (FEIS) was filed with the Environmental Protection Agency on 12 June 1981. The FEIS addressed the alternative methods of accomplishing the project goals and the impacts associated with those alternatives. The project was authorized by section 501(a) of the Water Resources Development Act of 1986.

2. A Supplemental Design Memorandum and SEIS is currently being prepared for the Vero Beach segment due to newly acquired biological and engineering survey data. Scoping has consisted of several public meetings of interested local citizens. During scoping and coordination with the U.S. Fish and Wildlife Service, the near-shore rock outcrops have been identified as a significant resource. Several alternative design modifications to the authorized project are being considered. Impacts to the outcrops and mitigation for losses of this resource from these alternatives will be addressed in the draft SEIS, to be available for public review by January 1, 1990.

3. Comments on alternatives and environmental concerns are invited from

any affected Federal, State, or local agency, group or individual.

Kenneth L. Denton,

Alternate Army Liaison Officer With the Federal Register.

[FR Doc. 89-27333 Filed 11-20-89; 8:45 am]

BILLING CODE 3710-AJ-M

Department of the Navy

National Environmental Policy Act; Record of Decision To Establish Mid-Atlantic Electronic Warfare Range Within Restricted Airspace R-5306A at BT-11 Piney Island; Carteret County, NC

Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 and the Council on Environmental Quality Regulations (40 CFR Parts 1500-1508), the Department of the Navy announces its decision to modify existing BT-11 range facilities within special use airspace R-5306A to establish the Mid-Atlantic Electronic Warfare Range (MAEWR). The Navy will install electronic threat emitters, associated platforms, and communications data link equipment at Piney Island and Marine Corps Outlying Field Atlantic. The Navy will also install a Tactical Aircrew Combat Training System (TACTS) and effect other planned range improvements that are required for continued safe operation of the range.

These actions are directly related to the Department's overall objective of providing specialized training to achieve and maintain the highest degree of combat readiness for its forces, including tactical aircraft and associated crews.

Advances in technology have allowed the development of air defense measures which require that pilot training include acquisition of skills to detect, identify, and evade the radars that are utilized to guide weapons which threaten the effectiveness and survivability of our pilots. This type of training is referred to as electronic warfare (EW) training. To achieve readiness, attack crews must train in hostile electromagnetic environments similar to those that would be encountered during an actual combat mission. Aircraft survivability depends upon frequent training under such realistic conditions. There is presently, however, a lack of sufficient electronic warfare simulation equipment to provide adequate aircrew training. This shortage is particularly acute in the mid-Atlantic region where significant numbers of Department of the Navy aircraft are based.

The MAEWR will provide a realistic means of training combat aircrews in tactics and survival techniques when attacking a defended target. The threat emitters are state-of-the-art radar simulators that mimic anti-aircraft weapons. The TACTS enables an accurate real time determination of aircraft speed and direction, as well as its yaw, pitch, and roll and will enable scoring the effectiveness of countermeasures taken by the aircraft.

BT-11 was chosen for establishment of the MAEWR by use of a tiered selection process. Locations throughout the East Coast of the United States were initially considered. Screening criteria for potential sites were divided into (1) "essential", (2) "needed" and (3) "ratable" categories. Essential criteria were existing DOD airspace with surface to ceiling restrictions, DOD controlled surface, land background, and location within 150 miles proximity to one major strike or close air support squadron home base. Needed criteria were an impact area and the ability of existing airspace to absorb electronic warfare training without a significant detrimental effect on current mission. Ratable criteria were airspace size, carrying capacity of the range, safety, support facilities, environment, and total cost.

By successive application of the essential criteria and needed criteria, seven possible sites were identified. Applying the ratable criteria, BT-11 was identified as the location best meeting criteria. Environmentally, BT-11/ Piney Island is not as sensitive as two of the remaining locations which would have required significant loss of wetlands acreage to construct access roads through a pocosin and salt marsh. These two sites had other drawbacks. Both had insufficient airspace volume to support EW training. One presented significant safety risks and the other would be unable to accommodate the MAEWR without degrading other types of training. At the same time, BT-11 because of its location in Pamlico Sound is more environmentally sensitive than the four sites on high ground. Of these four, one is utilized to the point that it could not accommodate electronic warfare training without degrading some other type of existing training. Use of this site would also present safety risks as it is adjacent to a high density low altitude airway and the airspace immediately to the north is heavily used by civilian aircraft approaching Orlando and aircraft enroute between the Tampa/Lakeland area and Melbourne. The second site has insufficient airspace volume for

aircraft maneuvering. The third has insufficient airspace volume and an insufficient target area. The fourth has insufficient airspace volume and would be unable to accommodate electronic warfare training without degrading other training.

The "no action" alternative, relocation alternative, and technological alternative were also considered.

BT-11 is located on Piney Island in Carteret County, North Carolina, and consists of 10 fixed and 3 mobile targets. It is operated by Marine Corps Air Station, Cherry Point. Usage of BT-11 for conventional and special weapons delivery practice has been sustained for many years. Water surface restricted areas assure the safety of watercraft operating in adjacent waters. Outlying Field Atlantic is located near the town of Atlantic. It is currently home for the Marines supporting targets at BT-9 and BT-11 and is used for occasional military exercises. Both Piney Island and Outlying Field Atlantic are within Federal Aviation Administration designated special use airspace R-5306A. R-5306A covers 760 square miles from the surface to 17,999 feet. It has been the principal training area for the Second Marine Aircraft Wing, located at Marine Corps Air Station, Cherry Point, North Carolina, for more than thirty years.

BT-11 presently has a helicopter pad, sheltered boat dock, landing craft/barge ramps, scored targets, a road network, and a power distribution system. Threat emitters for the MAEWR at BT-11 will be constructed at the marsh edge within the existing road network. All emitters will be on 10 foot high tripod towers except for two that will be mounted on 60-foot high towers. Approximately 50% of the emitters will be manned. Threat emitters at Outlying Field Atlantic will be on towers at a height sufficient for signals to clear the treeline.

The Draft Environmental Impact Statement (EIS) was filed with the public and EPA in June 1988. As a result of public concerns over noise and electromagnetic radiation, supplements to the Draft EIS were produced and distributed in August and November 1988 respectively. Public information briefings were conducted on December 13 and 14, 1988. Comments were received over a 90-day period, and public hearings were held on February 1 and 2, 1989. As a result of public comments, the MAEWR was modified to further reduce wetlands impact and limit threat emitters to existing federal property.

The major issues identified concerning the installation, associated construction, and operation of the

MAEWR were noise, electromagnetic radiation (EMR), economic impacts, loss of wetlands, bird strikes, access to airspace, and cumulative effects of other Department of Defense projects. The resulting analyses and conclusions reached regarding these issues are summarized as follows:

Operation of the MAEWR will result in a four-hour-per-week increase in the manned operation of the BT-11 range. Range use could increase 10 to 15 percent. Usage would be concentrated in the vicinity of BT-11. Further increases are limited by the finite number of daylight hours, weather conditions, and the number of aircraft that can effectively use the target at one time. Based on the number and types of aircraft using the range, noise would not increase more than 3 dB and may decrease in some areas.

Operation of the MAEWR will produce EMR. Outside the Department of the Navy property, the power densities of the EMR will in all cases be below the 1982 American National Standards Institute (ANSI) standards. They will also be below the lower standards presently proposed. This remains true even in a worstcase analysis in which beams are focused on a single point at zero elevation. The sum of the power densities would still remain within safety limits. In addition, the emitters will be elevated and placed on platforms to further reduce any possible exposure.

Public concern was also expressed regarding possible danger posed by human exposure to EMR within the exposure limits of frequency and specific absorption rate specified by ANSI. After reviewing current literature and consulting specialists in the field of EMR, the Department of the Navy is convinced that there is no scientifically verified report of injury to humans exposed to EMR levels specified in ANSI guidelines. It is therefore concluded that EMR resulting from operation of the MAEWR should not pose a threat to humans. This position comports with a letter of February 2, 1989, from the Region IV of the United States Environmental Protection Agency (filed at Final EIS Volume III, p. 3) which provided in pertinent part that:

Based on our review of biological effects associated with activities noted in the EMR Supplement, we conclude that the exposures resulting from the operation of the MAEWR as described should not cause significant health effects in the general public. This conclusion is based on the determination that exposures in areas accessible to the public will not equal or exceed the 1986 NCRP (National Council on Radiation Protection and Measurement) guideline for the general

public. The NCRP general population guideline is the most restrictive U.S. guideline and limits exposure to a dose rate of 0.08 W/kg. The NCRP guideline for the general public is equal to one-fifth of the 1982 ANSI (American National Standards Institute) guideline.

With regard to public concerns on economic effects of MAEWR implementation, there are too many factors to reliably determine whether aircraft noise or the existence of the MAEWR would have a "chilling effect" (as alluded to by some commentators) on the economic growth in areas underlying R-5306A. There is one report which found that aircraft noise around an urban airport resulted in a small decrease in property values. Military aircraft have been flying in R-5306A since the 1940s. There has been economic growth in the area; however, the effect of noise on that growth cannot be quantified. Complicating analysis of noise as it may affect the area underlying R-5306A are other major factors which are believed to inhibit economic growth, such as expansive wetlands, unsuitable soil for septic systems, lack of wastewater treatment plants, and location within the 100-year flood plain.

The MAEWR has been designed to minimize destruction of wetlands. Construction and operation of the MAEWR and other range improvements will result in the destruction of about 1.7 acres of wetlands. This loss will be mitigated by replacement of wetlands, yielding a zero net loss.

Songbirds and wintering waterfowl, waterbirds, and raptors create a risk of bird strikes within R-5306A. The most active period of feeding for these birds is the dawn and dusk periods at altitudes below 500 feet. The bird population on Piney Island, however, is relatively small. Bird strikes by aircraft using R-5306A are rare and have not resulted in an accident. The Department of the Navy will continue to survey bird strikes at BT-11 for any increase in order to protect the public, crews, and aircraft.

The Marine Corps desires additional information on the specific effects of aircraft noise on migratory birds. To help provide this information, the Marine Corps will cooperate with the United States Fish and Wildlife Service and provide funding and other support to undertake a study which will assess the effects of aircraft noise on migratory waterfowl in R-5306A. This study is being pursued to provide information that will benefit future planning and operations on the Range. The Marine Corps will evaluate the study findings and, as appropriate, modify its

operations consistent with national defense needs.

Marine Corps Air Station Cherry Point, which controls use of R-5306A, has letters of agreement with the North Carolina Departments of Agriculture and Forestry, the North Carolina Division of Fisheries, various Virginia and North Carolina companies, crop dusters, and the Bayboro/Pamlico County Airport lessee. These agreements permit use of R-5306A airspace even when the area is in use by the military. Law enforcement agencies also have access to the airspace.

In response to public requests, the Final EIS provided expanded documentation on the cumulative effects on the North Carolina coastal region brought about by the MAEWR and other military projects. The regionally significant cumulative socio-economic, safety, and natural environment impacts are identified in the final EIS. They include the following potential negative effects:

- Socio-economic impacts from noise and perceived loss of airspace,
- Safety impact from potential air disasters arising from use of existing and proposed special use airspace and military training routes, and
- Natural environmental impacts from disruption of migratory waterfowl feeding and resting and from the loss of wetlands.

The following potential positive regional cumulative effects were identified:

- Socio-economic impact from the generation of jobs,
- Safety impacts from charting special use airspace or military training routes and from controlling aircraft using that airspace, and
- Natural environment impacts from protection of endangered species and preservation and management of their habitat.

All practical means of mitigating impacts of the proposal on environment, including replacement of wetlands, have been included in project development and will be included in design and construction.

In addition to comments on the Draft EIS, the Department of the Navy received comments after publication of the Final EIS. Besides individual comments, agency and organization comments were provided by the Albemarle Commission, the Pamlico County Health Department, the North Carolina Department of Justice, Home on the Range, Inc., the United States Environmental Protection Agency, Carteret County Crossroads, and the Department of Administration of the North Carolina State Clearinghouse.

The Department of the Navy has responded to each party making comments on the Final EIS. Major issues raised in comments on the Final EIS and connected to implementation of the MAEWR and responses thereto may be summarized as follows:

A. Failure to include information and to respond to comments. Council on Environmental Quality regulations implementing NEPA require federal agencies to assess and consider comments. Responses to comments may include, *inter alia*, modifying alternatives, supplementing or modifying analyses, making factual corrections, or explaining why no further response is warranted. The regulations clearly do not require individual discussion of every comment received. The written comment of the North Carolina Department of Justice (NCDOJ) was inadvertently omitted from the Final EIS, as were certain other pages of that document. Those comments and pages were circulated by separate correspondence dated August 23, 1989. The circulation was made to all those who had received the Final EIS. The Final EIS did not contain written responses to the NCDOJ written comments or to oral comments made during public hearings. Although all comments were considered, many were found to parallel those of other state and federal agencies, citizen groups, and individuals. Responses to duplicative comments were considered unnecessary. Nothing in the NCDOJ written comments or the public hearing comments were found to contain significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts. Written responses were made to the NCDOJ on September 8 and 26, 1989.

B. Failure to address mitigation for prior actions and existing operations. Several commentators suggested a requirement to mitigate for on-going operations and for wetland losses from actions occurring in the early 1970's. A number of measures to reduce the noise effects of existing operations on areas underlying R-5306A were also suggested. These effects are not a result of the MAEWR proposal; they occurred or will continue whether or not the MAEWR is implemented. As required, the MAEWR Final EIS provides mitigation for reducing the impacts that will result from that proposal. Several of the suggested measures were in effect prior to the release of the MAEWR Final EIS, e.g., removal of practice ordnance from target areas on BT-11, establishment of minimum operating

altitudes, or requirement to avoid specific areas.

C. Failure to acknowledge interrelationship of Cherry I and Core Military Operating Area (MOA) proposals to the MAEWR. The Department of Navy consistently has stated that the MAEWA proposal is separate from and independent of all other proposals in North Carolina. The purpose of the MAEWR is to provide a realistic means to help aircrews acquire skill in detecting, identifying, and defending against threats from weapons systems that would be used against them in combat. The Core MOA is proposed to help pilots acquire skills in locating and attacking a land target from a seaward location while operating at low altitudes and speeds in excess of 250 knots. The Cherry I MOA is proposed to allow pilots to acquire skills in low altitude subsonic air-to-air combat. A land background is required for such training because during these operations a pilot relies on visual cues (vice his instruments) to safely fly the aircraft. The readily discernible land/sky horizon, depth perception, and geographic points of reference provided by a land background are needed to learn this skill. If the MAEWR proposal is not approved the needs for both the Cherry I and Core MOA's would still exist. The converse is equally true.

D. Failure to adequately address the cumulative impacts of the MAEWR. The cumulative impacts analysis examined effects from implementation of 9 military proposals and one reasonably foreseeable military action, together with current effects from existing facilities and training areas, to determine the extent of regional cumulative impacts. Scoping comments were provided by the State of North Carolina and citizens, and these comments were included in the analysis where valid and reliable data were available. Based on comments on the Draft EIS, the cumulative impacts analysis was expanded to provide improved evaluation of the impacts of the MAEWR proposal. The methodology and bases for conclusions were defined. The analysis followed the guidance contained in *Fritiofson v. Alexander* 772F.2d 1225 (5th Cir 1985). The analysis examined data and trends to draw general conclusions on socio-economic impacts, safety, and the natural environment. This analysis utilized the available, reliable data. Substantial amounts of data were gathered and evaluated in an attempt to make the cumulative impacts analysis as detailed as reasonably possible. To the extent practicable, and to an extent assuring

that further study would not yield different conclusions, the cumulative impacts analysis identifies real and potential regional impacts.

E. Failure to circulate the cumulative impacts analysis for comment. The quality of cumulative impacts analysis in the Draft EIS improved considerably in the Final EIS. Council on Environmental Quality regulations expressly allow an agency to supplement, improve, or modify its EIS analysis. As the expanded cumulative impacts analysis did not involve any significant new circumstances or information relevant to environmental concerns and bearing on the MAEWR or its impacts, it was not circulated for comments as a supplement to the Draft EIS. The cumulative impacts analysis was circulated upon publication of the Final EIS, and several comments were received and responded to as indicated above. The comments provided on the Final EIS and responses thereto have been considered in reaching the decision to proceed with the MAEWR.

F. Failure to address uncertainty of the Navy's jurisdiction within R-5306A over airspace between the surface and 1,200 feet. Restricted airspace from the surface to varying altitudes has existed in the vicinity of Piney Island/BT-11 for more than forty years. The Marine Corps is authorized by the Federal Aviation Administration to exercise control from the surface to 17,999 feet within R-5306A. The areas within R-5306A were the MAEWR would be constructed and where emitters would be located are owned by the Navy. These facts meet the selection criteria. The Federal Aviation Administration has confirmed the Marine Corps' continued use of airspace from the surface to 1,200 feet altitude within R-5603A. It is fully expected that military operations which have been conducted successfully in the past in R-5306A will continue in a manner compatible with limited civilian access.

G. Failure to include or address incomplete or unavailable information, particularly with regard to noise and electromagnetic radiation. Some agency comments demanded additional information either be extracted from existing or partially existing data bases or that new research be conducted. In most instances the data would add little to the description of the affected environment or consequences of the MAEWR proposal. Of a virtually infinite amount of information that could be amassed, there exists a point at which further information becomes insignificant, irrelevant, or redundant. Requirement for a detailed statement on

the environmental impacts of a proposed major federal action arises from the purpose of ensuring that the decision-maker understands the environmental consequences of the action and can, thereby, reach a decision that minimizes adverse impacts. The Final EIS contains sufficient information to permit fulfillment of NEPA's purposes.

The Department of the Navy has used nationally accepted methodology to measure noise impacts. At the request of the State and others, single event sound exposure levels were included in the Final EIS. To the extent available, information about the effects of aircraft noise on humans and animals has been presented. Data on the specific effects of aircraft noise on waterfowl and wildlife is limited. The extensive Federal and state waterfowl areas and waterfowl habitat within R-5306A prompt the Marine Corps to cooperate with the United States Fish and Wildlife Service to develop and implement a study on the effects of aircraft noise on migratory waterfowl.

Analysis of EMR relies on scientific-based consensus. EMR was addressed in a supplement to the Draft EIS, at public information meetings, and at a meeting with state representatives hosted by the United States Environmental Protection Agency at Research Triangle Park, North Carolina. All sides of the EMR issue were presented.

The decision to proceed with the MAEWR was reached after deliberating on the appropriate balance to be struck between furthering the national security of the United States by developing an acutely needed electronic warfare range with the potentially regionally significant incremental socio-economic, safety, and environmental concerns associated with that project. Comparing the de minimus impacts (both local and regional) identified in the MAEWR environmental documentation with the benefit to be gained by training military pilots how to survive in electronic warfare combat situations, the construction and operation of the MAEWR is determined to be in the best interest of the United States. Since the Department of the Navy (DON) does not have a program to oversee the development and utilization of military training facilities (to include military special use airspace) in, above, and near coastal North Carolina, the decision to proceed with a cumulative impacts analysis as part of the MAEWR Final EIS voice the promulgation of a programmatic EIS for all projects and actions in the region is appropriate.

Dated: November 16, 1989.

Sandra M. Kay,
Department of the Navy, Alternate Federal
Register Liaison Officer.
[FR Doc. 89-27317 Filed 11-20-89; 8:45 am]
BILLING CODE 3810-AE-M

CNO Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Technology Surprise Task Force will meet December 8, 1989 from 9 a.m. to 5 p.m., at 4401 Ford Avenue, Alexandria, Virginia. This session will be closed to the public.

The purpose of this meeting is to discuss the possibility of unexpected technological breakthroughs that vastly change warfighting capabilities. The entire agenda of the meeting will consist of discussions of key issues regarding the potential for unexpected technology breakthroughs that could have an acute impact on naval and other military forces. These matters constitute classified information that is specifically authorized by Executive Order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive Order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title, 5, United States Code.

For further information concerning this meeting, contact: Faye Buchman, Secretary to the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 601, Alexandria, Virginia 22302-0268, Phone (703) 756-1205.

Dated: November 17, 1989.

Sandra M. Kay,
Department of the Navy, Alternate Federal
Register Liaison Officer.
[FR Doc. 89-27436 Filed 11-20-89; 8:45 am]
BILLING CODE 3810-AE-M

CNO Executive Panel Advisory Committee; Closed Meeting

Notice was published on November 7, 1989, at 54 FR 46758 that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee on Superconductivity will meet on November 27, 1989 at 4401 Ford Avenue, Alexandria, Virginia. This meeting has been canceled because of operational

necessity. In accordance with 5 U.S.C. 552b(e)(2), the meeting cancellation is publicly announced at the earliest practical time.

Dated: November 16, 1989.

Sandra M. Kay,

Department of the Navy Alternate Federal Register Liaison Officer.

[FR Doc. 89-27318 Filed 11-20-89; 8:45 am]

BILLING CODE 3810-AE-M

CNO Executive Panel Advisory Committee; Closed Meeting

Notice was published on November 7, 1989, at 54 FR 46758 that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee on Superconductivity will meet on December 11-12, 1989 at 4401 Ford Avenue, Alexandria, Virginia. This meeting has been canceled because of operational necessity. In accordance with 5 U.S.C. 552b(e)(2), the meeting cancellation is publicly announced at the earliest practical time.

Dated: November 16, 1989.

Sandra M. Kay,

Department of the Navy Alternate Federal Register Liaison Officer.

[FR Doc. 89-27319 Filed 11-20-89; 8:45 am]

BILLING CODE 3810-AE-M

Privacy Act of 1974; Addition of a New Record System

AGENCY: Department of the Navy, DOD.

ACTION: Notice of a new system of records subject to the Privacy Act.

SUMMARY: The Department of the Navy proposes to add one new system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a).

DATE: This proposed action will be effective without further notice December 21, 1989, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to Mrs. Gwen Aitken, Head, PA/FOIA Branch, Office of the Chief of Naval Operations (OP-09B30), Room 5E521, Department of the Navy, The Pentagon, Washington, DC 20350-2000. Telephone (202) 697-1459, Autovon: 227-1459.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems of records notices inventory subject to the Privacy Act of 1974 have been published in the Federal Register As follows:

51 FR 12908 Apr 16, 1986

51FR 18086 May 16, 1986 (Compilation, changes follow)

51 FR 18884 June 3, 1986

51 FR 30377 Aug 26, 1986
51 FR 30393 Aug 26, 1986
51 FR 45931 Dec 23, 1986
52 FR 2147 Jan 20, 1987
52 FR 2149 Jan 20, 1987
52 FR 8500 Mar 18, 1987
52 FR 15530 Apr 29, 1987
52 FR 22671 Jun 15, 1987
52 FR 45846 Dec 2, 1987
53 FR 17240 May 16, 1988
53 FR 21512 Jun 8, 1988
53 FR 22028 Jun 13, 1988
53 FR 25363 Jul 6, 1988
53 FR 39499 Oct 7, 1988
53 FR 41224 Oct 20, 1988
54 FR 8322 Feb 28, 1989
54 FR 14377 Apr 11, 1989
54 FR 32682 Aug 9, 1989
54 FR 40160 Sep 29, 1989
54 FR 41495 Oct 10, 1989
54 FR 43453 Oct 25, 1989
54 FR 45781 Oct, 1989

The new system report, as required by 5 U.S.C. 552a(r) of the Privacy Act, was submitted on Nov 7, 1989, to the Committee on Governmental Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget (OMB) pursuant to paragraph 4b of Appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated December 12, 1985 (50 FR 52730, December 24, 1985).

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

November 15, 1989.

N12950-7

SYSTEM NAME:

Drug-Free Workplace Records.

SYSTEM LOCATION:

Records are located at the local naval activity or the local servicing civilian personnel offices. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian employees and applicants for employment with the Department of the Navy.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records related to selection, notification, testing of employees and applicants, urine specimens, drug test results, collection authentication and chain of custody documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 100-71 5 U.S.C. 7301; 21 U.S.C. 812; and E.O. 12564, "Drug-Free Federal Workplace" and E.O. 9397.

PURPOSE(S):

The system is established to maintain records relating to the selection and testing of Department of the Navy employees, and applicants for employment, for use of illegal drugs and drugs identified in Schedules I and II of 21 U.S.C. 812.

The records are also used by the employee's Medical Review Official; the administrator of any Employee Assistance Program in which the employee is receiving counseling or treatment or is otherwise participating; and supervisory or management officials within the employee's agency having authority to take adverse personnel action against such employee.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In order to comply with the provisions of 5 U.S.C. 7301, the "Blanket Routine Uses" that appears at the beginning of the Navy's compilation do not apply to this system of records.

To a court of competent jurisdiction where required by the United States Government to defend against any challenge against any adverse personnel action.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records consist of written materials and/or magnetic media.

RETRIEVABILITY:

Records are retrieved by name of employee, applicant for employment, Social Security Number, I.D. number assigned, date of birth, or any combination of these.

SAFEGUARDS:

Records will be stored in secure containers, e.g., safes, locked filing cabinets, etc. Urine specimens will be stored in appropriate locked storage facilities. Access to such records and specimens is restricted. Chain-of-custody and other procedural and documentary requirements of Pub. L. 100-71 and the Department of Health and Human Services Guidelines will be followed in collection of urine samples, conducting drug tests, and processing test results.

RETENTION AND DISPOSAL:

Records are retained for two years and then destroyed by shredding, burning, or erasure in the case of magnetic media.

Urine specimens will be disposed of after six months in an ecologically safe manner.

Written records and test results, together with urine specimens, may be retained up to five years or longer when necessary due to challenges or appeals of adverse actions by the employee.

SYSTEM MANAGER(S) AND ADDRESS:

DON Drug Program Coordinator,
Office of Civilian Personnel
Management, 800 N. Quincy Street,
Arlington, VA 22203-1998.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commanding Officer/Commander of the DON activity or the servicing civilian personnel office at which they are or were employed, or at which they made application for employee, and for which they provided a urine specimen for drug testing.

Individuals must furnish their full name, Social Security Number, the title, series, and grade of the position they occupied or applied for when the drug test was conducted, and the month and year of the test.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Commanding Officer/Commander of the DON activity or the servicing civilian personnel office at which they are or were employed, or at which they made application for employment, and for which they provided a urine specimen for drug testing.

Individuals must furnish their full name, Social Security Number, the title, series, and grade of the position they occupied or applied for when the drug test was conducted, and the month and year of the test.

CONTESTING RECORD PROCEDURE:

The Department of the Navy rules for accessing records, for contesting contents, and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR Part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Records are obtained from the individual to whom the record pertains; DON or contractor employees involved in the selection and notification of individuals to be tested; DON or contractor laboratories that test urine

samples for the presence of illegal drugs, DON or contractor Medical Review Officers; supervisors and managers and other DON officials engaged in administering the Drug-Free Workplace Program; the Civilian Employee Assistance Program, and processing adverse actions based on drug test results.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 89-27350 Filed 11-20-89; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Acting Director, Office of Information Resources Management, invites comments on the proposed information collection request as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before December 21, 1989.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Jim Houser, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to George P. Sotos, Department of Education, 400 Maryland Avenue SW., Room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: George P. Sotos, (202) 732-2174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's to perform its statutory obligations.

The Director, Office of Information Resources Management, publishes this

notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from George Sotos at the address specified above.

Dated: November 15, 1989.

Carlos Rice,

Director for Office of Information Resources Management.

Office of Postsecondary Education

Type of Review: Extension

Title: Application for Grants under the Student Support Services Program

Frequency: Annually

Affected Public: State or local governments; Non-profit institutions

Reporting Burden:

Responses: 800

Burden Hours: 8,000

Recordkeeping Burden:

Recordkeepers: 0

Burden Hours: 0

Abstract: This form will be used by State agencies to apply for funding under the Student Support Services Program. The Department uses the information to make awards.

[FR Doc. 89-27255 Filed 11-20-89; 8:45 am]

BILLING CODE 4000-1-M

DEPARTMENT OF ENERGY

Office of the Secretary

Regional Hearings To Solicit Views From Public Officials and Individuals With Expertise and Interest in the Development of a National Energy Strategy

AGENCY: Office of the Secretary, DOE.

ACTION: Notice of meetings to provide comments on the development of a National Energy Strategy.

SUMMARY: These hearings will be the sixth through eleventh hearings in a series being conducted throughout the country by the Department of Energy to solicit comments from interested parties on a range of energy topics. Oral testimony at these hearings will be presented by invitation only. Written testimony can be submitted by any interested party at either the hearing site

or directly to the Department of Energy, Office of Policy, Planning and Analysis, c/o Mr. Scott Neitzel, 1000 Independence Avenue, SW., Room 7B-143, Washington, DC 20585. Please reference specific hearing(s) and topic(s).

These hearings are designed to solicit information, data, and analysis related to the development of national energy policy and objectives, strategies for achieving them, and the role that the Federal Government should play in meeting national energy, economic, and environmental objectives.

The Department is interested in obtaining specific suggestions as to options and obstacles to efficient production and use of energy. Written comments may address general policies, regulations, economic incentives or disincentives, research and development needs, energy science, technology transfer, education, technical assistance, role of State and Local Government, the role of industry in energy policy development and implementation, or any other issues that would enhance the national dialogue on national energy strategy.

Dates, locations, and topics of the hearings are as follows: December 1, 1989—Providence, RI; "Energy and Productivity: A Northeast Perspective" (factors affecting energy supply and use, and the role of advanced technology). The hearing will be held between 9 a.m. and 3 p.m. at Rhode Island College, Student Union Ballroom, 600 Mount Pleasant Avenue, Providence, Rhode Island.

December 4, 1989—Houston, TX; "Our Domestic Energy Resource Base" (fossil fuel and renewable energy supplies; technological and regulatory factors affecting supply).

December 8, 1989—Omaha, NE; "Agriculture as Consumer and Producer of Energy" (use of energy in crop production and processing; energy crops).

December 11, 1989—Detroit, MI; "Transportation and Energy" (fuel efficiency, advanced technology, and potential for systems changes).

December 13, 1989—Washington, DC; "Energy, Defense, and National Security Interests" (role of stockpiles; role of foreign suppliers, globally and in the Western Hemisphere; international relations; energy interdependence).

December 14, 1989—Atlanta, GA; "Energy and the Environment" (global climate change, reconciling energy and environmental objectives).

All testimony submitted in conjunction with these hearings will be entered into the National Energy Strategy

development record and made available to the public.

A future announcement will be made regarding the specific locations and times for the hearings described in this announcement.

FOR FURTHER INFORMATION CONTACT:

For further information please write or call William H. Hatch, Office of Policy, Planning and Analysis, Department of Energy, Forrestal Building, Room 7B-143, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-4767.

Linda G. Stuntz,

Deputy Under Secretary, Office of Policy, Planning and Analysis, U.S. Department of Energy.

[FR Doc. 89-27474 Filed 11-20-89; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER82-774-014, et al.]

Tapoco, Inc., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

November 9, 1989.

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

1. Tapoco, Inc.

[Docket No. ER82-774-014]

Take notice that on October 31, 1989, Tapoco, Inc. ("Tapoco") tendered for filing with the Commission notification that it had made a further payment to Nantahala Power and Light Company ("Nantahala"), representing interest of \$30,286 on power costs incurred by Nantahala in the year ending June 30, 1989.

Comment date: November 24, 1989, in accordance with Standard Paragraph E at the end of this notice.

2. PacifiCorp, doing business as Pacific Power & Light and Utah Power & Light

[Docket No. ER90-60-000]

Take notice that PacifiCorp, doing business as Pacific Power & Light and Utah Power & Light, on November 7, 1989, tendered for filing, in accordance with § 35.30 of the Commission's Regulations, PacifiCorp's Utah Division (PacifiCorp) Revised Appendix 1 for the state of Idaho and Bonneville Power Administration's (Bonneville) Determination of Average System Cost (ASC) for the state of Idaho (Bonneville's Docket No. 5-A3-8903. The Revised Appendix 1 calculates the ASC for the state of Idaho applicable to the exchange of power between Bonneville and PacifiCorp.

PacifiCorp requests waiver of the Commission's notice requirements to permit this rate schedule to become effective March 10, 1989, which it claims is the date of commencement of service.

Copies of the filing were supplied to Bonneville, the Idaho Public Utilities Commission and Bonneville's Direct Service Industrial Customers.

Comment date: November 24, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. PacifiCorp, doing business as Utah Power & Light Company and Pacific Power & Light Company

[Docket No. ER90-62-000]

Take notice that on November 8, 1989, PacifiCorp, doing business as Pacific Power & Light Company and Utah Power & Light Company (Utah) tendered for filing, in accordance with 18 CFR 35.12, a Power Purchase Agreement Between the Department of Water and Power of the City of Los Angeles (Los Angeles) and Utah Power & Light Company. The Agreement provides that Los Angeles will assume Utah's obligation to purchase its 4% entitlement from the Intermountain Power Project.

Utah requests a waiver of the Commission's notice requirement to permit the Agreement to become effective retroactively on July 1, 1989, the date service commenced.

Copies of this filing were served on the Department of Water and Power of the City of Los Angeles, the California Public Utilities Commission, and the Utah Public Service Commission.

Comment date: November 24, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. Pacific Gas and Electric Company

[Docket No. ER90-59-000]

Take notice that on November 7, 1989, Pacific Gas and Electric Company (PG&E) tendered for filing as Appendix P of the Interconnection Rate Schedule (IRS, FERC Docket No. ER89-475-000), an agreement entitled "Facility Connection Agreement Between Pacific Gas and Electric Company and Sacramento Municipal Utility District" (SMUD).

The Facility Connection Agreement (FCA) fully discharges both parties' rights and obligations with respect to interconnections under several other agreements. The FCA also terminates and supersedes certain provisions of Appendix B of the IRS. The FCA provides for a new three-point interconnection between the parties' electrical systems, allocates costs and ownership of facilities, provides for the exchange and use of certain facilities

and rights-of-way, and establishes a maintenance charge for certain facilities. PG&E has requested an effective date of January, 1990.

Copies of this filing were served upon SMUD and the California Public Utilities Commission. A copy of this filing also is available for public inspection during normal business hours at PG&E's corporate headquarters, located at 77 Beale Street in San Francisco, California.

Comment date: November 24, 1989, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph:

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

Lois D. Cashell,

Secretary.

[FR Doc. 89-27250 Filed 11-20-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 10468-000 Idaho]

Marsh Valley; Availability of Environmental Assessment

November 14, 1989.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR, part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing reviewed the application for a minor license for the proposed Marsh Valley Hydroelectric Project, which would be located on the Portneuf River in Bannock County, near McCammon, Idaho, and prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff analyzed the potential environmental impacts of the proposed project and concluded that approval of the proposed project, with appropriate mitigative measures, 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 at 825 North Capitol Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary

[FR Doc. 89-27253 Filed 11-20-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP90-198-000, et al.]

Sea Robin Pipeline Co., et al.; Natural Gas Certificate Filings

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

1. Sea Robin Pipeline Company

[Docket No. CP90-198-000]

November 9, 1989.

Take notice that on October 31, 1989, Sea Robin Pipeline Company (Sea Robin) Post Office Box 1478, Houston, Texas 77251-1478 filed in Docket No. CP90-198-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a firm transportation service for United Gas Pipe Line Company (United), an existing jurisdictional transportation customer, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Sea Robin states that it was authorized, by Commission order issued February 15, 1977, in Docket No. CP76-418 to transport, on a firm basis, up to 13,650 Mcf of natural gas per day for United. Sea Robin further states that the transportation agreement dated June 24, 1976, provided for a term ending when United ceases purchasing gas in West Cameron Block 586, offshore Louisiana. Sea Robin asserts that it has not transported any gas for United in 1989. Sea Robin is not proposing any facility abandoned herein.

Comment date: November 30, 1989, in accordance with Standard Paragraph F at the end of this notice.

2. Great Lakes Transmission Company

[Docket No. CP90-168-000]

November 9, 1989.

Take notice that on October 30, 1989, Great Lakes Gas Transmission Company (Great Lakes), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket No. CP90-168-000 an application pursuant to section 7(b) of the Natural Gas Act (NGA) for authority to abandon natural gas sales service provided to Natural Gas Pipeline Company of America (Natural), all as

more fully set forth in the application which is on file with the Commission and open to public inspection.

Great Lakes states that by order issued April 30, 1970, in Docket No. CP70-19, 43 FPC 635 (1970), Great Lakes received a certificate of public convenience and necessity to provide a natural gas sales service to Natural; that the present Sales Service Agreement providing for sales service of up to 171,325 Mcf per day was certificated by the Commission's order issued October 21, 1981 in Docket No. CP61-241-000, 17 FERC ¶ 61,065 (1981); that the sales service is provided pursuant to Great Lakes' FERC Gas Tariff, First Revised Vol. No. 1, Rate Schedule CQ-2 and Sales Service Agreement dated November 2, 1981; and that the Sales Service Agreement terminates on November 1, 1990. Great Lakes states that, although it has approached Natural regarding long-term requirements beyond November 1, 1990, Natural has not provided a firm statement of its intention regarding conversion of its sales service to transportation.

Great Lakes states that it neither produces nor gathers natural gas; that it purchases Canadian natural gas from TransCanada PipeLines Limited (TransCanada) for resale to Natural; that Natural negotiates the applicable natural gas pricing directly with TransCanada; and that Great Lakes acts as a conduit of that gas from TransCanada to Natural. Great Lakes states that in recent past, it has unbundled its sales service to contractually recognize and permit former sales customers to continue to negotiate directly with natural gas suppliers, and that Great Lakes currently provides transportation services to such former sales customers.

Great Lakes states that its natural gas purchase arrangements with TransCanada for supplies for Natural terminate on October 31, 1990; that Natural's Sales Service Agreement terminates on November 1990; that Great Lakes anticipates a cessation of its gas merchant function after November 1, 1990; and that Great Lakes would continue as a transporter of gas thereafter. Great Lakes states that because its gas merchant function is anticipated to cease at November 1, 1990, and to ensure proper and economic system operation after the date, Great Lakes must project its system requirements after termination of its merchant function.

Great Lakes states that it is hereby offering to Natural the *pro forma* Transportation Service Agreement attached to the application, which must

be executed within 90 days of the filing date of this application. Great Lakes states that the *pro forma* Transportation Service Agreement is a typical agreement for firm transportation service on Great Lakes' system, and provides for a ten-year term. In the event that Natural executes the *pro forma* Transportation Service Agreement, Great Lakes states that it would supplement its Docket No. CP89-335-000 application to unbundle Natural's sales service. In the event that Natural does not execute the *pro forma* agreement in the time provided for, Great Lakes requests that the Commission grant it authority to abandon its FERC Gas Tariff, First Revised Vol. 1, Rate Schedule CQ-2 natural gas sales service to Natural, effective November 1, 1990.

Great Lakes request that the Commission issue its order authorizing the abandonment on or before May 1, 1990. Great Lakes states that the May 1, 1990 date would provide Natural, if necessary, the opportunity to arrange for alternate sales to transportation services, and would also permit Great Lakes some lead time to determine and appropriate utilization of any released capacity.

Great Lakes states that only a sales service obligation would be abandoned and the facilities would not be abandoned.

Comment date: November 30, 1989 in accordance with Standard Paragraph F at the end of the notice.

3. Sea Robin Pipeline Company

[Docket No. CP90-197-000]

November 9, 1989.

Take notice that on October 31, 1989, Sea Robin Pipeline Company (Sea Robin) Post Office Box 1478, Houston, Texas 77251-1478 filed in Docket No. CP90-197-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a firm transportation service for Natural Gas Pipeline Company of America (Natural), an existing jurisdictional transportation customer, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Sea Robin states that it was authorized, by Commission order issued February 15, 1977, in Docket No. CP76-418 to transport, on a firm basis, up to 12,100 Mcf of natural gas per day for Natural. Sea Robin further states that the transportation agreement dated June 24, 1976, provided for a term ending when Natural ceases purchasing gas in West Cameron Block 586, offshore Louisiana. Sea Robin asserts that by

letter dated February 21, 1989, Natural gave notice of its intent to terminate the transportation agreement. Sea Robin proposes an effective date for the abandonment of the transportation service of February 21, 1989.

Comment date: November 30, 1989 in accordance with Standard Paragraph F at the end of the notice.

4. Southern Natural Gas Company

[Docket No. CP90-176-000]

November 9, 1989.

Take notice that on October 30, 1989, Southern Natural Gas Company (Southern) filed in Docket No. CP90-176-000 an application under section 7(b) of the Natural Gas Act, as amended, and the rules and regulations of the Federal Energy Regulatory Commission (Commission) seeking authorization to abandon transportation of gas for United Gas Pipe Line Company (United), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Southern requests approval to abandon the transportation of natural gas authorized by the Commission in Docket No. CP75-151 on July 19, 1979. The Commission authorized Southern to transport on a firm basis through its capacity rights on Trunkline Gas Company's system up to 20,000 Mcf of gas per day purchased by United from South Marsh Island Blocks 268, 269 and 281, offshore Louisiana, for redelivery to United by displacement at the pipelines' interconnection at Southern's Shadyside Compressor Station near Bayou Sale, Louisiana. Pursuant to the terms of the Transportation Agreement between the parties dated November 18, 1974, as amended, United notified Southern by letter dated May 10, 1989, that its purchases of gas in South Marsh Island Blocks 268, 269 and 281 terminated January 26, 1989, and requested immediate termination of the Transportation Agreement. Southern requests authority to abandon its transportation service for United on the date the Commission issues an order authorizing the abandonment requested herein. Southern further states that it does not propose to abandon any facilities in conjunction with the abandonment this transportation service.

Comment date: November 30, 1989 in accordance with Standard Paragraph F at the end of the notice.

3. Sea Robin Pipeline Company

[Docket No. CP90-199-000]

November 9, 1989.

Take notice that on October 31, 1989, Sea Robin Pipeline Company (Sea Robin) Post Office Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP90-199-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon transportation service for Southern Natural Gas Company (Southern), an existing jurisdictional transportation customer, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Sea Robin states that it was authorized, by Commission order issued February 15, 1977, in Docket No. CP76-418 to transport, on a firm basis, up to 4,550 Mcf of natural gas per day for Southern. Sea Robin further states that the transportation agreement dated June 24, 1976, provided for a term ending when Southern ceases purchasing gas in West Cameron Block 586, offshore Louisiana. Sea Robin asserts that by letter dated January 26, 1989, Southern gave notice of its intent to terminate the transportation agreement effective February 1, 1989. No facilities are proposed to be abandoned, herein.

Comment date: November 30, 1989, in accordance with Standard Paragraph F at the end of this notice.

6. Mid Louisiana Gas Company

[Docket No. CP90-138-000]

November 9, 1989.

Take notice that on October 27, 1989, Mid Louisiana Gas Company (Mid Louisiana), Five Post Oak Park, Suite 800, Houston, Texas 77027, filed in Docket No. CP90-138-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon and remove certain existing compressors and related facilities in its DeSaird Compressor Station in Ouachita Parish, Louisiana, and pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the installation and operation of a new compressor unit and related facilities at the DeSaird Station, all as more fully set forth in the application on file with the Commission and open to public inspection.

Mid Louisiana proposes to remove from the DeSaird Station seven compressor units named in the application and authorized to be abandoned in Docket No. CP87-219-000, 40 FERC ¶ 62,192 (1987), and totaling

8,625 horsepower.¹ Additionally, Mid Louisiana requests authorization to abandon and remove the four remaining original compressor units and related facilities having a total horsepower of 2,725 horsepower. It is stated that the compressor facilities are obsolete, worn out, and may not practically be used at the site. One of the units is described as a Chicago Pneumatic single stage FE-655 compressor with a rating of 525 horsepower. It is stated that this unit is not currently in service at this site and cannot practically and efficiently be applied for any current or contemplated future use by Mid Louisiana. It is further stated that Mid Louisiana plans to sell this compressor to its affiliate, Wintershall Pipeline Corporation, at net book value and to remove this compressor from the DeSaird Station site.

Mid Louisiana further proposes to install at the DeSaird Station one new multi-stage compressor unit, and related facilities, which has approximately 1,150 horsepower. It is stated that the new equipment is needed to provide efficient and adequate compression at the DeSaird Station.

Comment date: November 30, 1989, in accordance with Standard Paragraph F at the end of this notice.

7. Tennessee Gas Pipeline Company

[Docket No. CP90-123-000]

November 9, 1989.

Take notice that on October 25, 1989, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed an application, as supplemented on November 2, 1989, pursuant to section 7(b) of the Natural Gas Act to partially abandon firm sales service to The Inland Gas Company, Inc. (Inland), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that as part of an overall settlement, Tennessee and Inland agreed that Inland would file pursuant to Order No. 490 to reduce the service levels under Tennessee's Rate Schedule CD-2 to 1,000 dt equivalent of natural gas per day, effective September 1, 1989. Tennessee states that on September 28, 1989, Inland filed its report with the Commission as to the agreed-upon permanent abandonment of service.

Comment date: November 30, 1989, in accordance with Standard Paragraph F at the end of this notice.

¹ The proposal in Docket No. CP87-219-000 involved the abandonment of compressor facilities in place. The proposal herein is to abandon the facilities by removal.

8. Transwestern Pipeline Company

[Docket No. CP90-179-000]

November 9, 1989.

Take notice that on October 31, 1989, Transwestern Pipeline Company (Transwestern) 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP90-179-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a certain pipeline loop and to operate certain existing pipeline interconnections and measurement facilities originally installed for emergency use only as jurisdictional facilities in order to increase its operating flexibility in rendering transportation services and in making deliveries of interruptible sales gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Transwestern proposes to construct and operate approximately four miles of 30-inch pipeline loop extending from the existing 30-inch section of its West Texas lateral to the Pyote Processing Plant, all located in Ward County, Texas.

Transwestern further requests that it be authorized to utilize for jurisdictional services other than emergency purposes two interconnections with El Paso Natural Gas Company (El Paso), one in Cibola County, New Mexico and one in Ward County, Texas which were authorized for emergency use only in Docket No. CP69-118-000 (40 FERC 1431) and Docket No. CP70-68-000 *et al* (43 FPC 1052), respectively.

Transwestern states that it would also construct and modify other facilities which would either be non-jurisdictional or would be constructed under Transwestern's blanket certificate issued in Docket No. CP82-534-000. This construction and modifications would take place at Transwestern's WT-2 Compressor Station, its interconnection with Northern Natural Gas Company (Northern) in Ward County, Texas and on its 24-inch low pipeline in Ward County, Texas.

Transwestern estimates the cost of the proposed jurisdictional facilities to be \$2,374,000. Transwestern will finance the project with internally generated funds.

Comment date: November 30, 1989, in accordance with Standard Paragraph F at the end of this notice.

9. Northwest Pipeline Corporation

[Docket No. CP89-312-000]

November 9, 1989.

Take further notice that on October 31, 1989, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP89-312-000 an amendment to its pending application in Docket No. CP89-312-000, originally filed on November 30, 1988, that requested permission and approval to totally abandon service under all of Northwest's sales service agreements under Rate Schedules ODL-1, DS-1 and I-1 of Northwest's FERC Gas Tariff, Volume No. 1, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

The instant amendment revises the original application to withdraw the request for permission to abandon sales services under Rate Schedules ODL-1 and DS-1. Northwest continues to request approval to abandon its Rate Schedule I-1 interruptible sales service of 10,200 Dth of gas equivalent per day under three service agreements with customers, the City of Ellensburg, Washington, Utah Gas Service Company and Western Gas Supply Company.

Comment date: November 30, 1989, in accordance with Standard Paragraph F at the end of this notice.

10. Natural Gas Pipeline Company of America

[Docket No. CP90-181-000]

November 13, 1989.

Take notice that on October 31, 1989, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP90-181-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205), for authorization to operate a sales tap to provide jurisdictional services, including transportation services under Subpart G of Part 284 of the Commission's Regulations, at an existing delivery point at an interconnection with Southern Union Gas Company (Southern Union) a local distribution company, in Hutchinson County, Texas, under the certificate issued in Docket No. CP82-402-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

It is stated that Natural installed one 2-inch tap on its 26-inch Amarillo mainline in Hutchinson County, Texas, at a total cost of \$13,646. Natural

explains that the facilities were constructed on existing right-of-way and placed in service on November 5, 1987 and have been used solely to provide transportation services pursuant to Section 311(a)(1) of the Natural Gas Policy Act of 1978 and Subpart B of Part 284 of the Commission's Regulations. Natural states that based on a typical operating range at the location, the maximum daily capacity of the facilities is from 3,000 Mcf to 4,000 Mcf per day.

It is stated that Natural is currently providing interruptible transportation services at the Hutchinson County, Texas, delivery point under Rate schedule ITS, pursuant to Subpart B of Part 284 of the Commission's Regulations. Natural states that it has received requests to provide transportation services at this delivery point pursuant to Subpart G of Part 284 of the Commission's Regulations and Rate Schedule ITS. Natural states that it would also provide services under Rate Schedule FTS, if requested. Natural states that it has sufficient capacity to provide this service without detriment or disadvantage to Natural's peak day and annual delivery capability.

Comment date: December 28, 1989, in accordance with Standard Paragraph G at the end of this notice.

11. Natural Gas Pipeline Company of America

[Docket No. CP90-182-000]

November 13, 1989.

Take notice that on October 31, 1989, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP90-182-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205), for authorization to operate a sales tap to provide jurisdictional services, including transportation services under Subpart G of Part 284 of the Commission's Regulations, at an existing delivery point at an interconnection with Hoechst Celanese Chemical Group, Inc. (Celanese), an end-user, in Gray County, Texas, under the certificate issued in Docket No. CP82-402-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

It is stated that Natural installed one 4-inch tap on its 30-inch Oklahoma Extension mainline in Gray County, Texas, and 1590 feet of 4-inch lateral interconnecting with Celanese at a total cost of \$41,511. Natural explains that the facilities were placed in service on June 6, 1988 and have been used solely to

provide transportation services pursuant to Section 311(a)(1) of the Natural Gas Policy Act of 1978 and Subpart B of the Commission's Regulations. Natural states that based on a typical operating pressure range at the location, the maximum daily delivery capacity of the facilities is from 20,000 Mcf to 25,000 Mcf per day.

It is stated that Natural is currently providing interruptible transportation services at the Gray County, Texas, delivery point under Rate Schedule ITS, pursuant to subpart B of part 284 of the Commission's Regulations. Natural states that it has received requests to provide transportation services at this delivery point pursuant to subpart G of part 284 of the Commission's Regulations and Rate Schedule ITS. Natural states that it would also provide services under Rate Schedule FTS, if requested. Natural states that it has sufficient capacity to provide this service without detriment or disadvantage to Natural's peak day and annual delivery capability.

Comment date: December 28, 1989, in accordance with Standard Paragraph G at the end of this notice.

12. Viking Gas Transmission Company

[Docket No. CP90-79-000]

November 13, 1989.

Take notice that on October 19, 1989, Viking Gas Transmission Company (Viking), 1010 Milam, Houston, Texas 77002, filed in Docket No. CP90-79-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Poco Petroleum Ltd. (Poco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Viking proposes to transport on an interruptible basis up to 207,450 dt equivalent of natural gas per day for Poco in order to enable Poco to meet its existing market requirements and anticipated market growth. It is stated that Viking would receive the gas for Poco's account at an interconnection with TransCanada Pipelines Ltd. at the U.S.-Canada border near Emerson, Manitoba, and would deliver equivalent volumes for Poco's account at an interconnection with ANR Pipeline in Marshfield, Wisconsin. It is asserted that Viking would charge Poco the rate set forth in Viking's Rate Schedule IT-2. It is explained that existing facilities would be used for the transportation service and that no construction of additional facilities would be required. It is asserted that Poco has the necessary authorization to import gas

from Canada into the United States. It is further asserted that the authorization for any downstream transportation by ANR would be provided under either Section 311 of the Natural Gas Policy Act or pursuant to ANR's blanket certificate.

On November 2, 1989 Viking filed an amendment to its application to correct a mistake, stating that Viking would deliver the gas at designated points in Minnesota and Wisconsin, as stated in the appendix to the original application, instead of at an interconnection with ANR in Marshfield, Wisconsin, as stated originally.

Comment date: December 4, 1989, in accordance with Standard Paragraph F at the end of this notice.

13. Tennessee Gas Pipeline Company

[Docket No. CP90-154-000]

November 13, 1989.

Take notice that on October 27, 1989, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP90-154-000 an application pursuant to section 7(b) of the Natural Gas Act for an order permitting and approving abandonment of a certain gas exchange service with United Gas Pipe Line Company (United), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Tennessee states that the exchange service is currently being performed under the Gas Exchange Agreement (Agreement) entered into with United on August 22, 1975, which is incorporated as Rate Schedule X-45 of Tennessee's Gas Tariff on file with the Commission. Tennessee explains that it no longer derives any significant benefit from the exchange service and, in accordance with the Agreement, has informed United by letter dated October 23, 1989, that it intends to terminate the service on April 1, 1990. Tennessee further explains that the proposed termination date represents a deferral of its cancellation rights under the Agreement and that it was given in consideration for United's agreement not to object to Tennessee's abandonment application. Finally, Tennessee asserts that it has agreed to use its best efforts to execute new transportation agreements to provide United with services similar to those provided under Rate Schedule X-15.

Comment date: December 4, 1989, in accordance with Standard Paragraph F at the end of this notice.

14. CNG Transmission Corporation

[Docket No. CP88-712-002]

November 13, 1989.

Take notice that on October 31, 1989, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP88-712-002 an amendment to the application filed August 23, 1988, as amended, in Docket No. CP88-712-000, pursuant to section 7(c) of the Natural Gas Act, to construct and operate certain pipeline and compressor facilities, and certain sales, transportation, and interruptible storage services to be sold to Virginia Natural Gas, Inc., the City of Richmond, Virginia, Doswell Limited Partnership, and Virginia Electric and Power Company, (collectively Virginia customers) all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

CNG states that it filed in Docket No. CP88-871-000, an application for authority to construct and operate a 78-mile pipeline in Pennsylvania at a total estimated cost of \$76,157,610 to render service to the Virginia customers as proposed in CNG's Docket Nos. CP88-712-000 and CP88-712-001. Texas Eastern Transmission Company (Texas Eastern) subsequently filed a competing application in Docket No. CP89-612-000. It is alleged that Texas Eastern's proposal would have included construction of facilities on its Penn Jersey System for the transportation of gas for CNG. It is averred that CNG and Texas Eastern have negotiated a settlement of the competing applications which would result in (i) the joint filing by CNG and Texas Eastern to expand Texas Eastern's CRP Project, (ii) the instant filing and (iii) the withdrawal by Texas Eastern and CNG of the applications in Docket Nos. CP89-612-000 and CP88-871-000 respectively.

CNG, in this filing, proposes to construct and operate a 6,000 horsepower compressor station and related facilities near Leesburg, Virginia, and a 6,000 horsepower compressor at CNG's Lambert Compressor Station near Lambert, West Virginia. CNG proposes to own measuring and regulating facilities at Texas Eastern's M&R Station 1745 at Chambersburg, Pennsylvania, which Texas Eastern would construct and operate. The two compressors would replace the previously proposed 4,390 horsepower compressor proposed for Doyleburg, Pennsylvania and the 4,390 horsepower compressor proposed for Leesburg, Virginia in the amended application.

It is stated that the estimated cost of the construction of the proposed facilities, including the filing fees, is \$39,346,580. It is further stated, that in addition, CNG would own \$27,073,500 of facilities jointly with Texas Eastern which are included in a companion application in Docket No. CP90-189-000. It is averred that the facility costs would be financed from funds on hand or would be obtained from CNG's parent company, Consolidated Natural Gas Company.

Comment date: December 4, 1989, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

15. Amoco Production Company

[Docket No. CP90-215-000]

November 13, 1989.

Take notice that on November 3, 1989, Amoco Production Company (Amoco), Post Office Box 800, Denver, Colorado 80201, filed in Docket No. CP90-215-000 a petition under Rule 207 of the Commission's Rules of Practice and Procedure (18 CFR 385.207) for a declaratory order that natural gas delivery facilities described as the Converted Line and the New Line will be exempt from the Commission's jurisdiction pursuant to section 1(b) of the Natural Gas Act (NGA), and also gives notice of the scheduling according to which the construction of those lines is intended to commence, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Amoco states that it is drilling numerous wells to increase its production of coal seam natural gas from the Fruitland Coal Formation in southwest Colorado. Amoco states that its plans call for the gas from these new wells, and from existing wells in their vicinity, to be collected to a central point (the Section 25 Station) located in Section 25, Township 34 North, Range 9 West in La Plata County, Colorado. At that station, Amoco states that the gas is to be treated for the removal of carbon dioxide, and is to be dehydrated and compressed up to 900 psi. Amoco will operate the collection system, the CO₂-removal facilities and the dehydration facilities.

Amoco states that the principal transportation outlet for the gas is the interstate transmission system of El Paso Natural Gas Company (EPNG). Amoco states that the Section 25 Station is situated approximately 0.76 mile from the nearest appropriate point of interconnection with that transmission system. Amoco states that it anticipates that the subject gas will be carried

across the 0.76 mile interval by one or both of the two lines, the Converted Line and the New Line, described below.

It is stated that the Section 25 Station is presently served by a 10-inch diameter line which is part of EPNG's San Juan Basin gathering system. Amoco states that EPNG agreed to convey to Amoco a segment of that 10-inch line, namely a segment running from the Section 25 Station to a point on near proximity to the interconnection. Amoco states that it plans for that segment to be converted into a spur feeding gas into EPNG's mainline system at the interconnection. According to Amoco, the converted segment will be referred to as the Converted Line. Amoco states that even after conversion, the line segment in question may, on occasion, be used to carry gas to EPNG's San Juan Basin gathering system. Amoco further states that when the compression facilities planned for the Section 25 Station are fully operational, the Converted Line may carry up to 70 MMcf of natural gas per day (MMcfd).

Amoco also states that it intends to construct, own and operate a 16-inch diameter spur line, the New Line, crossing the 0.76 mile interval and running parallel to the Converted Line. Amoco further states that when the compression facilities planned for the Section 25 Station are fully operational, the New Line may carry up to 180 MMcfd.

Amoco also gives notice that, in the belief that its lines are non-jurisdictional facilities, Amoco intends to begin construction of the New Line as early as the 31st day following the date on which its petition is received at the offices of the Commission. In addition, Amoco states that depending on the availability of interim compression, the work required to change the pipeline acquired from EPNG into the Converted Line could begin as early as that 31st day.

Comment date: December 4, 1989, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

16. Natural Gas Pipeline Company of America

[Docket No. CP90-218-000]

November 13, 1989.

Take notice that on November 7, 1989, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois, 60148, filed in Docket No. CP90-218-000 a request pursuant to the notice procedure in §§ 157.205 and 284.223(b) of the Commission's Regulations for authorization to transport, on an interruptible basis, up to a maximum of 2,700 MMBtu (plus any

additional volumes accepted pursuant to the overrun provisions of Natural's Rate Schedule ITS) for Phillips Inc. (Phillips), a producer of natural gas. The receipt points are located in Louisiana and Offshore Louisiana and the delivery points are located in Offshore Louisiana. Transportation would be performed under Natural's blanket certificate issued in Docket No. CP86-582 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Natural commenced the transportation of natural gas for Phillips on September 1, 1989 at Docket No. ST90-410-000 for a one hundred and twenty (120) day period ending December 30, 1989, pursuant to § 284.223(a)(1) of the Commission's Regulations and the blanket certificate issued to Natural in Docket No. CP86-582. Natural proposes to continue this service in accordance with §§ 284.221 and 284.223(b).

Comment date: December 28, 1989, in accordance with Standard Paragraph G at the end of this notice.

17. Texas Eastern Transmission Corporation and CNG Transmission Corporation

[Docket No. CP90-189-000]

November 13, 1989.

Take notice that on October 31, 1989, Texas Eastern Transmission Corporation (Texas Eastern) P.O. Box 2521, Houston, Texas 77252, and CNG Transmission Corporation (CNG) 445 West Main Street, Clarksburg, WV 26301 (collectively referred to as Applicants) filed in Docket No. CP90-189-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public conveyance and necessity authorizing the construction and operation of a certain pipeline facilities to be jointly owned by Applicants, and authorizing Texas Eastern to render firm transportation service for CNG, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants states that CNG filed in Docket No. CP88-871-000, for authorization to construct and operate 78 miles of 20-inch pipeline from Benezette, Pennsylvania to Perulack, Pennsylvania to be known as TL-472, a 8,400 horsepower compressor and related facilities at Ardell Station located near Benezette, Pennsylvania, 8.8 miles of 30-inch pipeline loop in Westmoreland and Armstrong Counties, Pennsylvania, and 12 miles of 30-inch pipeline loop in Armstrong County,

Pennsylvania, at a total estimated cost of \$76,157,650. Applicants further state that CNG sought such authorization in order to render long-term firm sales to Virginia Natural Gas, Inc. and the City of Richmond, Virginia and transportation and interruptible storage service to Hanover Energy Associates and Virginia Electric and Power Company (collectively referred to as Virginia customers), which services are the subject of a related certificate application at Docket No. CP88-712-000, as amended CP88-712-001, and that in particular, CNG's proposed facilities would terminate at and serve to extend its PL-1 pipeline which is presently interconnected with Texas Eastern's pipeline at its Perulack compressor station.

Applicants state that Texas Eastern filed at Docket No. CP89-612-000 an application for competitive alternative to CNG's application in Docket No. CP88-871-000, and that such alternative proposed the construction of pipeline facilities on Texas Eastern's PennJersey system and the transportation of gas for CNG.

Applicants allege that subsequent to the above applications, events have transpired which led to the filing of this joint application. Applicants state that on June 7, 1989, the Commission authorized Texas Eastern's Capacity Restoration Project (APEC Settlement) involving, *inter alia*, that construction of a new 36-inch high pressure pipeline between Texas Eastern's Station 21-A and Station 23, the terminus of CNG's PL-1 Pipeline. Applicants further allege, that subsequently, Texas Eastern and CNG entered into negotiations and studies to develop an alternative project to Docket Nos. CP88-871-000 and CP89-612-000, utilizing the new jointly owned 36-inch pipeline which could provide additional capacity as a link between CNG's system and its PL-1 line and which would be more efficient and compatible with CNG's system operations, and that these efforts resulted in this joint filing. Applicants contend that CNG would amend its applications in Docket Nos. CP88-712-000 and CP88-712-001, Texas Eastern would withdraw its application in Docket No. CP89-612-000, and CNG would withdraw its application in Docket No. CP88-871-000.

The Applicants request authorization in this filing to:

(1) construct and operate and joint ownership of the following facilities:

—Installation of 25.19 miles of 24-inch pipeline from Crayne Farm, Greene County, Pennsylvania to Station 21A replacing 25.19 miles of 20-inch pipeline,

Line No. 20, previously placed in idle service;

—Installation of up to 11,000 HP gas turbine compressor at Station 21A;

—Installation of up to 6,500 HP electric motor compressor at Station 23

—Aerodynamic assembly changeout at Station 23; and

—Installation of metering and regulating facilities at Crayne Farm, Greene County, Pennsylvania.

(2) Texas Eastern to render for CNG firm transportation of natural gas of up to a maximum daily quantity (MAXDQ) of 112,000 dekatherms (dt).

Applicants state that installation of the proposed facilities would provide capacity of 224,000 dt per day plus applicable shrinkage from the interconnection of CNG's system with Texas Eastern near Crayne Farm in Greene County, Pennsylvania to the interconnection of Texas Eastern's system with CNG's PL-1 line at Station 23, near Chambersburg, Pennsylvania, that CNG would utilize its one-half interest of 112,000 dt per day capacity for service to the Virginia customers, and that Texas Eastern would utilize its one-half interest of 112,000 dt per day capacity to render firm transportation service for CNG.

Applicants state that the estimated total capital cost of the proposed facilities is \$54,147,000 which they would initially finance from funds on hand or short term borrowing, and permanent financing would be undertaken as part of Applicants' overall long-term financing program at a later date.

Texas Eastern proposes to transport for the account of CNG on a firm basis a MAXDQ of 112,000 dt per day pursuant to the Precedent Agreement and a pro-form Gas Transportation Agreement. Texas Eastern would receive the volumes of natural gas from CNG at a location near Crayne Farm and would transport and redeliver equivalent quantities, less applicable shrinkage to CNG at the existing interconnection between Texas Eastern and CNG's Pipeline No. PL-1 located at Station 23 near Chambersburg, Pennsylvania.

Texas Eastern states it would charge CNG a monthly demand charge for firm quantities and an excess charge for deliveries in excess of the firm quantity. It is alleged that based upon the estimated annual cost of service for the proposed facilities, Texas Eastern estimated a monthly demand charge of \$5.187 per dt and an excess charge of \$0.171 per dt.

Comment date: December 4, 1989, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

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

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

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

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary,

[FR Doc. 89-27248 Filed 11-20-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP87-312-006 et al.]

Texas Eastern Transmission Corp. et al., Natural Gas Certificate Filings

November 14, 1989.

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

1. Texas Eastern Transmission

[Docket No. CP87-312-006]

Take notice that on October 31, 1989, Texas Eastern Transmission Corporation, (Texas Eastern), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP87-312-006 and amended application pursuant to section 7(c) of the Natural Gas Act, and the Rules and

Regulations of the Federal Energy Regulatory Commission, for a certificate of public convenience and necessity, requesting authorization to construct, replace and operate certain pipeline facilities to render firm transportation service pursuant to Rate Schedule FTS-5, Phases II and III, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Texas Eastern states that its amended application modifies its facilities and their in-service dates from its previous application in Docket No. CP87-312-004 to implement its participation in Phases II and III of the restructuring and unbundling of storage services previously proposed to be rendered under the PennEast Gas Services Company Rate Schedule PSS. It is stated that CNG Transmission Corporation (CNG) has advised Texas Eastern and its customers of a one year delay in the development of the storage fields supporting the proposed storage service to be rendered by CNG. Therefore, this amended application reflects a one year delay in the commencement of proposed FTS-5 Phases II and III transportation service to 1991 and 1992. It is further stated that the one year delay has required Texas Eastern to revise the construction sequence of the FTS-5 facilities and other pending projects, and such facility revisions are reflected in this amended application.

Specifically, Texas Eastern requests authorization to: (1) render firm transportation service pursuant to Rate Schedule FTS-5, Phases II and III, up to the following Maximum Daily Transportation Quantities (MDTQ) listed below; and (2) construct, own, and operate pipeline facilities located in various counties in Pennsylvania.

Buyer	Phase II ¹ increase (Dt/Day)	Phase III ² increase (Dt/Day)	Aggregate MDTQ Dt/ Day)
Bristol & Warren Gas Co.....	0	0	813
Central Hudson Gas & Electric Co.....	2,000	0	6,000
Colonial Gas Co.....	52	52	2,326
Elizabethtown Gas Co.....	10,000	0	10,000
Intercontinental Energy Corp. & Public Service Electric & Gas.....	0	0	24,508
Long Island Lighting Co.....	15,000	20,000	50,000
New Jersey National Gas Co.....	10,000	20,000	35,000
Penn Fuel Gas, Inc.....	1,000	1,000	4,000
Public Service Electric & Gas Co.....	0	0	45,084
South County Gas Co.....	0	0	248
Texas Eastern System Storage.....	0	20,000	20,000
Valley Gas Co.....	0	0	1,000
Yankee Gas Services Co.....	0	0	125
Totals.....	38,052	61,052	³ 199,104

¹ Phase II—Commencing 11/15/91.

² Phase III—Commencing 11/15/92.

³ FTS-5 Phase I quantity totals 100,000 Dt/Day.

Texas Eastern requests authorization to replace and operate 4.25 miles of existing 20-inch pipeline No. 2 with 36-inch pipeline between Station 25 and Station 26 (M.P. 1394.47 to M.P. 1398.72) under Phase II (1991); and replace and operate 5.25 miles of existing 20-inch pipeline No. 2 with 36-inch pipeline between Station 25 and Station 26 (M.P. 1398.72 to M.P. 1403.97), and install and operate up to 6,500 HP electric compressor unit at Station 22-A under Phase III (1992). It is stated that the estimated capital cost of the proposed facilities is \$8,289,000 for Phase II (1991) and \$25,716,000 for Phase III (1992), and that the facilities will be financed from funds on hand and funds generated from operations.

It is stated that upon the later of November 15, 1991 (Phase II) and November 15, 1992 (Phase III) or the completion of all necessary facilities for each phase, transportation service under Rate Schedule FTS-5 (Phases II and III) shall consist of the transportation of gas for the account of Buyer received by Texas Eastern from Buyer for delivery to CNG and the transportation of gas for the account of Buyer received by Texas Eastern from CNG for delivery to or for the account of Buyer. In particular, Texas Eastern would receive gas for transportation under Rate Schedule FTS-5 (Phases II and III) from CNG, or deliver gas to CNG for storage for the account of Buyer, at the interconnection of CNG's proposed North Summit storage field pipeline and Texas Eastern's existing system. Texas Eastern would deliver gas received from CNG to points of delivery with Buyer, or in the case of the Algonquin customers, volumes to Algonquin at Measuring Station 087 near Lambertville, Pennsylvania. Texas Eastern would receive the gas from the Buyers for storage injection at their existing delivery points with Texas Eastern by displacement of quantities otherwise delivered and will redeliver such quantities to CNG at the CNG North Summit facility.

The cost of service associated with the incremental facilities required to render the FTS-5 service (Phases II and III) will be borne by all Buyers receiving the FTS-5 service. For all gas transported, commencing November 15, 1991 and November 15, 1992, Texas Eastern will charge a monthly demand rate of \$5.464 and \$6.665 per dt, respectively, and an authorized daily overrun rate of \$0.180 and \$0.219 per dt, respectively. The demand rates for Phases II and III involve the accumulation of cost of service attributable to Phases I and II and a

uniform rate to all FTS-5 customers which Texas Eastern states is consistent with prior Commission's treatment of rates for Texas Eastern's other phased storage delivery services.

It is further stated that Consolidated Edison Company of NY (Con Ed) has advised CNG and that it does not require the 20,000 dt per day previously proposed for Phase III. Texas Eastern stated that it has agreed with CNG to purchase the storage capacity released by Con Ed for Texas Eastern's own storage requirements. Texas Eastern anticipates re-marketing the storage and transportation capacity released by Con Ed to other customers on the east coast, and that such re-marketing is permitted by Texas Eastern's agreement with CNG.

Comment date: December 5, 1989, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

2. United Gas Pipe Line Company

[Docket No. CP90-207-000]

Take notice that on October 11, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP89-207-000 an application pursuant to section 7(c) of the Natural Gas Act, for authorization to transport and deliver natural gas volumes to certain direct sale customers, all as more fully set forth in the application on file with the Commission and open to public inspection.

United explains that the transportation authority is required to implement interruptible direct sales to Chevron, U.S.A., Inc., Chevron Chemical Company, GAF Building Materials Corporation, and South Mississippi Electric Power Association at locations in Alabama, Louisiana, and Mississippi. United states that the facilities needed to effectuate the sales are already in place. Because the sales would be provided on an interruptible basis, United does not expect them to impact its existing customers.

Comment date: December 5, 1989, in accordance with Standard Paragraph F at the end of this notice.

3. Williston Basin Interstate Pipeline Company

[Docket No. CP90-193-000]

Take notice that on October 31, 1989, Williston Interstate Pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501 filed in Docket No. CP90-193-000 an application pursuant to section 7(b) of the Natural Gas Act, for permission and approval to abandon a transportation service provided for ANR

Production Company (ANR), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Williston Basin states that it was granted certificate authorization to transport natural gas for ANR in Docket No. CP85-534-000. Williston Basin states further that the transportation agreement between it and ANR has terminated under its own terms and as a result Williston Basin is no longer transporting gas for ANR. Williston Basin is therefore seeking permission and approval to abandon the transportation service.

Comment date: December 5, 1989, in accordance with Standard Paragraph F at the end of this notice.

4. Williston Basin Interstate Pipeline Company

[Docket No. CP90-192-000]

Take notice that on October 31, 1989, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501 filed in Docket No. CP90-192-000, an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a transportation service provided for Ecological Engineering Systems, Inc. (EES), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Williston Basin states that it was granted certificate authorization to transport natural gas for EES in Docket No. CP85-214-000. Williston Basin states further that the transportation agreement between it and EES has terminated under its own terms and as a result Williston Basin is no longer transporting gas for EES. Williston Basin is therefore seeking permission and approval to abandon the transportation service.

Comment date: December 5, 1989 in accordance with Standard Paragraph F at the end of the notice.

5. Williston Basin Interstate Pipeline Company

[Docket No. CP90-194-000]

Take notice that on October 31, 1989, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501 filed in Docket No. CP90-194-000, an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a transportation service provided for K N Energy, Inc. (K N), all as more fully set forth in the application which is on file

with the Commission and open to public inspection.

Williston Basin states that it was granted certificate authorization to transport natural gas for K N in Docket No. CP85-534-000. Williston Basin states further that the transportation agreement between it and K N was terminated, pursuant to a September 28, 1989 letter from K N. Williston Basin is therefore seeking permission and approval to abandon the transportation service.

Comment date: December 5, 1989, in accordance with Standard Paragraph F at the end of this notice.

6. Williston Basin Interstate Pipeline Company

[Docket No. CP90-191-000]

Take notice that on October 31, 1989, Williston Basin Interstate pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501 filed in Docket No. CP90-191-000, an application pursuant to Section 7(b) of the natural Gas Act for permission and approval to abandon a transportation service provided for Sugar Creek Resources, Inc. (Sugar Creek), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Williston Basin states that it was granted certificate authorization to transport natural gas for Sugar Creek in Docket No. CP86-43-000. Williston Basin states further that the transportation agreement between it and Sugar Creek has terminated under its own terms and as a result Williston Basin is no longer transporting gas for Sugar Creek. Williston Basin is therefore seeking permission and approval to abandon the transportation service.

Comment date: December 5, 1989, in accordance with Standard paragraph F at the end of this notice.

7. Arkla Energy Resources a division of Arkla, Inc.

[Docket No. CP90-188-000]

Take notice that on October 31, 1989, Arkla Energy Resources (AER), a division of Arkla, Inc. (AER), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP90-188-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing: (a) the sale by AER on a firm basis of up to 75,000 MMBtu of natural gas per day to Texas Gas Transmission Corporation (Texas Gas) pursuant to a service agreement between AER and Texas Gas, under AER's Rate Schedule CD, and proposed

terms and conditions of service applicable thereto, (b) the construction and operation of a sales tap and appurtenant facilities to be located near Glendale, Arkansas, on AER's proposed line AC, and (c) the use of these facilities and two other interconnections between AER and Texas Gas as delivery points for the volumes to be sold, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Specifically, AER states that it has entered into a new service agreement with Texas Gas (the Agreement) which has a primary term of ten years, and continues year-to-year thereafter. It is anticipated that service would commence on the first November 1 following AER's acceptance of the requested certificate. It is stated that the contract demand level would be 50,000 MMBtu per day in the first year, increasing to 75,000 MMBtu per day in the second year. It is further stated that under various options available to Texas Gas, the contract demand could be increased up to 350,000 MMBtu per day. It is noted that Texas Gas also has the right, once its contract demand level has reached 100,000 MMBtu per day, to convert 25 percent of such contract demand annually to firm transportation service. These conversion rights, it is indicated, if not exercised would be cumulative.

AER states that deliveries under the Agreement would be made at three points: (a) a new interconnection to be constructed between AER's proposed Line AC and Texas Gas' proposed Crossover Line (a 70-mile, 30-inch pipeline that would extend from Texas Gas' pipeline near Cleveland, Mississippi, to AER's Line AC); (b) a new interconnection to be constructed between AER's Line FT-18 and Texas Gas' mainline facilities near Perryville, Louisiana; and (c) an existing interconnection near Helena, Arkansas. AER states that it has filed in Docket No. CP89-2174-000 for authority to operate and provide service by means of its interests in Line AC and the tap which are being constructed pursuant to Section 311 of the Natural Gas Policy Act. It is indicated that Texas Gas would file in the near future for authority to construct the Crossover Line.

AER explains that the agreement can be cancelled, if within 18 months of the filing with the Commission of the applications required to implement the Agreement, AER and Texas Gas have not received all regulatory authorizations, on terms acceptable to both parties, for (a) the sale proposed

herein, (b) AER's operation and utilization of Line AC under Section 7(c) of the NGA, and (c) Texas Gas's construction and operation of the Crossover Line.

AER states that during the primary term of the Agreement, the needs of Texas Gas and AER's other customers largely can be satisfied from reserves AER already has under contract. To the extent AER requires additional supplies to serve the ongoing needs to Texas Gas and AER's other customers, AER anticipates that it would be able to acquire sufficient additional long-term supplies from the supply areas to which it already is connected.

Comment date: December 5, 1989, in accordance with Standard Paragraph F at the end of this notice.

8. El Paso Natural Gas Company

[Docket No. CP90-226-000]

Take notice that on November 9, 1989, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP90-226-000 a request pursuant to § 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to provide an interruptible transportation service for Texaco Gas Marketing, Inc. (Texaco) under its blanket certificate issued in Docket No. CP88-433-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

El Paso states that the maximum daily, average daily and annual quantities that it would transport for Texaco would be 772,500 MMBtu equivalent of natural gas, 103,000 MMBtu equivalent of natural gas, and 37,595,000 MMBtu equivalent of natural gas, respectively.

El Paso states that it would transport natural gas for Texaco from any receipt point on El Paso's system to various delivery points at the borderline between Arizona and California.

El Paso indicates that in Docket No. ST89-4784 it reported that transportation service for Texaco had begun on September 4, 1989 under the 120-day automatic authorization provisions of § 284.223(a).

Comment date: December 29, 1989, in accordance with Standard Paragraph G at the end of this notice.

ANR Pipeline Company

[Docket No. CP90-214-000]

Take notice that on November 2, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90-214-000 an application pursuant to Section 7(b)

of the Natural Gas Act, for permission and approval to abandon partially a firm transportation service provided to Bridgeline Gas Distribution Company (Bridgeline), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

ANR states that pursuant to a transportation agreement dated July 19, 1983, it agreed to transport on a firm basis up to 20,000 Mcf per day of natural gas for the account of Bridgeline. ANR indicates that it received authorization to transport such gas for Bridgeline in Docket No. CP84-462-000. It is stated that ANR transports such gas from the production platform in High Island Area Block A-563, offshore Texas, to either an interconnection between ANR and Columbia Gulf Transmission Company or an interconnection between ANR and Riverway Gas Pipeline Company, both delivery points being located in St. Mary Parish, Louisiana.

ANR states that in a March 7, 1986, amendment to the agreement, Bridgeline's level of contract demand service was reduced from 20,000 Mcf per day to 18,000 Mcf per day, effective November 1, 1986. It is stated that such amendment also provided Bridgeline the option to further reduce its contract demand to 14,000 Mcf per day, effective November 1, 1989. ANR indicates that it received authorization to make the first reduction to 18,000 Mcf per day in an order issued November 28, 1986, in Docket No. CP84-462-004, and that in that order the Commission directed ANR to obtain the appropriate authority should Bridgeline choose to exercise the option to reduce its contract demand to 14,000 Mcf per day.

ANR states that Bridgeline has now chosen to exercise its option and has requested that ANR seek the appropriate authority to reflect a reduction in the contract demand to 14,000 Mcf per day to be effective November 1, 1989.

Comment date: December 5, 1989, in accordance with Standard Paragraph F at the end of this notice.

10. Oklahoma-Arkansas Pipeline Company

[Docket No. CP90-187-000]

Take notice that on October 31, 1989, Oklahoma-Arkansas Pipeline Company (Oklahoma-Arkansas), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP90-187-000, an application pursuant to section 7(c) of the Natural Gas Act and subpart E of part 157 and subpart G of part 284 of the Commission's Regulations for an optional certificate of public

convenience and necessity and a blanket certificate of public convenience and necessity authorizing Arkansas-Oklahoma to: (1) engage in the transportation of natural gas in interstate commerce as a natural gas company; (2) to construct, own and operate a new natural gas pipeline to be used in the transportation of up to approximately 500,000 dekatherms per day (dtd) of natural gas from the Arkoma producing area of Oklahoma; (3) to transport gas on a self-implementing basis with pregranted abandonment authority; and (4) through the proposed facilities.

Oklahoma-Arkansas requests authority to construct, own and operate an interstate natural gas pipeline system commencing in Pittsburg County, Oklahoma and extending eastward 352 miles through Arkansas to a terminus at an interconnection with Trunkline Gas Company (Trunkline) in Tate County, Mississippi. Oklahoma-Arkansas proposes to transport volumes of natural gas up to the full 500,000 Dt design capacity of its system on a firm or interruptible basis, on behalf of shippers who may include producers, interstate pipelines, local distribution companies, cogenerators, marketers and end users.

Specifically, Oklahoma-Arkansas proposes:

(1) To engage in the receipt, transmission and redelivery of natural gas in interstate commerce and thus become a natural gas company, as defined in the NGA, subject to the jurisdiction of the Commission;

(2) To construct, own and operate a new transmission system to transport gas from the Arkoma Producing area;

(3) To perform self-implementing transportation under blanket authority pursuant to § 284.221 of the Commission's Regulations;

(4) For pregranted authority to abandon service upon expiration of the applicable transportation service agreements subject to the notice requirements of § 157.103(f)(2) of the Commission's Regulations; and

(5) For approval of initial rates as provided in pro forma Rate Schedules FTS-1, FTS-2 and ITS.

Oklahoma-Arkansas states that the proposed facilities would have a maximum capacity of 500,000 Dt of natural gas per day for a distance extending from the Arkoma Basin to existing facilities at Texas Eastern Transmission Corporation's (TETCO) Bald Knob Compressor Station in White County, Arkansas and at Trunkline Gas Company's (Trunkline) Independence Compressor Station in Tate County, Mississippi. It is indicated that additional interconnects with other

interstate pipelines intersected by Oklahoma-Arkansas's proposed line will be proposed at a later date, under other authorizations, at points mutually agreeable to Oklahoma-Arkansas and the interstate pipelines.

Oklahoma-Arkansas states that the proposed facilities would consist of 240.15 miles of 36-inch pipe and 112.20 miles of 30-inch pipe. Specifically, 68.7 miles of 36-inch pipe would be installed in various counties in Oklahoma, 171.45 miles of 36-inch and 77.7 miles of 30-inch pipe would be installed in various counties in Arkansas and 34.5 miles of 30-inch pipe would be installed in various counties in Mississippi. It is stated that measurement facilities would be located at the interconnections with TETCO and Trunkline.

Oklahoma-Arkansas states that the peak design capacity of the proposed facilities would be 500,000 Dt per day, with a 259,000 Dt per day delivery capacity to TETCO and 241,000 Dt per day to Trunkline.

Oklahoma-Arkansas states that the estimated cost of the proposed facilities is \$273,528,000. Oklahoma-Arkansas indicates that it would finance the cost of these facilities through partnership borrowing and partnership contributions at a debt to equity ratio of 70/30.

Oklahoma-Arkansas proposes to transport up to 500,000 Dt per day of natural gas on both a firm and interruptible basis by providing transportation services on an open-access basis pursuant to a Part 284, Subpart G blanket certificate. It is explained that firm transportation would be provided pursuant to proposed Rate Schedules FTS-1 and FTS-2. Interruptible service, it is indicated, would be available pursuant to proposed Rate Schedule ITS.

Oklahoma-Arkansas states that it is providing for multiple receipt and delivery points in its transportation service agreements. For firm service, it is indicated that shippers could designate multiple receipt points as long as the total volumes tendered for firm service from these points do not exceed the total volumes under the transportation agreement. As an added feature, Oklahoma-Arkansas states that shippers would be allowed to designate for the firm service additional "interruptible" receipt points which will be utilized on a capacity available basis. It is further indicated that shippers would not be required to provide necessary line pack, thereby avoiding a significant record keeping burden.

Oklahoma-Arkansas states that shippers electing Rate Schedules FTS-1 would be allowed to participate in a

transportation assignment program pursuant to the provisions of Section 7 of the proposed FTS-1 Rate Schedule. Oklahoma-Arkansas proposes to allow FTS-1 shippers to assign on either a firm or interruptible basis all or a portion of their firm transportation service pursuant to Rate Schedule FTS-1 to third parties, provided that such shippers submit a notice in writing to Oklahoma-Arkansas or Oklahoma-Arkansas's designated operator indicating their desire to engage in the assignment of transportation service. Oklahoma-Arkansas further proposes that assignees who have been assigned rights on a firm basis be permitted to reassign these firm rights on either a firm or interruptible basis.

Oklahoma-Arkansas states that in order to provide all potential shippers an opportunity to obtain initial transportation services, Oklahoma-Arkansas is establishing an "open season" to accept requests for both firm and interruptible transportation services on a first-come, first-served basis for all requests received on or before January 12, 1990.

Oklahoma-Arkansas states that the pro forma tariff and illustrative rates, are designed to conform to the requirements of part 284, subpart G and part 157, subpart E and to meet the varying needs of potential shippers. Oklahoma-Arkansas proposed to offer the same firm transportation service under two separate rate schedules, either of which shippers may elect at

their discretion. Oklahoma-Arkansas states that it is indifferent as to which rate schedule a shipper might find preferential. It is asserted that high load factor shippers, such as cogenerators and certain industrial users, as well as shippers who anticipate lower system utilization would benefit greatly from having this "basket" rate selection available. It is stated that under either the FTS-1 rate schedule or the FTS-2 Modified Fixed Variable (MFV) rate schedule, shippers would have the same priority of service. It is anticipated that these rate schedules, as described below and in the pro forma tariff, meet or exceed the requirements of part 157, subpart E. Table 1 summarizes the characteristics of these firm rate schedules.

TABLE 1

Schedule	Design	Return	Load Factor LF	Rates	
				Demand	Commodity
FTS-1	Demand MFV	ROE=15% ROE=16%	100%	\$9,493	-0-
FTS-2			90%	\$6,513	\$1,196

Oklahoma-Arkansas proposes that a one part firm demand rate is permissible under the provisions of Part 157, Subpart E when a shipper can freely choose between other equivalent services. It is explained that if the shipper so desires he could receive a benefit, i.e., a lower rate, for absorbing a greater portion of the risk associated with the venture while alternatively, the shipper could elect to place Oklahoma-Arkansas at risk for certain fixed and variable costs through selection of the Rate Schedule FTS-2 service described below. It is stated that to ameliorate the risk the FTS-1 customers would absorb, Oklahoma-Arkansas would provide the transportation assignment program for FTS-1 shippers as previously described.

Oklahoma-Arkansas states that Rate Schedule ITS is designed as an interruptible service, consistent with the Party 284(G) blanket certificate requirements. Oklahoma-Arkansas proposes a one-part volumetric rate for interruptible service, discountable between maximum and minimum levels. It is indicated that the maximum interruptible rate of \$0.3337 would be equal to the FTS-2 100% load factor rate.

Oklahoma-Arkansas's proposed facilities it is asserted, provide a cost efficient means to connect numerous and diverse markets with substantial new gas reserves. It is averred that the Arkoma Basin and the geographical formations located in the immediate

vicinity represent significant reserves of natural gas and that recent estimates for the Arkoma Basin producing province indicate remaining reserves of 5.75 trillion cubic feet of natural gas. Oklahoma-Arkansas believes that development of these reserves would foster increased competition at the wellhead and that insufficient pipeline capacity currently exists to transport these available supplies of natural gas to interstate pipelines.

Comment date: December 5, 1989, in accordance with Standard Paragraph F at the end of this notice.

11. Williston Basin Interstate Pipeline Company

[Docket No. CP90-190-000]

Take notice that on October 31, 1989, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501 filed in Docket No. CP90-190-000, an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a transportation service provided for Koch Hydrocarbon Company (Koch), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Williston Basin states that it was granted certificate authorization to transport natural gas for Koch in Docket No. CP85-534-000. Williston Basin

states further that the transportation agreement between it and Koch was terminated as of October 1, 1989 and as a result Williston Basin is no longer transporting gas for Koch. Williston Basin is therefore seeking permission and approval to abandon the transportation service.

Comment date: December 5, 1989, in accordance with Standard Paragraph F at the end of this notice.

12. United Gas Pipe Line Company

[Docket No. CP90-222-000]

Take notice that on November 8, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP90-222-000 a request pursuant to §§157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport gas on an interruptible basis on behalf of Gulf South Pipeline Company (Shipper), under the blanket certificate issued in Docket No. CP88-6-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United states that it proposes to transport for Shipper 309,000 MMBtu on a peak day, 309,000 MMBtu on an average day and 112,785,000 MMBtu on an annual basis. United also states that pursuant to a Transportation Agreement

dated May 12, 1989 between United and Shipper (Transportation Agreement) propose to transport natural gas for Shipper from points of receipt located in multiple counties in Louisiana and Texas and Clark County, Mississippi. The points of delivery and ultimate points of delivery are located in multiple counties in Louisiana and Alabama.

United further states that it commenced this service on September 29, 1989, as reported in Docket No. ST90-282-000.

Comment date: December 29, 1989, in accordance with Standard Paragraph G at the end of this notice.

13. Colorado Interstate Gas Company

[Docket No. CP90-234-000]

Take notice that on November 13, 1989, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP90-234-000 a request pursuant to §§ 157.205 and 284.223 (18 CFR 157.205 and 284.223) of the Commission's Regulations under the Natural Gas Act for authorization to provide an interruptible transportation service for Continental Natural Gas, Inc. (Continental) under CIG's blanket transportation certificate issued in Docket No. CP86-589, *et. al.* on March 28, 1988, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

CIG proposes, pursuant to an agreement dated September 1, 1989, to transport natural gas for Continental within the area of Beaver County, Oklahoma. CIG states that the maximum daily volumes of gas to be transported in 50,000 Mcf and the average day deliveries are estimated to be 5,000 Mcf of gas. CIG estimates annual deliveries of gas will be 1,825,000 Mcf of gas. CIG states that transportation service under the 120-day automatic authorization of § 284.223(a) of the Commission's Regulations commenced on September 1, 1989, as reported to the Commission in Docket No. ST90-64-000.

Comment date: December 29, 1989, in accordance with Standard Paragraph G at the end of this notice.

14. Tennessee Gas Pipeline Company

[Docket No. CP90-224-000]

Take notice that on November 8, 1989, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP90-224-000, a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport

natural gas, on an interruptible basis, for Maxus Exploration Company (Maxus), a producer, under Tennessee's blanket certificate issued in Docket No. CP87-115-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Tennessee states that pursuant to a transportation agreement dated August 25, 1989, as amended effective September 1, 1989 and September 5, 1989, it would transport natural gas for Maxus from receipt points located offshore Louisiana. Tennessee further states that the ultimate points of delivery would be located in the states of New York, Pennsylvania, Mississippi and Alabama. Tennessee indicates that the peak day, average day and annual volumes that would be transported for Maxus would be 70,000 dekatherms, 70,000 dekatherms and 25,550,000 dekatherms, respectively.

Tennessee states that it commenced the transportation of natural gas for Maxus on October 1, 1989, as reported in Docket No. ST90-277, for a 120-day period pursuant to Section 284.223(a) of the Commission's Regulations (18 C.F.R. 284.223(a)).

Comment date: December 29, 1989, in accordance with Standard Paragraph G at the end of this notice.

15. United Gas Pipe Line Company

[Docket No. CP90-223-000]

Take notice that on November 8, 1989, United Gas Pipeline Company (United), P.O. Box 1478, Houston, Texas 77251, filed in Docket No. CP90-223-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas under the blanket certificate issued in Docket No. CP88-6-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United proposes to transport natural gas on an interruptible basis for Eagle Natural Gas Company (Eagle Natural). United explains that service commenced August 31, 1989, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST90-145. United explains that the peak day quantity would be 25,750 MMBtu, the average daily quantity would be 25,750 MMBtu, and that the annual quantity would be 9,398,750 MMBtu. United explains that it would receive natural gas for Eagle Natural's account at various receipt points in the states of Louisiana, Texas, Mississippi, Alabama and Offshore

Louisiana. United states that it would redeliver the gas at various points in the state of Louisiana.

Comment date: December 29, 1989, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs:

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

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

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn

within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,
Secretary.

[FR Doc. 89-27245 Filed 11-20-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 1953-003]

**Consolidated Water Power Co.;
Establishing Procedures for
Relicensing and a Deadline for
Submission of Final Amendments**

November 14, 1989.

The license for the Dubai Project No. 1953 located on the Wisconsin River in Marathon, Poitage, and Wood Counties, Wisconsin expires on June 30, 1991. Pursuant to section 15(c)(1) of the Federal Power Act, the statutory deadline for the submission of applications for relicensing was June 30, 1989. An application for relicensing has been filed as follows:

Project No.	Applicant	Contact
P-1953	Consolidated Water Power Company, 231 First Ave. North, P.O. Box 8050, Wisconsin Rapids, WI 54495.	Consolidated Water Power Company, 231 First Ave. North, P.O. Box 8050, Wisconsin Rapids, WI 54495.

The following dates and procedures will be used in processing the application.

Date	Action
November 15, 1989	Commission issues public notice of the application describing final proposals and establishing dates for filing interventions, public comments, agency recommendations, and fish and wildlife terms and conditions.
March 15, 1990	Commission notifies applicant of the need for additional information, if any, and the date information is due.

Upon receipt of all additional information and the information filed in response to the public notice of the acceptance of the application, the Commission will evaluate the application in accordance with applicable statutory requirements and take appropriate action on the application.

Any questions concerning this notice should be directed to Robert W. Bell at (202) 357-0806.

Lois D. Cashell,
Secretary.

[FR Doc. 89-27251 Filed 11-20-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-1-46-021]

**Kentucky West Virginia Gas Co.;
Fourth Amendment to Compliance
Filing**

November 14, 1989.

Take notice that on November 9, 1989, Kentucky West Virginia Gas Company (Kentucky West) filed a fourth amendment to its March 30, 1989 compliance filing so as to extend the proposed effective date for the proposed tariff sheets to February 1, 1990.

Kentucky West states that the tariff sheets filed March 30, 1989, were filed in compliance with the Commission's "Order Rejecting Compliance Filing" issued in the referenced proceedings on March 15, 1989, and in accordance with the mandate of the United States Court of Appeals of the Fifth Circuit, issued in *Kentucky West Virginia Gas Co. v. FERC*, 780 F.2d 1231 (5th Cir. 1986).

Kentucky West states that, under the tariff sheets filed March 30, 1989, it would bill its customers directly for the difference between (1) the amounts each such customer paid during the period in which Kentucky West was required to price certain of its company production at cost of service rather than Natural Gas Policy Act (NGPA) rates; and (2) the amounts each such customer would have paid if Kentucky West, during such time period, had not been denied the right to price its pipeline production at NGPA prices, plus interest calculated in accordance with the Commission's regulations. Kentucky West states further that its customers are given the option of paying the direct billing amounts either: (1) By a lump-sum payment to be made by May 1, 1989; (2) in monthly installments of direct billing amounts, plus interest, to be paid over a period not to exceed 84 months; or (3) by a lump-sum payment during the installment period.

Kentucky West states that, by notice issued April 5, 1989, the Commission set April 14, 1989 as the deadline for motions to intervene or protests. However, on April 13, 1989, based on preliminary settlement discussions, Kentucky West filed its first amendment to the March 30, 1989 filing, changing the proposed effective date to September 1, 1989, and extending the deadline for interventions or protests until August 14,

1989. Subsequently, based upon further progress in settlement discussions, Kentucky West amended its filing so as to extend the effective date of the filing until November 1, 1989, and the date for filing interventions or protests until October 16, 1989. On October 12, 1989, Kentucky West filed its third amendment to the March 30, 1989 filing, changing the proposed effective date to December 1, 1989, and extending the deadline for interventions or protests until November 16, 1989.

Kentucky West states that during the past few months it has continued to make progress in settlement discussions but that if settlement is to be achieved, it will require further negotiations. Therefore, Kentucky West is amending its filing a fourth time so as to extend the proposed effective date of the tariff sheets filed to February 1, 1990. The deadline for interventions or protests will be extended to January 14, 1990. In this regard, Kentucky West asks that the provisions of Section 154.22 of the Commission's Regulations be waived to the extent necessary to permit such extension.

Kentucky West states that it has contacted all parties to these proceedings and the Commission Staff, and no party nor the Commission Staff have any objections to this extension.

Any persons 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 Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1989)). All such protests should be filed on or before January 14, 1990. 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. 89-27252 Filed 11-20-89; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

**Cases Filed During the Week of
October 6 Through October 13, 1989**

During the week of October 6 through October 13, 1989, the appeals and applications for exception or other relief listed in the Appendix to this Notice

were filed with the Office of Hearings and Appeals of the Department of Energy. This Notice includes a submission inadvertently omitted from an earlier list.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in

these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual

notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

November 15, 1989.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of October 6 through October 13, 1989]

Date	Name and location of applicant	Case No.	Type of submission
Oct. 10, 1989	Bob Johnson, Cisco, TX	RR272-37	Request for modification/rescission in the crude oil refund proceeding. If granted: The Decision and Order (Case No. RF272-75161) issued to Bob Johnson would be modified regarding the firm's application for refund submitted in the Crude Oil Refund Proceeding.
Oct. 11, 1989	General Electric Company, Washington	LKA-0001	Appeal of an information request denial. If granted: The September 6, 1989 Freedom of Information Request Denial issued by the Office of Albuquerque Operations would be rescinded, and General Electric Company would receive access to certain documents concerning DOE involvement in the cleanup of the South Valley Superfund site.
Oct. 13, 1989	Amoco & Northeast Petroleum Industries/Massachusetts, Boston, MA.	RM21-160, RM25-161	Request for modification/rescission in the Amoco & Northeast Petroleum Industries second stage refund proceeding. If granted: The Decision and Order issued to Massachusetts (Case Nos. RQ21-124 & RQ25-107) would be modified regarding the State's Application for Refund submitted in the Amoco & Northeast Petroleum Industries second stage refund proceeding.

REFUND APPLICATIONS RECEIVED

[Week of October 6 to October 13, 1989]

Date received	Name of refund proceeding/name of refund applicant	Case number
10/10/89	Gene Smith	RF309-1374
10/11/89	Royal Jordanian Airlines Corp.	RA272-14
10/04/89	J. P. Oil Company, Inc.	RF307-10066
10/04/89	J. P. Oil Company, Inc.	RF307-10067
10/12/89	Twin Towers Service Station	RF307-10070
10/10/89	Gene Smith	RF309-13742
10/06/89	R.C. Reyer	RC272-73
10/10/89	Fort Davis Exxon	RF307-10068
02/27/89	Spence W. Smith	RF307-10069
10/13/89	Walter S. Zong, Jr.	RF300-10877
10/06/89 thru 10/13/89	Crude Oil refund, applications received	RF272-75752 thru RF272-75785
10/06/89 thru 10/13/89	Atlantic Richfield refund, applications received	RF304-10505 thru RF304-10516
10/06/89 thru 10/13/89	Shell Oil refund, applications received	RF315-7461 thru RF315-7553

[FR Doc. 89-27338 Filed 11-20-89; 8:45 am]
BILLING CODE 6450-01-M

Cases Filed During the Week of October 13 Through October 20, 1989

During the Week of October 13 through October 20, 1989, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of

Hearings and Appeals of the Department of Energy. This Notice includes a submission inadvertently omitted from an earlier list.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of

the regulations, the date of service of notice is deemed to be the date of publications of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: November 15, 1989.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of October 13 through October 20, 1989]

Date	Name and location of applicant	Case No.	Type of submission
Oct. 16, 1989	Beacon/Coast Gas, Inc., Hardin, KY	RR238-3	Request for modification/rescission in the Beacon refund proceeding. If granted: The September 19, 1989 Decision and Order (Case No. RF238-88) issued to Coast Gas, Inc. would be modified regarding the firm's application for refund submitted in the Beacon refund proceeding.
Oct. 19, 1989	Franc Pajack Company, Walnut Creek, CA	LFA-0002	Appeal of an information request denial. If granted: The September 27, 1989 Freedom of Information Request Denial issued by James S. Hirsh would be rescinded and the Franc Pajack Company would receive access to information regarding Labor Only Contract #5724900A at the Lawrence Livermore National Laboratory.
Oct. 20, 1989	William Albert Hewgley, Kingston, TN	LFA-0003	Appeal of an information request denial. If granted: The August 18, 1989 Freedom of Information Request Denial issued at Oak Ridge would be rescinded and William Albert Hewgley would receive access to his personnel and field personnel supplementary files, which are maintained by Martin Marietta Energy Systems, Inc., a DOE contractor.
Oct. 16, 1989	Puerto Rico, Santurce, Puerto Rico	LEE-0001	Application for exception. If granted: Puerto Rico would receive an exception from the provisions of 10 CFR 455 regarding the eligibility of buildings for grants under the Institutional Conservation Programs.
Oct. 19, 1989	Bi-Petro, Inc., Washington, DC	LEF-0001	Implementation of special refund procedures. If granted: The office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR part 210, subpart V, in connection with the September 30, 1985 Consent Order entered into with Bi-Petro, Inc.
Oct. 19, 1989	Public Service Electric & Gas Company, Newark, NJ	RR272-38	Request for modification/rescission in the crude oil refund proceeding. If granted: The November 30, 1988 Decision and Order (Case NO. RF272-290) issued to Public Service Electric & Gas Company would be modified regarding the firm's application for refund submitted in the Crude Oil refund proceeding.

REFUND APPLICATIONS RECEIVED

[Week of October 13 to October 20, 1989]

Date received	Name of refund proceeding/name of refund applicant	Case number
0/2/01/89	Shockley's Exxon Service	RF307-10071
10/17/89	John T. Pryor	RF300-10880
10/17/89	Rayburn Auto Parts, Inc.	RF310-346
10/18/89	William L. Wegman	RF320-1
10/17/89	Zuniga's Gulf	RF300-10878
10/17/89	Madison Street Gulf	RF300-10879
10/17/89	Sid's Crown	RF313-311
10/13/89 thru 10/20/89	Crude Oil refund, applications received	RF272-75786 thru RF272-75849
10/13/89 thru 10/20/89	Atlantic Richfield refund, applications received	RF304-10517 thru RF304-10537
10/13/89 thru 10/20/89	Shell Oil refund, applications received	RF315-7554 thru RF315-7676

[FR Doc. 89-27339 Filed 11-20-89; 8:45 am]
BILLING CODE 6450-01-M

Proposed Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of proposed implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the proposed procedures for the disbursement of \$4,351,589.43, plus accrued interest, obtained by the DOE under the terms of a settlement agreement entered into with United Refining Company and United Refining Company of Pennsylvania. The OHA has tentatively

determined that the funds will be distributed in accordance with the DOE's special refund procedures, 10 CFR part 205, subpart V.

DATE AND ADDRESS: Comments must be filed in duplicate within 30 days of publication of this notice in the *Federal Register* and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. All comments should display a reference to case number KEF-0132.

FOR FURTHER INFORMATION CONTACT: Thomas L. Wieker, Deputy Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-2390.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy (DOE), 10 CFR § 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order sets forth the procedures that the DOE has tentatively formulated to distribute \$4,351,589.43 that has been remitted by United Refining Company and United Refining Company of Pennsylvania to the DOE to settle possible pricing violations with respect to certain sales of their refined petroleum products. The DOE is currently holding the funds in an interest bearing account pending distribution.

Applications for refund should not be filed at this time. Appropriate public notice will be given when the

submission of claims is authorized. Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of the publication of this notice in the *Federal Register*, and should be sent to the address set forth at the beginning of this notice. All comments received will be available for public inspection between the hours of 1:00 p.m. through 5:00 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in room 1E-234, 1000 Independence Avenue SW., Washington, DC 20585. If commentators express sufficient interest in presenting their views orally, the DOE will convene a public hearing. In the event we determine to hold a hearing, notice will be given in the *Federal Register*.

Dated: November 14, 1989.

George B. Breznay,
Director, Office of Hearings and Appeals.
November 14, 1989.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Firm: United Refining Company,
United Refining Company of
Pennsylvania

Date of Filing: April 27, 1989

Case Number: KEF-0132

On April 27, 1989, the Economic Regulatory Administration (ERA) filed a Petition with the Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) requesting that the OHA formulate and implement procedures for distributing funds obtained through the settlement of enforcement proceedings between United Refining Company, United Refining Company of Pennsylvania (hereinafter referred to collectively as United) and the DOE. 10 CFR part 205, subpart V.

I. Background

United was a "refiner", as that term is defined in 10 CFR 212.31. United was therefore subject to the price regulations set forth in 10 CFR 212.82, *et seq.* During the period August 19, 1973 through January 28, 1981, United was a Pennsylvania Corporation, which refined and sold gasoline distillates and other refined petroleum products.¹ The ERA conducted an audit of United's compliance with the Mandatory Petroleum Price Regulations contained in 6 CFR 150, Subpart L and 10 CFR part 212 during the period August 1973 through December 1974 (the audit period). As a result

of this audit, the ERA issued a Proposed Remedial Order (PRO) to United Refining, Inc., United Refining Company and United Refining Company of Pennsylvania on August 3, 1984.² The ERA alleged that certain of United's pricing practices were in violation of 6 CFR 150.356 and 10 CFR 212.82, 212.83 and 212.126(b). The ERA calculated that these alleged violations resulted in overcharges in the amount of \$29,070,251, which includes interest through September 16, 1983, in sales of United's³ motor gasoline, distillates and

² During the audit and overcharge period, United Refining Company was a Pennsylvania corporation engaged in the refining and marketing of petroleum products. Coral Energy, Inc., a Pennsylvania corporation and wholly-owned subsidiary of the Houston, Texas based Coral Petroleum, Inc., purchased United Refining Company on February 26, 1981. United Refining Company therefore became a wholly-owned subsidiary of Coral Energy, Inc.

The refinery assets of United Refining Company were distributed to Coral Energy, Inc., in August and September 1981, as part of a partial liquidation and reorganization. In connection with this reorganization, Coral Energy, Inc. changed its name to United Refining Company. The marketing assets of the original United Refining Company stayed with the original United Refining Company under a new name, United Refining Company of Pennsylvania. United Refining Company of Pennsylvania remained a wholly-owned subsidiary of United Refining Company (formerly Coral Energy, Inc.). The ultimate parent company, Coral Petroleum, Inc., transferred all of its stock in the new United Refining Company (formerly Coral Energy, Inc.) to a wholly-owned Delaware corporation created in July 1981. This Delaware corporation became known as United Refining, Inc. on October 8, 1981.

The DOE believes that United Refining, Inc. is a holding company that owns all of the stock of the United Refining Company, a refiner of petroleum products. United Refining Company, in turn, owns all of the stock of United Refining Company of Pennsylvania, a marketer of petroleum products. United Refining, Inc. was not named as a party to the Settlement Agreement.

³ During the violation period, United has a number of subsidiaries. These subsidiaries include: Beaver Gasoline Company; Kiantone Pipeline Corporation; Trans Penn Oil Company; United Oil Manufacturing Company; PPC, Inc.; Minute Man Service, Inc.; Kwik-Fill Corporation; Skat Oil Company; Six-Ninety Service Center, Inc. (became part of United some time after March 1, 1974); Osceola Refining Company (Osceola) (acquired by United on December 31, 1973); Ogar Pipe Line Company (wholly-owned by Osceola); Super Test Petroleum, Inc. (Super Test) (wholly-owned by Osceola); Bell Oil Company (wholly-owned by Super Test). During the period 1973 through 1978 United and its subsidiaries marketed their petroleum products through between 559 to 715 retail outlets. The outlets were either owned by United, held under long-term leases or supplied under contract. These outlets are known to have operated under a number of different brand names in regions of one or more of the following states: Delaware; Michigan; New York; Ohio; and Pennsylvania. United's subsidiaries are presumptively ineligible for a refund in this proceeding.

general refinery products during specified months between November 1973 through April 1976. On September 16, 1983, United Refining Company and United Refining Company of Pennsylvania filed a petition for reorganization under Chapter 11 in The United States Bankruptcy Court for the Southern District of Texas.

In order to settle any potential civil liability for the alleged violations and overcharges referred to in the August 3, 1984 PRO, United and the DOE executed a Settlement Agreement on January 13, 1988.⁴ The Settlement Agreement settles the liability of United Refining Company and United Refining Company of Pennsylvania for the violations specified in the PRO described above.⁵ See Settlement Agreement, pp. 1-2, 5 at ¶ 5.

Pursuant to the Settlement Agreement, United issued a promissory note in the amount of \$3,459,264.01, plus interest, to the DOE. On March 7, 1989, United prepaid the promissory note. The DOE received a total of \$4,351,589.43. The Settlement Agreement funds have been placed in an interest-bearing escrow account maintained by the Department of the Treasury for ultimate distribution by the DOE. This Proposed Decision and Order sets forth the OHA's tentative plan for distributing these funds to qualified purchasers of United's gasoline, distillates and general refinery products. Because the procedures set forth in this Decision are in a proposed form, no application should be filed at this time. A final determination will be issued at a later date announcing that the filing of United refund applications is authorized. Comments are solicited on these proposed procedures.

II. Proposed Refund Procedures

A. Eligibility for Refunds

The settlement amount of \$4,351,589.43, plus accrued interest, will be available for distribution to purchasers of United gasoline,

⁴ The United States Bankruptcy Court for the Southern District of Texas approved the Settlement Agreement on January 22, 1988.

⁵ The Settlement Agreement also involved Kiantone Pipeline Corporation (Kiantone), a subsidiary of United that was also in Chapter 11 bankruptcy. However, Kiantone was not a named party to the Proposed Remedial Order (PRO) that prompted the Settlement Agreement. The Settlement Agreement specifically states that it was entered into "for the express purpose of settling the Proof of Claim filed by the DOE against the bankruptcy estates of United [United Refining Company] and United-Pennsylvania [United Refining Company of Pennsylvania], by the DOE's covenanting not to sue United or United-Pennsylvania regarding certain alleged violations and transactions referred to by the DOE Proof of Claim and specified in a Proposed Remedial Order issued in case number 340S00445 by the DOE to United on August 3, 1984." Settlement Agreement, pp. 1-2. Kiantone was a wholly-owned subsidiary of United. The OHA believes that the PRO covered sales made in certain months by United and its subsidiaries. Accordingly, any company that was a subsidiary of United and sold covered products during the months specified in the PRO is included in the definition of United for purposes of this proceeding. See Footnotes 2 & 3 See also section II. A.

¹ Gasoline accounted for most of United's sales revenues. Other products sold by United include kerosene, diesel fuel, home heating oils, residual fuel oil, paving and roofing asphalt and to a lesser degree, liquified petroleum gas (LPG).

distillates⁶ and general refinery products⁷ who can show that they were injured by United's pricing practices in specific months during the period November 1973 through April 1976.⁸ The months and product types that are covered by this proceeding are listed in the Appendix attached to this Proposed Decision and Order.

B. Calculation of Refund Amount

We propose adopting a volumetric method to apportion the United escrow account. We will derive the volumetric figure by dividing the \$4,351,589.43 received from United by the total volume of covered products sold by the firm during the months listed in the Appendix. This yields a volumetric refund amount of \$.0084 per gallon, exclusive of interest.⁹ This method is based upon the presumption that the alleged overcharges were spread equally over all gallons of covered products sold by United during the months when the alleged overcharges occurred.¹⁰

Under the volumetric approach, an eligible claimant will receive a refund equal to the number of gallons of covered products that it purchased from United during the months when the alleged overcharges occurred on those products, multiplied by the per gallon volumetric amount for this proceeding. In addition, each successful claimant will receive a pro rata portion of the interest that has accrued on the United funds since the date of remittance.

As in previous cases, we will establish a minimum amount of \$15 for refund claims. We have found through our experience in prior refund cases that the cost of processing claims of \$15 or less outweighs the benefits of restitution in those situations. See *Uban Oil Co.*, 9 DOE ¶ 82, 541 at 85,225 (1982) (*Uban*).

1. Showing of Injury

We propose that each claimant will be required to document its purchases of

United's covered products during the months that the alleged overcharges occurred. In addition, we propose to require an applicant to demonstrate that it was injured by the alleged overcharges. In order to demonstrate that it did not subsequently raise its prices and thereby recover the increased costs associated with United's alleged overcharges, a claimant will have to show that it maintained banks of unrecovered product costs. We realize that some applicants may be unable to provide actual cost bank records for the period covered by this proceeding. We are therefore willing to accept information establishing with reasonable likelihood that a claimant had banks. See *Seminole Refining Inc.*, 12 DOE ¶ 85,188 (1985); *Bayou State Oil Corp.*, 12 DOE ¶ 85,197 (1985). The maintenance of banks does not establish injury. See *Tenneco Oil Co./Chevron U.S.A., Inc.*, 10 DOE ¶ 85,014 (1982). In order to demonstrate injury, a claimant must show that market conditions would not permit it to pass through those increased costs to its customers. See *American Pacific International*, 14 DOE ¶ 85,158 at 88,295 (1986) (API). Such a showing might be made through a demonstration of a competitive disadvantage, lowered profit margin, decreased market share or depressed sales volumes during the period of purchases of United covered products. See *Gulf Oil Corporation*, 18 DOE ¶ 85,381 at 88,740 (1987).

2. Small Claims Presumption

We also propose to adopt a presumption, as we have in many cases, that purchasers seeking refunds of \$5,000 or less were injured by United's pricing practices. See *Uban*, 9 DOE ¶ 82,541 (1982). We recognize that the cost to the applicant of gathering evidence of injury to support a refund claim of \$5,000 or less could exceed the expected refund. Consequently, without simplified procedures, some injured parties would be denied an opportunity to obtain a refund. For example, some firms may have limited accounting and data-retrieval capabilities, and may therefore be unable to produce the records necessary to prove either the existence of banks of unrecovered costs, or that they did not pass the alleged overcharges on to their own customers. We also seek to insure that the cost to the applicant and to the government of compiling and analyzing information sufficient to establish a claim does not exceed the amount of the refund. See *Marion Corp.*, 12 DOE ¶ 85,014 (1984). Under the small claims presumption, an applicant seeking total refunds of \$5,000 or less will not be required to make a detailed demonstration of injury. Such an applicant need only document its purchase volume of United covered products during the months that the alleged overcharges occurred.

3. End-Users

We propose to adopt the presumption that end-users, i.e. ultimate consumers, whose businesses are unrelated to the petroleum industry, were injured by United's alleged overcharges. Unlike regulated firms in the petroleum industry, end-users were generally not subject to price controls during the period covered by this proceeding, and were not required to keep records that justified selling price increases by reference to cost increases.

For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. See *id.* at 88,030; see also *Thornton Oil Corp.*, 12 DOE ¶ 85,112 (1984). We therefore propose that end-users of United products need only document their purchase volumes of covered products during the months of the alleged overcharges to make a sufficient showing of injury.

4. Regulated Firms and Cooperatives

We propose that claimants whose prices for goods and services are regulated by a government agency (such as a public utility), or by the terms of a cooperative agreement, will be presumed to have absorbed the alleged overcharges. Accordingly, such claimants need only document the volume of covered products purchased by them, during the months when the alleged overcharges occurred, in order to receive a full volumetric refund. These firms would have routinely passed price increases through to their customers, and will now pass on the benefits of the refund of their customers. Accordingly, these firms will not be required to make a detailed demonstration of injury. However, regulated firms or cooperatives will be required to certify that they will pass any refund on to their customers or member-customers, provide us with a full explanation of how they plan to accomplish the restitution, and certify that they will notify the appropriate regulatory body or membership group of their receipt of the refund. See *Marathon Petroleum Co.*, 14 DOE ¶ 85,269 at 88,514 (1986); *Office of Special Counsel*, 9 DOE ¶ 82,538 at 85,203 (1982). We will not require a public utility seeking a refund of \$5,000 or less to submit the above referenced certifications and explanation. Sales of covered products by cooperatives to non-members will be treated in the same manner as sales by other resellers or retailers.

5. Indirect Purchasers

We propose that firms which made indirect purchases of covered United products during the months when the alleged overcharges occurred may also apply for refunds. If an applicant did not purchase directly from United, but believes that covered products it purchased from another firm were originally purchased from United during a month (or months) listed in the Appendix, the applicant must establish its basis for that belief and identify the reseller from whom the products were purchased. Indirect purchasers who either fall within a class of applicant whose injury is presumed, or who can prove injury, may be eligible for a refund if the reseller of United products passed through United's alleged overcharges to its own customers. See *Dorchester Gas Corp.*, 14 DOE ¶ 85,240 at 88,451 (1986).

6. Spot Purchasers

We propose to adopt the rebuttable presumption that a claimant who made only spot purchases from United was not injured as a result of those purchases. A claimant is a spot purchaser if it made only sporadic purchases of significant volumes of covered

⁶ Distillates for the purposes of this proceeding shall mean No. 2 oils. No. 2 oils are defined as No. 2 heating oil and No. 2-D diesel fuel. 10 CFR 212.31.

⁷ For purposes of this proceeding, general refinery products are defined as all covered products other than No. 2 oils, gasoline, and crude oil. This definition originated in 10 CFR 212.31, 40 FR 2795 (January 15, 1975), and was effective until its amendment in 41 Fed. Reg. 15330 (April 12, 1976).

⁸ Applicants are only eligible to receive refunds based upon covered products purchased during the period in which each product was subject to federal price controls. Therefore, an applicant will not be eligible to receive a refund based upon paving and roofing asphalt purchased after March 31, 1974 because these products were decontrolled on April 1, 1974. 39 Fed. Reg. 12214 (April 3, 1974).

⁹ To compute this figure, we estimated that United sold a total of 517,298,583 gallons of covered products during the months listed in the Appendix. This figure was obtained from FEO-96 data resubmitted to the DOE by United on May 31, 1979 and annual reports that the OHA located in the ERA's file of the United enforcement proceedings.

¹⁰ Nevertheless, we realize that the impact on an individual claimant may have been greater than the volumetric amount. We therefore propose that the volumetric presumption will be rebuttable, and we will allow a claimant to submit evidence detailing the specific overcharges that it incurred in order to be eligible for a larger refund. See *Standard Oil Co./Army and Air Force Exchange Service*, 12 DOE ¶ 85,015 (1984).

United products.¹¹ Accordingly, a spot purchaser claimant must submit specific and detailed evidence to rebut the spot purchaser presumption and to establish the extent to which it was injured as a result of its spot purchases from United.

III. Distribution of Refunds Remaining After Consideration of All Refund Applications

In the event that money remains after all meritorious refund applications have been processed, the funds in the United escrow account will be disbursed in accordance with the provisions of the Petroleum Overcharge and Distribution Act of 1986 (PODRA), 15 U.S.C.A. §§ 4501-4507 (West Supp. 1989).

IV. Conclusion

Applications for Refund in this proceeding should not be filed at this time. Detailed procedures for filing Applications for Refund will be provided in a final Decision and Order. Before distributing any of the United Settlement Agreement funds, we intend to publicize the distribution process and to provide an opportunity for any potential claimants to file a claim. Comments regarding the tentative distribution procedures set forth in this Proposed Decision and Order should be filed with the Office of Hearings and Appeals within 30 days of the publication of this Proposed Decision and Order in the Federal Register.

It is Therefore Ordered That:

The refund amount remitted to the Department of Energy by United Refining Company and the United Refining Company of Pennsylvania pursuant to the Settlement Agreement executed on January 13, 1988 will be distributed in accordance with the foregoing Decision.

APPENDIX

Month	Year	Products ¹
November ...	1973	Distillate; Gasoline; GRP.
December ...	1973	Distillate; Gasoline; GRP.
January	1974	Distillate; Gasoline; GRP.
February	1974	Distillate; Gasoline; GRP.
March	1974	Gasoline; GRP.
April	1974	Gasoline.
September ..	1974	GRP.
October	1974	GRP.
November ...	1974	GRP.
December ...	1974	GRP.
February	1975	GRP.
October	1975	GRP.
January	1976	GRP.
February	1976	Distillate.
April	1976	Distillate.

¹ Refer to footnotes 6 & 7 in text.

[FR Doc. 89-27340 Filed 11-20-89; 8:45 am]

BILLING CODE 6450-01-M

¹¹ Spot purchasers tend to have considerable discretion as to the timing of purchases and the market in which to make purchases. Accordingly, they generally would not have made spot purchases from United at increased prices unless they were able to pass through the full amount of any price increases to their own customers. See *Office of Enforcement*, 8 DOE ¶ 82,597 at 85,396-97 (1981).

ENVIRONMENTAL PROTECTION AGENCY

Agency Information Collection Activities Under OMB Review

[FRL-3681-6]

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATE: Comments must be submitted on or before December 21, 1989.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Pesticides and Toxic Substances

Title: Application and Summary Report for an Emergency Exemption for Pesticides (EPA ICR #0596.03; OMB #2070-0032). This ICR requests reinstatement of a previously approved collection.

Abstract: Under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act, EPA may authorize states, territories, and federal agencies to temporarily ship and use unregistered pesticides under emergency situations. To ensure that an emergency actually exists and that use of the pesticide will not pose an unreasonable risk to human health or the environment, EPA requires exemption applicants to explain the circumstances necessitating the emergency use and to provide details on the pesticide and its proposed application. Afterwards, the respondents must describe the pesticide treatment and its effectiveness in a summary report.

Burden Statement: The public reporting burden for this collection of information is estimated to average 15 hours per response, which includes the initial request for an emergency exemption and the summary report after the pesticide application. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: States, territories, and federal agencies.

Estimated No. of Respondents: 60.

Estimated Total Annual Burden on Respondents: 5,355 hours.

Frequency of Collection: On occasion.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223), 401 M Street, SW., Washington, DC 20460.

and

Tim Hunt, Office of Management and Budget, Paperwork Reduction Project (2070-0057), Washington, DC 20503, (Telephone (202) 395-3084).

Dated: November 9, 1989.

Paul Lapsley,

Director, Information and Regulatory Systems Division.

[FR Doc. 89-27325 Filed 11-20-89; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3681-7]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATE: Comments must be submitted on or before December 21, 1989.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

EPA Region II: Air and Waste Management Division

Title: Gray Iron Foundry Information Request, (EPA ICR #1549.01). This is a new collection.

Abstract: EPA will require gray iron foundries in New York, New Jersey, and the Caribbean to respond by letter to questions concerning their generation, transport, treatment, storage, and disposal of hazardous wastes and the manner in which these activities were carried out. EPA will use the information as part of an initiative to

identify and take enforcement actions against non-notifiers in this industry.

Burden Statement: The estimated average public reporting burden for this collection of information is about 6 hours per respondent. This estimate includes all aspects of the information collection including time for reviewing instructions, gathering data, and preparing and submitting the letter to the Agency.

Respondents: Owners or operators of gray iron foundries.

Estimated No. of Respondents: 150.

Estimated Total Annual Burden of Respondents: 900 hours.

Frequency of Collection: One time.

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223), 401 M Street SW., Washington, DC 20460

and

Marcus Peacock, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place, NW., Washington, DC 20530.

Dated: November 9, 1989.

Paul Lapsley,

Director, Information and Regulatory Systems Division.

[FR Doc. 89-27326 Filed 11-20-89; 8:45 am]

BILLING CODE 6560-50-M

[FRL 3681-5]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATE: Comments must be submitted on or before December 21, 1989.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Solid Waste and Emergency Response

Title: RCRA Hazardous Waste Permit Application Part A (EPA ICR #262). This is a renewal, OMB #2050-0034.

Abstract: The RCRA permit application is used by owners and operators of hazardous waste treatment, storage, and disposal facilities in applying for permits as required by RCRA Section 3005. The permit application is also used to define the processes and the wastes that can be managed at the facility in interim status. The application asks for the characteristics and conditions of the site and of the hazardous waste handled. The application must be revised if certain changes are made to an interim status facility.

Burden Statement: The estimated average public reporting for this collection of information is about 8 hours per respondent. This estimate includes all aspects of the information collection including time for reviewing instructions, gathering data, and preparing and submitting the form to the Agency.

Respondents: Owners and operators of hazardous waste treatment, storage and disposal facilities.

Estimated No. of Respondents: 765.

Estimated Total Annual Burden of Respondents: 6127 hours.

Frequency of Collection: One time per permit application.

Send comments regarding the burden estimate, or any other aspect of this information collections, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223), 401 M Street, SW., Washington, DC 20460.

and

Marcus Peacock, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place, NW., Washington, DC 20530.

OMB Responses to Agency PRA Clearance Requests

EPA ICR #1067.03; NSPS for Primary Aluminum Reduction Plants (Subpart 5) Recording and Recordkeeping; was approved 10/16/89; OMB #2060-0031; expires 10/31/90.

EPA ICR #1432.03; Protection of Stratospheric Ozone: Reporting and Recordkeeping Requirements; was approved 10/16/89; OMB #2060-0170; expires 01/31/92.

EPA ICR #1530.01; Water Quality Standards Regulation; was approved 10/17/89; OMB #2040.0049; expires 10/31/92.

EPA ICR #0664.03; NSPS for Bulk Gasoline Terminals—(Subpart XX); was approved 10/16/89; OMB #2060-0006; expires 10/31/92.

EPA ICR #0794.03; Notification of Substantial Risks Under Section 8(e) of the Toxic Substances Control Act; was approved 10/10/89; OMB #2070-0046; expires 10/31/92.

EPA ICR #0183.03; TSCA Inspection-Related Forms; was approved 10/11/89; OMB #2070-0007; expires 10/31/92.

Dated: November 7, 1989.

Paul Lapsley,

Director, Information and Regulatory Systems Division.

[FR Doc. 89-27327 Filed 11-20-89; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3681-8]

National Drinking Water Advisory Council Request for Nomination of Members

The Environmental Protection Agency (EPA) invites all interested persons to nominate qualified individuals to serve as members of the National Drinking Water Advisory Council. This Advisory Council was established to provide practical and independent advice, consultation and recommendations to the Agency on the activities, functions and policies related to the implementation of the Safe Drinking Water Act as amended. The Council consists of fifteen members, including a Chairperson. Five members represent the general public; five members represent appropriate state and local agencies concerned with water hygiene and public water supply; and five members represent private organizations or groups demonstrating an active interest in the field of water hygiene and public water supply. Each member holds office for a term of three years and is eligible for reappointment. On December 15 of each year, five members complete their appointment. This notice solicits names to fill these five vacancies.

Any interested person or organization may nominate qualified individuals for membership. Nominees should be identified by name, occupation, position, address and telephone number. Nominations must include a current resume providing the nominee's background, experience, and qualifications.

This request for nominations does not imply any commitment by the Agency as to the procedure to be followed in making selections.

Persons selected for membership will receive compensation for travel and a nominal daily compensation while attending meetings.

Nominations should be submitted to Charlene E. Shaw, Designated Federal Official, National Drinking Water Advisory Council, U.S. Environmental Protection Agency, Office of Drinking Water (WH-550A), 401 M Street SW., Washington, DC 20460, no later than December 8, 1989. The Agency will not formally acknowledge or respond to nominations.

Dated: November 7, 1989.

Robert H. Wayland,

Acting Assistant Administrator for Water.

[FR Doc. 89-27328 Filed 11-20-89; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-44542; FRL 3666-8]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the receipt of test data on 1,3-dichloro-2-propanol (CAS No. 96-23-1), submitted pursuant to a final test rule under the Toxic Substances Control Act (TSCA). Publication of this notice is in compliance with section 4(d) of TSCA.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543B, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: Section 4(d) of TSCA requires EPA to publish a notice in the Federal Register reporting the receipt of test data submitted pursuant to test rules promulgated under section 4(a) within 15 days after it is received.

I. Test Data Submissions

Test data for 1,3-dichloro-2-propanol was submitted by the Dow Chemical Company pursuant to a test rule at 40 CFR 799.5055. It was received by EPA on November 1, 1989. The submission describes a 13-week gavage toxicity study in rats. Toxicity testing is required by this test rule.

EPA has initiated its review and evaluation process for this data submission. At this time, the Agency is unable to provide any determination as to the completeness of the submission.

II. Public Record

EPA has established a public record for this TSCA section 4(d) receipt of data notice (docket number OPTS-44542). This record includes copies of all studies reported in this notice. The record is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Public Docket Office, Rm. NE-G004, 401 M St., SW., Washington, DC 20460.

Authority: 15 U.S.C. 2603.

Dated: November 8, 1989.

Frank D. Kover,

Acting Director, Existing Chemical Assessment Division, Office of Toxic Substances.

[FR Doc. 89-27332 Filed 11-20-89; 8:45 am]

BILLING CODE 6560-50-D

FEDERAL MARITIME COMMISSION

Turkey/United States Atlantic and Gulf Rate Agreement

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.: 202-011207-002

Title: Turkey/United States Atlantic and Gulf Rate Agreement.

Parties: Farrell Lines, Inc., Lykes Bros. Steamship Co., Inc., Pharos Lines, S.A.

Synopsis: The proposed amendment would modify the Agreement's voting procedures for telephone and telex polls to require the unanimous vote of all parties entitled to vote.

By Order of the Federal Maritime Commission.

Dated: November 15, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89-27233 Filed 11-20-89; 8:45 am]

BILLING CODE 6730-01-M

[Petition No. P6-89]

Motor Vehicle Manufacturers Association of the United States, Inc.—Application for Exception of Vehicle Shipments From Portions of the Shipping Act of 1984; Enlargement of Time

Notice of filing of the petition for exemption in this matter was published October 5, 1989 (54 FR 41161). Counsel for the USA-North Europe and North Europe-USA Rate Agreement now has requested an enlargement of time for filing replies to the petition, to November 27, 1989. In support of the request, counsel notes that the time requested is only an additional five workdays, and submits that this extension would not unduly delay the proceeding, impair the Commission's discharge of its regulatory responsibilities or prejudice any interest. Counsel states that the additional time would enable the parties to the USA-North Europe and North Europe-USA Rate Agreement to present their views on the petition in a single, joint submission.

The request is supported by the South Europe/U.S.A. Freight Conference, the "8900 Lines, the Mediterranean/North Pacific Coast Freight Conference, the U.S. Atlantic and Gulf/Australia-New Zealand Conference, the United States Atlantic and Gulf Ports/Eastern Mediterranean and North African Freight Conference, and the Transpacific Westbound Rate Agreement.

In view of the exceptional circumstances cited, the time for filing replies to the petition is hereby enlarged to and including November 27, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89-27295 Filed 11-20-89; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Philip R. Akre; 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 December 5, 1989.

A. FEDERAL RESERVE BANK OF SAN FRANCISCO (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Philip R. Akre, M.D.*, Coronado, California; to acquire 18.43 percent of the voting shares of Crown Bancorp, Coronado, California, and thereby indirectly acquire Bank of Coronado, Coronado, California.

Board of Governors of the Federal Reserve System, November 15, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-27271 Filed 11-20-89; 8:45 am]

BILLING CODE 6210-01-M

Farmers State Bank Corp., of Fort Morgan, Colorado, 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 Regulations Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than December 13, 1989.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoening, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *The Farmers State Bank Corporation of Fort Morgan, Colorado*, Fort Morgan, Colorado; to become a

bank holding company by acquiring 100 percent of the voting shares of The Farmers State Bank of Fort Morgan, Fort Morgan, Colorado.

B. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *West One Bancorp.*, Boise, Idaho; to acquire 100 percent of the voting shares of Bank of Tacoma, Tacoma, Washington.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-27272 Filed 11-20-89; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Reestablishment; Extramural Science Advisory Board, NIMH et al.

Pursuant to the Federal Advisory Committee Act, Public Law 92-463, 86 Stat. 770, and the Anti-Drug Abuse Act of 1986, Public Law 99-570, section 4003, 100 Stat. 3207-106 as amended by the Drug Abuse Treatment Technical Corrections Act of 1989, section 3(f) 103 Stat. 611, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, (ADAMHA), announces the reestablishment, effective November 14, 1989, of the following committees:

Extramural Science Advisory Board, NIMH,
Extramural Science Advisory Board, NIAAA.

The duration of these committees is continuing unless formally determined by the Administrator, ADAMHA, that termination would be in the best public interest.

Dated: November 15, 1989.

Frederick K. Goodwin,

Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 89-27298 Filed 11-20-89; 8:45 am]

BILLING CODE 4160-20-M

Centers for Disease Control

National Institute for Occupational Safety and Health; Request for Comments and Secondary Data on Occupational Cumulative Trauma Disorders of the Upper Extremities

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control (CDC), Public Health Service (PHS), HHS.

ACTION: Notice of request for comments and secondary data.

SUMMARY: NIOSH is requesting comments and secondary data from all interested parties concerning the health and safety aspects of cumulative trauma disorders (CTDs) resulting from the performance of repetitive manual tasks that involve the use of the upper extremities (hands, arms, and shoulders). Interested parties may submit information on the health and safety aspects of performing tasks that involve repetitive movements of the upper extremities, including but not limited to (1) the extent of the existing problem, (2) ergonomic designs and engineering controls in use today, (3) exposure/effect relationships, (4) health effects of repetitive motions, and (5) prevention and intervention procedures in use today. This information will be used by NIOSH to determine the extent of the health problems associated with CTDs and to develop strategies for preventing and controlling the problem.

DATE: Comments and secondary data concerning this notice should be submitted by January 22, 1990.

ADDRESS: Please submit any information, recommendations, suggestions, and comments in writing to: Dr. Richard W. Niemeier, Acting Director, Division of Standards Development and Technology Transfer, NIOSH, 4676 Columbia Parkway, C-14, Cincinnati, Ohio 45226.

FOR FURTHER INFORMATION CONTACT: Dr. Austin Henschel, Division of Standards Development and Technology Transfer, NIOSH, 4676 Columbia Parkway, C-30, Cincinnati, Ohio 45226, (513) 533-8340 or FTS 684-8340.

SUPPLEMENTARY INFORMATION: Under the Occupational Safety and Health Act of 1977 (30 U.S.C. 801, et seq.) and the Federal Mine Safety and Health Act of 1970 (29 U.S.C. 651, et seq.) NIOSH is directed to gather information and develop recommendations for improving occupational safety and health standards. NIOSH has been concerned with the health and safety consequences associated with the performance of occupational tasks that require frequent repetitive movements of the upper extremities. The term cumulative trauma disorders (CTDs) is used to identify a group of musculoskeletal disorders involving injuries to the tendons, tendon sheaths and related bones, muscles, and nerves of the hands, wrists, elbows, arms, and shoulders. Included are such disorders as tendonitis, tenosynovitis, carpal tunnel syndrome, tennis elbow, trigger finger, and DeQuervain's disease.

The signs and symptoms associated with CTDs include pain, restricted movement of the involved part, and/or decreased performance and strength. Usually the worker requires medical treatment and time off the job. However, unless the task is redesigned to eliminate the need for excessive force, awkward posture, and frequent repetitive motions, the problem will reappear on return to work.

NIOSH is interested in obtaining existing and available materials, including reports and research findings, to evaluate the extent of the existing problem and to develop strategies to prevent and control CTDs. Examples of requested information include the following:

1. Descriptions of repetitive motion tasks.
2. Descriptions of tools and workplaces required to perform these tasks.
3. Biomechanical postural and force attributes of the task.
4. Number of repetitive movements made per hour and per workday.
5. Adverse health effects or injuries observed in workers performing repetitive motion tasks.
6. Epidemiologic data on prevalence and latency of health effects.
7. Prevention and intervention procedures in use today.
8. The role of personal factors (e.g., age, gender, strength, and endurance) in the development of CTDs.
9. The role of administrative factors (e.g., overtime, shiftwork, rest breaks, in-plant exercise programs) in the development of CTDs.
10. Medical monitoring strategies for early detection of CTDs.
11. Medical treatment of CTDs.

All information received in response to this notice, except that designated as trade secret and protected by section 15 of the Occupational Safety and Health Act, or personal identifying information contained in medical case reports or data, will be available for public examination and copying at the above address.

Dated: November 14, 1989.

Diane D. Porter,

Acting Director, National Institute for Occupational Safety and Health.

[FR Doc. 89-27296 Filed 11-20-89; 8:45 am]

BILLING CODE 4160-19-M

Technical Advisory Committee for Diabetes Translation and Community Control Programs; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), the Centers for

Disease Control (CDC) announces the following Committee meeting.

Name: Technical Advisory Committee for Diabetes Translation and Community Control Programs, CDC, HHS.

Time and Date: 8 a.m.-5 p.m., Wednesday, December 6, 1989.

Place: The Quality Inn Capitol Hill, 415 New Jersey Avenue, NW., Washington, DC 20001.

Status: Open to the public, limited only by the space available.

Purpose: This Committee is charged with advising the Director, CDC, regarding priorities and feasible goals for translation activities and community control programs designed to reduce morbidity and mortality from diabetes and its complications. The Committee advises regarding policies, strategies, goals and objectives, and priorities; identifies research advances and technologies ready for translation into widespread community practice; recommends public health strategies to be implemented through community interventions; advises on operational research and outcome evaluation methodologies; identifies research issues for further clinical investigation; and advises regarding the coordination of programs with Federal, voluntary, and private resources involved in the provision of services to people with diabetes.

Matters To Be Discussed: The Committee will discuss the proceedings of the Second National Conference on Financing the Care of Diabetes Mellitus in the 1990s and related topics. Major conclusions and recommendations from the Conference will be presented. Proposed new projects and program updates will also be presented by staff from the Division of Diabetes Translation (DDT).

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Frederick G. Murphy, Program Analyst, DDT, Center for Chronic Disease Prevention and Health Promotion, CDC, 1600 Clifton Road, NE, Mailstop E-08, Atlanta, Georgia 30333. Telephone: FTS: 236-1848; Commercial: 404/639-1848.

Dated: November 15, 1989.

Elvin Hilyer,

Associate Director for Policy Coordination Centers for Disease Control.

[FR Doc. 89-27308 Filed 11-20-89; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 89N-0484]

Drug Export: Reagent Red Blood Cells, Ortho Ficin Panel System RESOLVE™ Panel C

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ortho Diagnostic Systems, Inc., has filed an application requesting approval for the export of the biological product Reagent Red Blood Cells, Ortho Ficin Panel System RESOLVE™ Panel C to Italy.

ADDRESS: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Boyd Fogle, Jr., Center for Biological Evaluation and Research (HFB-120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8191.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the *Federal Register* within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Ortho Diagnostic Systems, Inc., Raritan, NJ, has filed an application requesting approval for the export of the biological product Reagent Red Blood Cells, Ortho Ficin Panel System RESOLVE™ Panel C, to Italy. The Ortho Ficin Panel System RESOLVE™ Panel C is a qualitative test for the identification of unexpected blood group antibodies. The application

was received and filed in the Center for Biologics Evaluation and Research on October 19, 1989, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by December 1, 1989, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 21 U.S.C. 382) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated under 21 CFR 5.44.

Dated: November 6, 1989.

Peter Michael Dubinsky,

Acting Director, Office of Compliance, Center for Biologics Evaluation and Research.

[FR Doc. 89-27303 Filed 11-20-89; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting: **BUFFALO DISTRICT OFFICE**, chaired by Lois M. Meyer, District Consumer Affairs Officer, in conjunction with the New York State Assembly Committee on Consumer Affairs and Protection (Jerrold Nadler, Chairman), and the New York State Task Force on Food, Farm, and Nutrition Policy (Gloria Davis, Chairwoman). The topic to be discussed is food labeling.

DATES: Wednesday, November 29, 1989, 10 a.m.

ADDRESSES: New York State Legislative Office Bldg., Hamilton Hearing, Rm. B, Second Floor, Albany, NY 12248.

FOR FURTHER INFORMATION CONTACT: Lois M. Meyer, Consumer Affairs Officer, Food and Drug Administration, 599 Delaware Avenue, Buffalo, NY 14202, 716-846-4461.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: November 15, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-27300 Filed 11-20-89; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting: **Minneapolis District Office**, chaired by John Feldman, District Director. The topic to be discussed is food labeling.

DATE: Monday, December 4, 1989, two sessions: 1 p.m. to 3 p.m. and 7 p.m. to 9 p.m.

ADDRESS: Rochester Community College, 851 30th Ave. SE., Rms. A206-208, Rochester, MN 55904-4999.

FOR FURTHER INFORMATION CONTACT: Donald W. Aird, Consumer Affairs Officer, Food and Drug Administration, 240 Hennepin Ave., Minneapolis, MN 55401, 612-334-4100.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: November 15, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-27301 Filed 11-20-89; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Advisory Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following National

Advisory body scheduled to meet during the month of January 1990.

Name: Graduate Training in Family Medicine Review Committee.

Date and Time: January 29-30, 1990, 8:30 a.m.

Place: Conference Room E, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open on January 29, 8:30 a.m.-9:30 a.m. Closed for Remainder of Meeting.

Purpose: The Graduate Training in Family Medicine Review Committee shall review applications from public or nonprofit private hospitals, and other public or nonprofit entities that plan, develop and operate or participate in approved graduate training programs in the field of family medicine; or supports trainees in such programs who plan to specialize or work in the practice of family medicine.

Agenda: The open portion of the meeting will cover welcome and opening remarks, financial management and legislative implementation updates, and overview of the review process. The meeting will be closed to the public on January 29, at 9:30 a.m. for the remainder of the meeting for the review of grant applications. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C. Code, and the Determination by the Acting Administrator, Health Resources and Services Administration, pursuant to Public Law 92-463.

Anyone requiring information regarding the subject Council should contact Mrs. Sherry Whipple, Executive Secretary, Graduate Training in Family Medicine Review Committee, Room 4C-18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-6874.

Agenda Items are subject to change as priorities dictate.

Dated: November 16, 1989.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 89-27306 Filed 11-20-89; 8:45 am]

BILLING CODE 4160-15-M

Program Announcement for Cooperative Agreements for Area Health Education Centers Programs

The Health Resources and Services Administration announces that applications are now being accepted for Fiscal Year 1990 Cooperative Agreements for Area Health Education Centers (AHEC) Programs under the

authority of section 781(a)(1) of the Public Health Service Act, as amended by Public Law 100-607.

The Administration's budget request for Fiscal Year 1990 does not include funding for this program. Applicants should be advised that this program announcement is a contingency action being taken to ensure that should funds become available for this purpose, they can be amended in a timely fashion consistent with the needs of the programs as well as to provide for even distribution of funds throughout the fiscal year. This notice regarding applications does not reflect any change in this policy.

Section 781(a)(1) authorizes Federal assistance to medical and osteopathic schools which have cooperative arrangements with one or more public or nonprofit private area health education center for the planning, development and operation of area health education center programs. Except as modified by the following paragraph, to be eligible to receive support for an Area Health Education Center cooperative agreement, the applicant must be a public or nonprofit private accredited school of medicine or osteopathic medicine or consortium of such schools, or the parent institution on behalf of such school(s). New applications submitted under this authority will be accepted from medical and osteopathic schools for the purpose of planning, developing and operating new area health education programs. Applicants may request up to three years of support with the expectation that AHEC's planned and developed in years one and two would be operational no later than the third year.

The Health Professions Reauthorization Act of 1988 (title VI of Pub. L. 100-607) amended the authority for the Area Health Education Centers program by:

1. Providing for a waiver under specified circumstances of the provision now contained in section 781(a)(2)(C) prohibiting an AHEC from being a school of medicine or a school of osteopathic medicine, the parent institution of such a school, nor a branch campus or other subunit of a school of medicine or its parent institution, or a consortium of such entities. The waiver applies to an AHEC having, at the time of initial application for support, an operating program supported by appropriations of a State legislature as well as local resources;

2. Reducing the number of individuals enrolled in first-year positions in a rotating osteopathic internship or a medical residency training program in family medicine, general internal

medicine, or general pediatrics from six individuals to four; and

3. Revising the requirement that each AHEC shall "conduct interdisciplinary training and practice involving physicians and other health personnel including, where practicable, physician assistants and nurse practitioners" to "physician assistants, nurse practitioners and nurse midwives."

To receive support, programs must meet the requirements of the regulations as set forth in 42 CFR part 57, subpart MM.

The Bureau of Health Professions, within the Health Resources and Services Administration has substantial programmatic involvement with the planning, developing, and administration of the AHEC projects by:

1. Reviewing and approving plans upon which continuation of the cooperative agreement is contingent to permit appropriate direction and redirection of activities;
2. Reviewing and approving all contracts and agreements among recipient medical or osteopathic schools, other health professions, schools and community-based centers;
3. Participating with project staff in the development of funding projections;
4. Developing with project staff individual project data collection systems and procedures; and
5. Participating with project staff in the design of project evaluation protocols and methodologies.

Section 781(e)(2) of the Act requires that not more than 75 percent of total operating funds of a program in any year shall be provided by the Secretary.

Review Criteria

The review of applications will take into consideration the following criteria:

1. The degree to which the proposed project adequately provides for the program requirements set forth in 42 CFR 57.3804;
2. The capability of the applicant to carry out the proposed project; and
3. The extent of the need of the area to be served by the AHEC's.

In addition, certain preferential actions may apply in the implementation of this grant program. Three categories of actions are defined below:

Funding Preferences

Funding of a specific category or group of approved applications ahead of other categories or groups of applications, such as competing continuations ahead of new projects.

Funding Priorities

Favorable adjustment of review scores when applications meet specified objective criteria.

Special Considerations

Enhancement of priority scores by merit reviewers based on the extent to which applications address special areas of concern.

Funding Preference for Fiscal Year 1990

The following funding preference, funding priorities and special consideration were established in Fiscal Year 1989 and are being extended in Fiscal Year 1990. In making awards for Fiscal Year 1990, a funding preference will be given to competing continuation applications.

The preference continues to be needed to maximize both Federal and non-Federal investments. The AHEC program requires a long-term strategy and commitment. Short-term funding of a year or two would allow most projects to complete only the planning and development of their program. For programmatic reasons this is the only preference needed at this time.

Funding Priorities for Fiscal Year 1990

Additionally, the following priorities will be given to: 1. Applications proposing centers in which substantial training experience is in a PHS 332 health manpower shortage area and/or PHS 329 migrant health center, PHS 330 community health center or State designated clinic/center serving an underserved population.

2. Applications proposing to develop, expand or implement curricula concerning ambulatory and inpatient case management of those with HIV infection-related diseases.

3. Applications demonstrating a commitment to geriatrics through development of innovative educational ways to provide improved and more effective care for the elderly.

4. Applications which are innovative in their educational approaches to quality assurance/risk management activities, monitoring and evaluation of health care services and utilization of peer-developed guidelines and standards.

Special Consideration for Fiscal Year 1990

Special consideration will be given to applications proposing centers that serve health manpower shortage areas with a greater proportion of American Indian/Alaskan Natives, Asian/Pacific Islanders, Blacks and/or Hispanics, than

exists in the general population in the United States.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (U-76), Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 8C-26, Rockville, Maryland 20857, Telephone: (301) 443-6857.

Completed application materials should be returned to the Grants Management Officer at the above address.

Questions regarding programmatic information should be directed to: Division of Medicine, Multidisciplinary Centers and Programs Branch, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 4C-05, Rockville, Maryland 20857, Telephone: (301) 443-6950.

The standard application form PHS 6025-1 HRSA Competing Training Grant Application, General Instructions and supplement for this program have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB clearance number is 0915-0060.

The application deadline date is January 9, 1990.

Applications will be considered as meeting the deadline if they are either:

1. Received on or before the deadline date, or
2. Postmarked on or before the deadline and received in time for submission to the independent review group. A legibly dated receipt from a commercial carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

Applications received after the deadline date will be returned to the applicant.

This program is listed at 13.824 in the Catalog of Federal Domestic Assistance. Applications submitted in response to this announcement are not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

Dated: October 20, 1989.

John H. Kelso,
Acting Administrator.

[FR Doc. 89-27305 Filed 11-20-89; 8:45 am]

BILLING CODE 4160-15-M

Program Announcement and Funding Priorities for Grants for Programs for Physician Assistants

The Health Resources and Services Administration announces that applications for Fiscal Year 1990, Grants for Programs for Physician Assistants are being accepted under the authority of section 788(d) formerly section 783(a) of the Public Health Service Act, as amended by Public Law 100-607.

Section 788(d) authorizes the award of grants to accredited schools of medicine or osteopathic medicine and other public or nonprofit private entities to assist in meeting the cost of planning, developing and operating or maintaining programs for the training of physician assistants as defined under section 701(8) of the Public Health Act.

The Administration's budget request for Fiscal Year 1990 does not include funding for this program. Applicants should be advised that this program announcement is a contingency action being taken to ensure, that should funds become available for this purpose, grants can be awarded in a timely fashion consistent with the needs of the program as well as provide for even distribution of funds throughout the fiscal year. This notice regarding applications does not reflect any change in this policy.

To receive support, programs must meet the requirements of sections 701(8) and 788(d) of the Act and program regulations implementing these sections published at 42 CFR part 57, subparts H and I.

Each application must contain or be supported by assurances that the applicant institution has appropriate mechanisms for placing graduates of the training program in positions for which they have been trained.

"Program for the Training of Physician Assistants" is defined at 42 CFR 57.801-803 as a program which has, among other elements, the objective of training graduates who are capable of providing primary health care and training in the areas of primary care, disease prevention, health promotion, geriatric medicine and home health care.

The following criteria will be considered in the review of applications:

1. The degree to which the project plan adequately provides for meeting the requirements set forth in the regulations;
2. The potential effectiveness of the project in carrying out the purposes of section 788(d) of the PHS Act and 42 CFR part 57 subparts H-I;
3. The capability of the applicant to carry out the proposed project;

4. The local, regional and national needs the project proposes to serve;

5. The adequacy of the project's plan for placing graduates in health manpower shortage areas;

6. The soundness of the fiscal plan for assuring effective use of grant funds;

7. The potential of the project to continue on a self-sustaining basis after the period of grant support; and

8. The adequacy of the project's plan to develop and use methods designed to attract and maintain minority and disadvantaged students to train as physician assistants.

In addition, the following mechanisms may be applied in determining the funding of approved applications:

1. Funding preferences—funding a specific category or group of approved applications ahead of other categories or groups of applications, such as competing continuations ahead of new projects.

2. Funding priorities—favorable adjustment of review scores when applications meet specified objective criteria.

3. Special considerations—enhancement of priority scores by merit reviewers based on the extent to which applications address special areas of concern.

The Administration does not intend to apply any funding preferences or special considerations in the review of applications for Fiscal Year 1990.

Funding Priorities for Fiscal Year 1990

In determining the order of funding of approved applications, a funding priority will be given to the following:

(1) Projects which satisfactorily demonstrate enrollment of underrepresented minorities in proportion to or exceeding their percentage in the general population or can document an increase in the number of underrepresented minorities (i.e. Black, Hispanic and American Indian/Alaskan Native) over average enrollment of the past three years in a training program.

(2) Projects in which substantial training experience is in a PHS 332 health manpower shortage area and/or PHS 329 migrant health center, PHS 330 community health center, PHS 781 funded Area Health Education Center, or State designated clinic/center serving an underserved population.

(3) Applications that demonstrate sufficient curricula time and offerings devoted to assuming competence in the prevention, recognition and treatment of those with HIV infection-related diseases.

(4) Applications that demonstrate sufficient curricula time and offerings devoted to assuring competence in quality assurance/risk management activities, monitoring and evaluation of health care services and utilization of peer-developed guidelines and standards.

These priorities were established in FY 1989 and the Administration is extending them in FY 1990.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (D-21), Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 8C-26, Rockville, Maryland 20857, Telephone: (301) 443-6960.

Application materials should be mailed to the Grants Management Officer at the above address.

Questions regarding programmatic information should be directed to: Multidisciplinary Centers and Programs Branch, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 4C-13, Rockville, Maryland 20857, Telephone: (301) 443-6950.

To receive consideration, applications must meet the deadline of December 15, 1989, which means they must either be:

1. Received on or before the deadline date, or
2. Postmarked on or before the deadline and received in time for submission to the independent review group. A legibly dated receipt from a commercial carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

Applications received after the deadline date will be returned to the applicant.

The standard application form PHS 6025-1, HRSA Competing Training Grant Application, General Instructions and supplement for this program have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB clearance number is 0915-0060.

This program is listed at 13.886 in the Catalog of Federal Domestic Assistance. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

Dated: October 20, 1989.

John H. Kelso,

Acting Administrator.

[FR Doc. 89-27304 Filed 11-20-89; 8:45 am]

BILLING CODE 4160-15-M

National Institutes of Health

National Cancer Institute; Meetings

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the National Cancer Advisory Board, National Cancer Institute, December 4-5, 1989, Building 31C, Conference Room 10, 6th Floor, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892. Meetings of the Subcommittees of the Board will be held at the times and places listed below. Except as noted below, the meetings of the Board and its Subcommittees will be open to the public to discuss issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

It may be necessary to close a portion of the Board meeting to the public in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92-463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred J. Lumsden, Committee Management Officer, National Cancer Institute, 9000 Rockville Pike, Building 31, Room 10A06, National Institutes of Health, Bethesda, MD 20892 (301/496-5708) will provide a summary of the meeting and rosters of the Board members, upon request.

Name of Committee: Subcommittee on Information and Cancer Control.

Executive Secretary: Mr. Paul Van Nevel, Building 31, Room 10A31, Bethesda, Maryland 20892 (301) 496-6631.

Date of Meeting: December 4, 1989.

Place of Meeting: Building 31C, Conference Room 7.

Open: 7:30 a.m. to adjournment.

Agenda: To discuss interim measures of progress toward meeting the Year 2000 goals.

Name of Committee: Subcommittee on Planning and Budget.

Executive Secretary: Judith Whalen, Building 31, Room 11A19, Bethesda, MD 20892 (301) 496-5515.

Date of Meeting: December 4, 1989.

Place of Meeting: Building 31C, Conference Room 8.

Open: Immediately following the NCAB meeting to adjournment.

Agenda: To discuss the Biennial Report and the 1990 budget.

Name of Committee: National Cancer Advisory Board.

Executive Secretary: Mrs. Barbara Bynum, Building 31, Room 11A03, Bethesda, MD 20892 (301) 496-5147.

Date of Meeting: December 4-5.

Place of Meeting: Building 31C, Conference Room 10.

Open: December 4, 8:30 a.m. to recess.

Closed: December 5 (if necessary) approximately 1 p.m. to 2 p.m. for meeting on Subcommittee on Special Actions for Grants.

Open: December 5, 8:00 a.m. to adjournment.

Agenda: Reports on activities of the President's Cancer Panel; the Director's Report on the National Cancer Institute; Subcommittee Reports; New Business, and if necessary discussion of grant applications.

Catalog of Federal Domestic Assistance Program Numbers: (13.392, Project grants in cancer construction; 13.393, Project grants in cancer cause and prevention; 13.394, Project grants in cancer detection and diagnosis; 13.395, Project grants in cancer treatment; 13.396, Project grants in cancer biology; 13.397, Project grants in cancer centers support; 13.398, Project grants in cancer research manpower; and 13.399, Project grants and contracts in cancer control)

Dated: November 14, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-27290 Filed 11-20-89; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Allergy and Infectious Diseases; Meeting of Board of Scientific Counselors

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Allergy and Infectious Diseases, on December 11, 12 and 13, 1989. The meeting will be held in Conference Room 437, Building 4, National Institute of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

The meeting will be open to the public on December 11 from 9 a.m. until 12 p.m. During this open session, the permanent staff of the Laboratory of Molecular Microbiology, and the Laboratory of Viral Diseases will present and discuss their immediate past and present research activities.

In accordance with the provisions set forth in Sec. 552b(c)(6), title 5, U.S.C. and Sec. 10(d) of Public Law 92-463, the meeting will be closed to the public on December 11 from 8:30 a.m. until 9 a.m.

and from 12 p.m. until recess, on December 12 from 8 a.m. until recess and on December 13 from 8:30 a.m. until adjournment for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Allergy and Infectious Diseases, including consideration of personal qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301-496-5717), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. John I. Gallin, Executive Secretary, Board of Scientific Counselors, NIAID, National Institutes of Health, Building 10, Room 11C103, telephone (301-496-3006), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13-301, National Institutes of Health.)

Dated: November 9, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-27291 Filed 11-20-89; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

National Park Service

Subsistence Resource Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Subsistence Resource Commission meeting.

SUMMARY: The National Park Service announces an upcoming meeting of the Subsistence Resource Commission of the Gates of the Arctic National Park.

The following agenda items will be discussed:

- (1) Election of chairman and introduction of new members.
- (2) Introduction of guests.
- (3) Review of commission authorities and responsibilities.
- (4) Review of minutes from last meeting.
- (5) Review of the Secretary of the Interior's response to the Subsistence Hunting Plan Recommendations.
- (6) Work on re-draft of Subsistence Hunting Plan Recommendations.
- (7) Review of 1989 park plans and activities.

(8) New business.

DATE: The meeting will begin on November 16, 1989 at 8:30 a.m. and conclude on November 17, 1989 at approximately 12:30 p.m.

ADDRESS: The meeting will be held at the Regency Fairbanks Hotel, 95 10th Avenue, Fairbanks, Alaska 99701.

FOR FURTHER INFORMATION CONTACT: Roger J. Siglin, Superintendent, Gates of the Arctic National Park, P.O. Box 74680, Fairbanks, Alaska 99707 (phone (907) 456-0281).

SUPPLEMENTARY INFORMATION: The Gates of the Arctic National Park's Subsistence Resource Commission is authorized under title VIII, section 808, of the Alaska National Interest Lands Conservation Act, Public Law 96-487, and operates in accordance with the provisions of the Federal Advisory Committees Act.

Boyd Evison,

Regional Director.

[FR Doc. 89-27309 Filed 11-20-89; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before November 11, 1989. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by December 6, 1989.

Amy Federman,

Acting Chief of Registration, National Register.

ILLINOIS

Pulaski County

Olmstead Depot, Front St. & Caledonia Ave., Olmstead, 89002101

KENTUCKY

Clay County

Peabody—Forsdon Historic District, KT 66, S of Big Creek, Big Creek vicinity, 89002099

NEW YORK

Hamilton County

Whelan Camp, Mick Rd., Long Lake, 89002089

Kings County

St. Paul's Protestant Episcopal Church, 199 Carroll St., New York 89002086

Montgomery County

Bates—Englehardt Mansion, 19 Washington St., St. Johnsville, 89002091

Larrowe House, S. Main St./US 415, Cohocton, 89002088

New York County

Duke Residence, 1009 Fifth Ave., New York, 89002090

Mount Morris Bank, E. 125th St. and Park Ave., New York, 89002087

Oneida County

Weaver, Gen. John G., House, 711 Herkimer Rd., Utica, 89002093

Seneca County

Christ Evangelical and Reformed Church, Main St., Fayette, 89002092

PENNSYLVANIA

Armstrong County

Ford City Armory (Pennsylvania National Guard Armories MPS), 301 Tenth St., Ford City, 89002074

Blair County

Tyrone Armory (Pennsylvania National Guard Armories MPS), 956 S. Logan Ave., Tyrone, 89002083

Centre County

Bellefonte Armory (Pennsylvania National Guard Armories MPS), E. Bishop St., Bellefonte, 89002068

Clearfield County

Clearfield Armory (Pennsylvania National Guard Armories MPS), Coal Hill Rd., Clearfield, 89002072

Cumberland County

Carlisle Armory (Pennsylvania National Guard Armories MPS), 504 Cavalry Rd., Carlisle, 89002071

Delaware County

Media Armory (Pennsylvania National Guard Armories MPS), 12 E. State St., Media, 89002077

Merion Golf Club, East and West Courses, Ardmore Ave., Ardmore, 89002085

Elk County

Ridgway Armory (Pennsylvania National Guard Armories MPS), 72 N. Broad St., Ridgway, 89002078

Erie County

Erie Armory (Pennsylvania National Guard Armories MPS), 6th and Parade Sts., Erie, 89002073

Franklin County

Waynesboro Armory (Pennsylvania National Guard Armories MPS), N. Grant St., Waynesboro, 89002080

Huntingdon County

Huntingdon Armory (Pennsylvania National Guard Armories MPS), Standing Stone Ave., Huntingdon, 89002075

Indiana County

Blairsville Armory (Pennsylvania National Guard Armories MPS), 119 N. Walnut St., Blairsville, 89002069

Lackawanna County

Scranton Armory (Pennsylvania National Guard Armories MPS), 900 Adams Ave., Scranton, 89002081

Luzerne County

Kingston Armory (Pennsylvania National Guard Armories MPS), 280 Market St., Wilkes-Barre, 89002084

Northumberland County

Sunbury Armory (Pennsylvania National Guard Armories MPS), Catawissa Ave., Sunbury, 89002082

Washington County

Canonsburg Armory (Pennsylvania National Guard Armories MPS), W. College St. and N. Central Ave., Canonsburg, 89002070

Westmoreland County

Latrobe Armory (Pennsylvania National Guard Armories MPS), 1017 Ridge Ave., Latrobe, 89002076
Mount Pleasant Armory (Pennsylvania National Guard Armories MPS), Eagle and Spring Sts., Mount Pleasant, 89002079

WASHINGTON**Benton County**

Carey, J. W., House, Byron Rd., W. of Prosser, Prosser vicinity, 89002096

King County

Graham, J. S., Store, 119 Pine St., Seattle, 89002094

Walla Walla County

Walla Walla Valley Traction Company Car Barn, 1102 W. Cherry, Walla Walla 8902097

Whitman County

United Presbyterian Church, 430 Maple St., Pullman, 89002095

[FR Doc. 89-27405 Filed 11-21-89; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31543]

**Missouri Pacific Truck Lines, Inc.—
Merger Exemption—Union Pacific
Motor Freight Co.**

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Pursuant to 49 U.S.C. 10505, the Commission exempts from the requirements of 49 U.S.C. 11343 the merger of Union Pacific Motor Freight Company into Missouri Pacific Truck Lines, Inc., subject to standard labor protective conditions.

DATES: This exemption will be effective on November 28, 1989. Petitions for reconsideration must be filed by December 11, 1989.

ADDRESSES: Send pleadings referred to Finance Docket No. 31543 to:

- (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
- (2) Joseph D. Anthofer, General Attorney, Jeanna L. Regier, Registered Practitioner, 1416 Dodge Street, Omaha, NE 68179

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 hearing impaired is available through TDD services at (202) 275-1721.)

Decided: November 14, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners André, Lamboley, and Phillips.

Noreta R. McGree,

Secretary.

[FR Doc. 89-27374 Filed 11-20-89; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE**Drug Enforcement Administration**

**Angelos Michalatos d/b/a Contraband
Searches and Investigations, Denial of
Applications for Registration**

On May 26, 1989, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Angelos Michalatos, d/b/a Contraband Searches and Investigations, of 6822 Catina Street, New Orleans, Louisiana, proposing to deny his pending applications for registration as a Schedule I and II controlled substance researcher under 21 U.S.C. 823(f). The statutory basis for denying the pending applications is that Mr. Michalatos is not currently licensed to handle controlled substances in the State of Louisiana.

The Order to Show Cause was sent registered mail, return-receipt requested to the address listed on pending applications for registration. Although more than 30 days have elapsed since the Order to Show Cause was received by Mr. Michalatos, DEA has received no request for a hearing or any other response to the Order to Show Cause. Therefore, in accordance with 21 CFR 1301.54(a), 1301.54(d), and 1301.54(e), the Administrator determines that Mr.

Michalatos has waived his opportunity for a hearing on the issues raised in the Order to Show Cause and enters this final order based upon the information contained in the DEA investigative file.

The Administrator finds that on January 7, 1989, Angelos Michalatos, d/b/a Contraband Searches and Investigations, executed an application for registration as a Schedule II controlled substance researcher. On March 14, 1988, Mr. Michalatos executed a second application for registration as a Schedule I controlled substance researcher. Mr. Michalatos alleged in attachments to his applications that Contraband Searches and Investigations was a "business in which canines were trained and leased to search for and locate concealed contraband narcotics in conjunction with various law enforcement agency investigations."

On November 1, 1988, the Louisiana Department of Health and Human Resources (now the Department of Health and Hospitals), Bureau of Health Services Financing, Health Standards Section, Narcotics and Dangerous Division, declined to renew Mr. Michalatos' license to handle controlled substances in the State of Louisiana.

The decision not to renew Mr. Michalatos' license was made following an investigation which revealed that Mr. Michalatos lacked adequate security for storing and handling controlled substances, had inadequate training facilities and had no experience in training drug detection canines. The Department of Health and Human Resources also concluded that Mr. Michalatos' continued licensure posed a danger to the public health and safety.

The Drug Enforcement Administration has long held that an individual cannot be issued a DEA Certificate of Registration for handling controlled substances unless he is so authorized by the state in which he is seeking registration. See 21 U.S.C. 823(f); See also Emerson Emory, M.D., Docket No. 85-46, 51 FR 9543 (1986); Avner Kauffman, M.D., Docket No. 85-8, 50 FR 34208 (1985); and Agostino Carlucci, M.D., Docket No. 82-20, 49 FR 33184 (1984). Therefore, the Drug Enforcement Administration cannot consider registering Mr. Michalatos until he is licensed to handle controlled substances by the State of Louisiana.

In addition to Mr. Michalatos' lack of state authorization to handle controlled substances, the Administrator also finds, based upon the conclusions made by the Louisiana Department of Health and Human Resources, that Mr. Michalatos' registration would be inconsistent with the public interest. The

lack of security for storing and handling controlled substances at Contraband Searches and Investigations' place of business, the lack of facilities for training canines and Mr. Michalatos' inexperience in training canines for drug detection indicate that Mr. Michalatos is not in a position to handle controlled substances responsibly. Consequently, his registration would be contrary to the public interest and his pending applications for registration must be denied.

Therefore, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), the Administrator of the Drug Enforcement Administration orders that the pending applications for registration as a Schedule I and II controlled substance researcher, executed by Angelos Michalatos, d/b/a Contraband Searches and Investigations, be, and they hereby are, denied.

This order is effective November 21, 1989.

Dated: November 13, 1989.

John C. Lawn,
Administrator.

[FR Doc. 89-27236 Filed 11-20-89; 8:45 am]
BILLING CODE 4910-09-M

[Docket No. 89-36]

Angela Duncan, d/b/a Rainbow Treatment Center, Inc.; Revocation of Registration

On March 22, 1989, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Angela Duncan, d/b/a Rainbow Treatment Center, Inc. (Respondent), located at 3205 East 8th Avenue, Tampa, Florida, proposing to revoke DEA Certificate of Registration RR0128202, and to deny any pending applications for renewal of Respondent's registration as a narcotic treatment program under 21 U.S.C. 823(g). The grounds for seeking the revocation of Respondent's registration were that the narcotic treatment program was no longer authorized by the State of Florida to handle controlled substances and that its continued registration was inconsistent with the public interest, as the term is used in 21 U.S.C. 823(f) and 824(a)(4).

Respondent, through counsel, timely filed a request for hearing on the issues raised in the Order to Show Cause and the matter was placed on the docket of Administrative Law Judge Mary Ellen Bittner. Shortly after Respondent requested a hearing, Government

counsel filed a motion for summary disposition based upon Respondent's lack of state authorization to handle controlled substances. Judge Bittner allowed Respondent an opportunity to respond to the Government's motion for summary disposition. Respondent's counsel subsequently filed a response to the motion urging that the matter not be summarily dismissed. In that response, Respondent's counsel admitted that Respondent lacked state authority to handle controlled substances, but argued that Respondent expected to prevail in a pending appeal of the state suspension action. Respondent's counsel also claimed that the grant of the motion for summary disposition would deprive her of due process.

On August 17, 1989, Judge Bittner issued an opinion and recommended decision of the administrative law judge. In her decision, Judge Bittner granted the motion for summary disposition and recommended that the Administrator revoke Respondent's DEA Certificate of Registration and deny any pending applications for renewal based upon her lack of state authority to handle controlled substances. Neither party filed exceptions to the administrative law judge's opinion and recommended decision.

After a careful review of the entire record in this matter, the Administrator adopts the findings and recommendation of the administrative law judge and concludes that Respondent's registration must be revoked and any pending applications for renewal of said registration must be denied.

The Administrator finds that Respondent is currently registered with the Drug Enforcement Administration as a narcotic treatment program. On October 10, 1988, the Florida Department of Health and Rehabilitative Services (DHRS) issued an emergency final order suspending Respondent's probationary license to operate a methadone treatment program in the State of Florida. DHRS found that, based upon numerous controlled substance violations discovered at the treatment program, Respondent's continued licensure posed an immediate danger to the public health, safety and welfare and that emergency action suspending Respondent's license was necessary to protect the public interest. On review, the Florida Court of Appeals upheld the emergency suspension of Respondent's license.

The Drug Enforcement Administration does not have statutory authority under the Controlled Substances Act to allow Respondent to remain registered as a narcotic treatment program without

proper state authorization to handle controlled substances. See generally, Wingfield Drugs, Inc., Docket No. 87-13, 52 FR 27070 (1987); Robert F. Witek, D.D.S., Docket No. 87-54, 52 FR 47770 (1987); and Bobby Watts, M.D., Docket No. 87-71, 53 FR 11919 (1988). Respondent has not been authorized by the State of Florida to handle controlled substances since October 10, 1988. Without such state authority, Respondent cannot maintain a DEA Certificate of Registration.

The Administrator finds no merit in Respondent's contention that the grant of summary disposition in this case would deprive her of due process. Under 21 U.S.C. 824(a)(3), a registration may be revoked or suspended based upon the suspension of the registrant's state controlled substance license or registration. Such action is appropriate, regardless of whether the state action is final or even whether a hearing was held before the state agency. See, Robert F. Witek, D.D.S., supra.

The Administrator finds that the motion for summary disposition was properly granted. It is well established that when no fact question is involved, or when the facts are agreed, a plenary, adversary administrative proceeding involving evidence and cross-examination of witnesses is not necessary, even though the pertinent statute calls for a hearing. In such situations, the rationale is that Congress does not intend administrative agencies to perform meaningless tasks. *United States v. Consolidated Mines and Smelting Co., Ltd.*, 455 F.2d 432, 453 (9th Cir. 1971); *N.L.R.B. v. International Association of Bridge, Structural and Ornamental Ironworkers, AFL-CIO*, 549 F.2d 634 (9th Cir. 1977); Alfred Tennyson Smurthwaite, M.D., Docket No. 77-29, 43 FR 11873 (1978); Philip E. Kirk, M.D., Docket No. 82-36, 48 FR 32887 (1983); *aff'd sub nom Kirk v. Mullen*, 749 F.2d 297 (6th Cir. 1984).

Therefore, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), the Administrator of the Drug Enforcement Administration orders that DEA Certificate of Registration RR0128202, previously issued to Angela Duncan, d/b/a Rainbow Treatment Center, Inc., be, and it hereby is, revoked. The Administrator further orders that any pending applications for renewal of said registration be, and they hereby are, denied.

This order is effective November 21, 1989.

Dated: November 13, 1989.

John C. Lavin,

Administrator.

[FR Doc. 89-27237 Filed 11-20-89; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Registration

By Notice dated February 28, 1989, and published in the *Federal Register* on March 9, 1989, (54 FR 10058), Stepan Chemical Co., Natural Products Department, 100 West Hunter Avenue, Maywood, New Jersey 07607, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug:	Schedule
Cocaine (9041).....	II
Coca Leaves (9040).....	II
Benzoylcegonine (9180).....	II

No comments or objections have been received. Therefore, pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: November 2, 1989.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 89-27234 Filed 11-20-89; 8:45 am]

BILLING CODE 4410-09-M

Importers of Controlled Substances; Registration

By Notice Dated February 28, 1989, and published in the *Federal Register* on March 9, 1989, (54FR10057), Stepan Chemical Company, Natural Products Department, 100 W. Hunter Avenue, Maywood, NJ 07607, made application to the Drug Enforcement Administration to be registered as an importer of Coca Leaves (9040), a basic class of controlled substance listed in Schedule II.

No comments or objections have been received. Therefore, pursuant to section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21 Code of Federal Regulations § 1311.42, the above firm is granted registration as an importer of the basic class of controlled substance listed above.

Dated: November 2, 1989.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 89-27238 Filed 11-20-89; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Registration

By Notice dated May 2, 1989, and published in the *Federal Register* on May 2, 1989, (54 FR 20650), Toxi-Lab, Inc., 2 Goodyear, Irvine, CA 92718 made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug:	Schedule
Phencyclidine (7471).....	II
1-pipendinocyclohexanecarbonitrile (PCC) (8603).....	II
Benzoylcegonine (9187).....	II

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: November 2, 1989.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 89-27235 Filed 11-20-89; 8:45 am]

BILLING CODE 4410-09-M

Federal Bureau of Investigation

Meeting; Advisory Policy Board National Crime Information Center

The Advisory Policy Board of the National Crime Information Center (NCIC) will meet on December 6-7, 1989, at the Hyatt Regency Phoenix, 122 North Second Street, Phoenix, Arizona 85004.

The major topics to be discussed will include the status of the NCIC 2000 Study and technical and operational specifications for certain concepts proposed in the NCIC 2000 Study.

The meeting will be open to the public with approximately 25 seats available on a first-come, first-served basis. Any member of the public may file a written statement with the Advisory Policy Board before or after the meeting. Anyone wishing to address a session of

the meeting should notify the Committee Management Liaison Officer, Mr. William A. Bayse, FBI, at least 24 hours prior to the start of the session. The notification may be by mail, telegram, cable or hand-delivered note. It should contain the name, corporate designation, consumer affiliation, or Government designation, along with the capsulized version of the statement and an outline of the material to be offered. A person will be allowed not more than 15 minutes to present a topic, except with the special approval of the Chairman of the Board.

Inquiries may be addressed to Mr. William A. Bayse, Committee Management Liaison Officer, technical Services Division, Federal Bureau of Investigation, Washington, DC 20535, telephone number 202-324-5350.

Dated: November 15, 1989.

William S. Sessions,

Director.

[FR Doc. 89-27297 Filed 11-20-89; 8:45 am]

BILLING CODE 4410-02-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 1, 1989.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to

the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 1, 1989.

The petitions filed in this case are available for inspection at the Office of

the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC, this 13th day of November 1989.

Glenn M. Zech,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Accuride (Workers).....	Henderson, KY.....	11/13/89	11/2/89	23,592	Truck Wheels.
Air Treads, Inc (Workers).....	Miami, FL.....	11/13/89	10/23/89	23,593	Retread Air Line Tires Service.
B&L Electric Co., Inc. (Workers).....	Seminole, OK.....	11/13/89	11/1/89	23,594	Oil & Gas.
Braun Banking Co. (Workers).....	Pittsburgh, PA.....	11/13/89	10/5/89	23,595	Bread & Rolls.
Bundy Tubing (UAW).....	Winchester, KY.....	11/13/89	10/31/89	23,596	Fabricated Automotive Tubing.
Cooper Coating, Inc. (Workers).....	Ellinwood, KS.....	11/13/89	10/13/89	23,597	Repairs for Oil, Leakage.
Etonic-Treton (Company).....	Belfast, ME.....	11/13/89	10/13/89	23,598	Sneakers.
George E. Failing Co. (Workers).....	Enid, OK.....	11/13/89	11/2/89	23,599	Water Well Drilling Equip.
Harter Co/Fairmount Group (Workers).....	Strugis, MI.....	11/13/89	10/28/89	23,600	Chairs.
(The) Holoscan Corp. (Company).....	Edison, NJ.....	11/13/89	9/15/89	23,601	Lasier Printers.
John Brown E&C Inc. (Company).....	Casper, WY.....	11/13/89	10/30/89	23,602	Oil & Gas.
Lindell Drop Forge Co. (Workers).....	Lansing, MI.....	11/13/89	10/20/89	23,603	Drop Forgings.
New York Bronze Power, Co (Company).....	Newark, NJ.....	11/13/89	10/21/89	23,604	Paints & Brushes.
New York Bronze Power, Co (Company).....	Port Elizabeth, NJ.....	11/13/89	10/21/89	23,605	Paints & Brushes.
Packaging Resources, Inc. (Workers).....	Cedar Grove, NJ.....	11/13/89	10/27/89	23,606	Food Containers & Lids.
Phototech, Inc. (Workers).....	Williams-town, MA.....	11/13/89	11/1/89	23,607	Lithographic Film & Paper.
Refill Filter Co. (Company).....	Perth Amboy, NJ.....	11/13/89	11/2/89	23,608	Refill Cartridges.
Republic Hose Mfg. Corp. (URW).....	Youngstown, OH.....	11/13/89	10/31/89	23,609	Hydraulic Hoses.
(The) Ridge Co. (Company).....	Forks, WA.....	11/13/89	11/1/89	23,610	Lumber.
Security Heel Crop. (Workers).....	Manchester, NH.....	11/13/89	11/2/89	23,611	Heels.
Sims Casting Corp. (USWA).....	Syracuse, NY.....	11/13/89	10/30/89	23,612	Castings.
SWENCO-Western, Inc. (Company).....	Denver, CO.....	11/13/89	11/3/89	23,613	Oil & Gas.
Williams & Hinton Well Serv., Inc. (Workers).....	Delhi, LA.....	11/13/89	10/30/89	23,614	Oil & GAs

[FR Doc. 89-27354 Filed 11-20-89; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 1, 1989.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 1, 1989.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC, 20213.

Signed at Washington, DC this 6th day of November 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition number	Articles produced
Aluminum Co. of America (ALCOA) (Workers).....	Wenatchee, WA.....	11/6/89	10/24/89	23,567	Aluminum products.
American Shim Steel Co. (Workers).....	New Kensington, PA.....	11/6/89	10/26/89	23,568	Steel strips.
American Trim Co. (ACTWU).....	Rochester, NY.....	11/6/89	10/20/89	23,569	Buttons.
Baxters Health Products (Workers).....	Kingstree, SC.....	11/6/89	10/13/89	23,570	Devices and gloves.
C.S.D.C. (Workers).....	Branchville, NJ.....	11/6/89	10/20/89	23,571	Semiconductors.
Consolidated Coal Co. (UMWA).....	Morgantown, WV.....	11/6/89	10/12/89	23,572	Coal.
Dexter Knitting Mills (Workers).....	Wallington, NJ.....	11/6/89	10/24/89	23,573	Mens' and womens' sweaters.
Elco Dress Co., Inc. (ILGWU).....	Holyoke, MA.....	11/6/89	10/23/89	23,574	Ladies' dresses.
Frank Saltz & Sons Co. (ACTWU).....	Passaic, NJ.....	11/6/89	10/19/89	23,575	Mens' suits.
Frank Saltz & Sons Co. (ACTWU).....	Wallington, NJ.....	11/6/89	10/19/89	23,576	Mens' suits.
General Motors-Fisher Guide (GM/UAW).....	Detroit, MI.....	11/6/89	10/27/89	23,577	Auto hardware.
Grada Products Div. Louis M. Gerson Co., Inc. (Workers).....	Chattanooga, TN.....	11/6/89	10/25/89	23,578	Yardsticks, paddles blocks.
Hercules, Inc. (UPIU).....	Covington, VA.....	11/6/89	10/24/89	23,579	Polypropylene film.
Leonard Hudson Drilling Co. (Workers).....	Pampa, TX.....	11/6/89	9/29/89	23,580	Drilling for unaffiliated & companies.

APPENDIX—Continued

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition number	Articles produced
Lithocraft, Inc. (Workers)	Carlstadt, NJ	11/6/89	10/19/89	23,581	Lithographic printed material.
Manhattan Fashions Inc. (Company)	Union, City, NJ	11/6/89	10/26/89	23,582	Ladies' coats.
Mauldin & Son Logging Co. (Company)	Jefferson, TX	11/6/89	10/17/89	23,583	Hardwood lumber.
O&K Trojan Industries, Inc.	Batavia, NY	11/6/89	10/24/89	23,584	Construction equipment.
Orweco Incorp. (Workers)	Shippensburg, PA	11/6/89	10/23/89	23,585	Ladies' sportswear and dresses.
Performance Treds, Inc. (Workers)	Suffern, NY	11/6/89	10/26/89	23,586	Retreaded tires.
Polycast Technology Corp	Hackensack, NJ	11/6/89	10/27/89	23,587	Acrylic sheets.
Smiths Industries-SLI Div. (Workers)	Florham Park, NJ	11/6/89	10/4/89	23,588	Aerospace material communication systems and components.
UNOCAL/Casper District (Workers)	Casper, WY	11/6/89	10/18/89	23,589	Oil and gas.
Union Pacific Resources (Workers)	Denver, CO	11/6/89	10/25/89	23,590	Oil and gas.
Unimnerals Corp. (Workers)	Houston, TX	11/6/89	10/22/89	23,591	Drilling fluids.

[FR Doc. 89-27351 Filed 11-20-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-20,575]

Amstar Sugar Corp., Bunker Hill Refinery, Charlestown, MA.

Notice of Negative Determination on Reconsideration Pursuant to a remand by the U.S. Court of International Trade, dated August 25, 1989, in *Sugar Workers Union, Local #1660, ILA, AFL-CIO, v. Secretary of Labor* (USCIT 88-08-00670) the Department makes the following negative determination on remand for workers of Amstar Sugar Corporation, Bunker Hill refinery, Charlestown, Massachusetts.

The workers at the Bunker Hill refinery produced refined cane sugar products for wholesale and retail customers, independent distributors and manufacturers of products containing sugar. The Bunker Hill refinery closed on March 18, 1988.

The Department's initial denial was based on the fact that the increased import criterion of the Group Eligibility Requirements of the Trade Act of 1974 was not met. U.S. imports of refined cane and beet sugar were negligible and declined absolutely and relative to domestic shipments in 1987 compared to 1986. The Department also conducted a survey of major declining customers of the Bunker Hill refinery and found that their import purchases of refined sugar in the first quarter of 1988 were not important and did not contribute importantly to any employment declines at the subject refinery.

The USCIT's remand directs the Department in its reconsideration to respond to the GAO Report and examine the effects which imported sugar blends and sugar substitutes had on employment, production and sales declines at the Bunker Hill refinery.

On remand, the Department surveyed Bunker Hill's customers on imported

sugar substitutes and imported sugar blends. The survey showed that none of the customers imported sugar substitutes during 1986, 1987 or in the first quarter of 1988.

With respect to sugar blends, investigation findings show that they include products containing mostly sugar—ice tea mixes, kool aid and products like "Pure Sweet"—a granulated blended sugar containing approximately 80 percent sucrose and 20 percent dextrose.

To determine whether the sugar blends are like or directly competitive with refined sugar, the Department looked at their end use. If sugar is incorporated into another product, like an ice-tea mix, kool aid etc., the sugar is viewed much like a component and would not be considered either like or directly competitive with refined sugar. This issue was addressed in *United Shoe Workers of America, AFL-CIO v. Bedell*, 506 F.2d 174, (D.C. Cir. 1974). The court held that imported finished women's shoes were not like or directly competitive with shoe components—shoe counters. Similarly, refined sugar incorporated in the finished article (ice-tea mix and other products containing sugar) cannot be considered like or directly competitive with the finished article.

The investigative findings found on remand show that blended sugar, like "Pure Sweet", purchased by some of Bunker Hill's grocery customers is substitutable for refined sugar as a sweetener and is competitive in price with refined sugar. However, the Department's survey found that most of Bunker Hill's customers did not import blended sugar. The few customers who imported sugar had import purchases that were not important in the relevant time period surveyed. None of Bunker Hill's manufacturing customers imported blended sugar, only the grocery customers did.

Other findings on remand show that the June 1988 GAO Report (Sugar

Program—Issues Related to Imports of Sugar Containing Products) did not address the issue of the magnitude of U.S. imports of sugar blends and substitutes. Rather that report concerns allegations of illegal activities whereby sugar is imported ostensibly for use in the manufacture of sugar blended products either for export or for entry into the U.S. market. There is very little in the GAO report that can be considered in the Department's determination.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance to workers of Amstar Corporation's Bunker Hill Refinery in Charlestown, Massachusetts.

Signed at Washington, DC, this 13th day of November 1989.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-27352 Filed 11-20-89; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-89-166-C]

Island Creek Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Island Creek Coal Co., 250 West Main Street, P.O. Box 11430, Lexington, Kentucky 40575-1430 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Hamilton No. 2 Mine, 2nd Main North (I.D. No. 15-02706) located in Union County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that seals be examined on a weekly basis.

2. Due to hazardous roof conditions, the immediate vicinity of the five seals located in the two left entries of the 2nd Main North cannot be safely traveled.

3. Rehabilitation of the loose roof would expose miners to hazardous conditions, and there is no place to construct a new set of seals that would be effective in the immediate area.

4. As an alternate method, petitioner proposes to establish an evaluation point where weekly examinations would be made.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 21, 1989. Copies of the petition are available for inspection at that address.

Dated: November 14, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-27353 Filed 11-20-89; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

[Docket No. NRTL-2-89]

American Gas Association Laboratories; Notice of Application

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice of application for recognition as a nationally recognized testing laboratory, and preliminary finding.

SUMMARY: This notice announces the application of the American Gas Association Laboratories for recognition as a Nationally Recognized Testing Laboratory (NRTL) under 29 CFR 1910.7, and presents the Agency's preliminary finding.

DATE: The last date for interested parties to submit comments is January 27, 1990.

ADDRESS: Send comments to: NRTL Recognition Program, Office of Variance

Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue, NW., Room N3653, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: James J. Concannon, Director, Office of Variance Determination, NRTL Recognition Program at the above address, Telephone: (202) 523-7193.

Notice of Application

SUPPLEMENTARY INFORMATION: Notice is hereby given that the American Gas Association Laboratories has made application pursuant to section 6(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 29 U.S.C. 655), Secretary of Labor's Order No. 9-83 (48 FR 35763), and 29 CFR 1910.7 for recognition as a Nationally Recognized Testing Laboratory.

The addresses of the laboratories covered by the application are as follows:

American Gas Association Laboratories, Cleveland Laboratory, 8501 East Pleasant Valley Road, Independence (Cleveland), Ohio 44131; and American Gas Association Laboratories, Los Angeles Branch Laboratory, 1425 Grande Vista Avenue, Los Angeles, California 90023.

Regarding the merits of the application, the applicant contends that it meets the requirements of 29 CFR 1910.7 for recognition in the areas of testing which it has specified.

The American Gas Association Laboratories (AGA Labs) states that it certifies appliances for compliance with the American National Standards Institute's (ANSI) American National Standards for Safety and Health. Specifically, it certifies appliances for compliance with the Z21 series dealing with gas-burning appliances, and with the Z83 series, which covers industrial gas equipment, and has requested recognition for these standards as they apply to the OSHA requirements for liquefied petroleum gas. The AGA Labs also serve as the administrative secretariat for those primary ANSI standards committees that have responsibility for residential and commercial gas appliances and their installation.

The applicant states that it has a written procedure for handling of complaints between the applicant and the AGA Labs. This procedure is incorporated in the Application for Certification which is the contract between the applicant for testing and the AGA Labs. Section 7, Appeal Procedures, details the options open to the manufacturer in case of a dispute.

(See Ex. 2.A., pp. 159 and 165).

Complaints from local and federal inspectors and the public are handled by either the Program Coordination and Development or the Follow-Up Services Managers. (See Exs. 3.A.(1), p. 8, item 7.4; 3.A.(2), p. 7, item 7.4; and 2.C., p. 2 and pp. 11-12).

The applicant also assures that it maintains effective procedures for producing creditable findings or reports that are objective and without bias.

The laboratories are equipped to conduct testing of commercial and industrial gas consuming appliances, and AGA Lab's Equipment Development and Calibration Department maintains calibration and National Institute of Standards and Technology (NIST), formerly National Bureau of Standards (NBS), traceability of the instruments and equipment used during the certification program and develops or acquires new test equipment and instruments as needed. Written lists of all instruments and equipment, as well as specific calibration procedures for various types of instruments and equipment, are also maintained. Actual calibration is carried out either in-house or by contractor.

The AGA Labs lists a large staff of qualified personnel, and has facilities which are adequate to store, handle and condition the products to be tested as well as any instruments and equipment to be utilized in the testing. Included in its application was an extensive list of test equipment maintained at both facilities (Ex. 2.A., pp. 1-35).

The applicant states that it has several steps in the control of the quality of testing and reporting to its client. All test work is reviewed on the job by the immediate supervisor of the test engineers to determine compliance with the test method prescribed in the ANSI test standard. All test data is further reviewed by a certification engineer responsible for the design certification of the appliance and the preparation of the report given to the client.

The applicant's copyrighted listing mark is required to be included on the rating plate of listed products. Manufacturers are required to maintain records of the distribution of products bearing these rating plates which are examined by AGA Labs during their manufacturing site inspections. (See Ex. 3.A.(1), p. 10, item 8.4 and Ex. 3.A.(2), p. 8, item 8.4).

The AGA Labs maintains that it carries out mandatory factory follow-up and inspection programs to verify that products continue to meet the requirements of the test standards. These programs are as follows:

The "old" system, covering some 50% of the manufacturers currently listed, requires that at least one announced and one unannounced inspection be conducted at the manufacturing site each year for each representative model listed. Each representative model is required to be completely recertified and retested every 5 years.

The "new" system requires that quarterly inspections be made at the manufacturing site. It is mandatory for all new clients and optional for manufacturers presently having products listed. On July 1, 1991, it will be mandatory for all manufacturers. Three of the inspections are to be announced and samples of the listed products then in production are to be inspected and tested. A fourth inspection is announced so that the manufacturer can make available any representative models not inspected during the previous year. Products are not required to be periodically recertified and retested at the laboratory. (See Ex. 2.C., pp. 3-5; Ex. 3.A.(1), p. 9; and Ex. 3.A.(2), p. 7.)

AGA Labs states that products are, at times, obtained from retail outlets to check on field complaints. Complaints from competitors are frequently accompanied by sample products. Occasionally, products so obtained are also investigated or similar models are obtained from retail outlets for investigation.

The applicant states that it is completely independent of employers subjected to the tested equipment requirements and of any manufacturers or vendors of equipment or materials being tested for certification purposes. The American Gas Association (Association), the parent body, is a nonprofit organization whose laboratories use the fees charged for testing and certification to offset the actual cost of rendering such services. The only members of the Association which are entitled to vote at annual and special meetings are the gas company members and the service company members. Associates, which include manufacturers, receive AGA publications but have no input into the operation of the Association. AGA Labs does not test and certify equipment for either the gas company members or the service company members. Testing is conducted for members of the manufacturing community that are independent of the Association. (See Ex. 2.B., pp. 1-2 and 6-7).

In addition to all of the above, the AGA Labs, according to its application, enjoys recognition as a certification

agency by many State, city and inspection agencies.

Background

According to the application, the American Gas Association Laboratories were formed in 1925. In 1927, the Canadian Gas Association appointed the AGA Labs as its official testing laboratory. In 1928, the Cleveland, Ohio test facilities were dedicated and two years later the Los Angeles Branch Laboratory was established. In the early 1950's, two additional wings were added to the Cleveland facility. Finally, in 1969, the Cleveland Laboratory moved to its present facilities in Independence, Ohio. To date, since 1925, the applicant states that more than 57,000 gas appliance designs have been certified under the AGA Blue Star certification seal program.

The Cleveland Laboratory occupies three buildings on a 33 acre site with more than 125,000 square feet of floor space, of which some 60,000 square feet of floor space is allocated to product testing and evaluation. Of the Laboratory's more than 200 employees at this site, approximately 89 are involved in its Certification Program, as follows:

- 5—Front Office Personnel
- 3—Managers, Certification
- 1—Manager, Inspection
- 1—Supervisor, Client Services
- 2—Section Supervisors, Inspection
- 1—Certification Staff Coordinator
- 14—Certification Engineers
- 2—Client Service Engineers, Inspection
- 1—Administrative Coordinator, Inspection
- 1—Scheduler, Inspection
- 1—Supervisor, Training
- 1—Manager, Equipment, Development & Calibration
- 1—Engineer, Equipment, Development & Calibration
- 17—Test Engineers
- 15—Test Technicians
- 7—Descriptionists
- 12—Inspectors
- 4—Equipment, Design & Calibration Personnel

The Los Angeles Branch Laboratory, consisting of three buildings, is situated on 0.8 acre of land and provides 30,000 square feet of floor space, of which approximately 10,000 square feet is devoted to product testing and evaluation. This Laboratory employs 23 persons engaged in product testing and evaluation in its Certification Program, as follows:

- 1—Associate Director
- 1—General Manager

- 1—Assistant General Manager
- 1—Manager, Inspection
- 4—Senior Section Engineers
- 8—Engineers
- 1—Technician
- 2—Draftspersons
- 1—Draftsperson—Descriptionist
- 3—Inspectors

The applicant desires recognition for testing and certification of new commercial and industrial liquified petroleum gas (LPG or LP-Gas) consuming appliances as specified in 29 CFR 1910.110(b)(20). Specifically, it requests recognition for the following appliances and accessories when tested for compliance with the indicated ANSI American National Standards for Safety and Health:

- ANSI Z83.3—Gas Utilization Equipment in Large Boilers
- ANSI Z83.4—Direct Gas-Fires Make-Up Air Heaters
- ANSI Z83.6—Gas-Fired Infrared Heaters
- ANSI Z83.7—Gas-Fired Construction Heaters
- ANSI Z83.8—Gas Unit Heaters
- ANSI Z83.9—Gas-Fired Duct Furnaces
- ANSI Z83.11—Gas Food Service Equipment—Ranges and Unit Boilers
- ANSI Z83.12—Gas Food Service Equipment—Baking and Roasting Ovens
- ANSI Z83.13—Gas Food Service Equipment—Deep Fat Fryers
- ANSI Z83.14—Gas Fired Service Equipment—Counter Appliances (Counter- or Floor-Mounted)
- ANSI Z83.15—Gas Food Service Equipment—Kettles, Steam Cookers and Steam Generators
- ANSI Z83.16—Gas-Fired Unvented Commercial and Industrial Heaters
- ANSI Z21.1—Household Cooking Gas Appliances
- ANSI Z21.5.2—Gas Clothes Dryers, Type 2, Volume II
- ANSI Z21.10.3—Gas Water Heaters, Volume III Storage, With Input Ratings Above 75,000 Btu Per Hour, Circulating and Instantaneous Water Heaters
- ANSI Z21.13—Gas-Fired Low-Pressure Steam and Hot Water Heating Boilers
- ANSI Z21.40.1—Gas-Fired Absorption Summer Air Conditioning Appliances
- ANSI Z21.47—Gas-Fired Central Furnaces (Except Direct Vent Central Furnaces)
- ANSI Z21.61—Gas-Fired Toilets
- ANSI Z21.64—Direct Vent Central Furnaces

ANSI Z21.73—Portable Camp Lanterns for Use With Propane Gas
 ANSI Z21.15—Manually Operated Gas Valves
 ANSI Z21.18—Gas Appliance Pressure Regulators
 ANSI Z21.20—Automatic Gas Ignition Systems and Components
 ANSI Z21.21—Automatic Valves for Gas Appliance
 ANSI Z21.22—Relief Valves and Automatic Gas Shutoff Devices for Hot Water Supply Systems
 ANSI Z21.23—Gas Appliance Thermostats
 ANSI Z21.66—Automatic Vent Damper Devices for Use With Gas-Fired Appliances Electrically Operated

Preliminary Finding

AGA Labs addressed all of the criteria which had to be met for recognition as an NRTL in its initial application and in its further correspondence. For example, the applicant submitted a list of its test equipment and instrumentation; a roster of its Certification Program personnel and copies of descriptions of minimum qualifications for technical personnel; copies of its test reports, inspection reports, and a replica of the contract which it executes with a manufacturer; a summary of its listing, labeling, and follow-up services; a statement of its independence as a testing laboratory; and a description of its quality control and calibration procedures and programs.

The onsite surveys of the AGA Labs testing facilities enabled the investigators to assess the practical application of these criteria. The survey reports identified attributes that indicated the capability within each facility to perform product safety testing according to nationally recognized standards, as well as, where applicable, areas where improvement in procedures, practices, or policies would enhance each facility's capabilities.

Nine major areas were examined in depth in carrying out the laboratory surveys: facility; test equipment; calibration program; test and evaluation procedures; test reports; records; quality assurance program; follow-up listing program; and personnel.

The discrepancies noted by the survey team at both the Cleveland facility and the Los Angeles facility were corrected prior to the preparation of the survey report and, therefore, not included as a separate corrective action report section.

With the preparation of the final reports of the two AGA Labs, the survey teams were satisfied that both testing

facilities appeared to meet the necessary criteria required by the standard, and so noted in the On-Site Review Report (Survey). (See Ex. 3.A.).

After a review of the application file and the onsite survey reports of AGA Labs two testing facilities, the NRTL Recognition Program staff concluded that the applicant appeared to have met the requirements for recognition as a Nationally Recognized Testing Laboratory and, therefore, recommended to the Assistant Secretary that the application be preliminarily approved.

Based upon a review of the completed application file and the recommendations of the staff, the Assistant Secretary has made a preliminary finding that American Gas Association Laboratories can meet the requirements for recognition as required by 29 CFR 1910.7.

All interested members of the public are invited to supply detailed reasons and evidence supporting or challenging the sufficiency of the applicant's having met the requirements for a Nationally Recognized Testing Laboratory, as well as Appendix A, of 29 CFR 1910.7. Submission of pertinent written documents and exhibits shall be made no later than January 22, 1989, and must be addressed to the NRTL Recognition Program, Office of Variance Determination, Room N3653, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue, NW., Washington, DC 20210. Copies of the AGA Labs application, the laboratory survey reports, and all submitted comments, as received, (Docket No. NRTL-2-89), are available for inspection and duplication at the Docket Office, Room N2634, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address.

The Assistant Secretary's final decision on whether the applicant satisfies the requirements for recognition as an NRTL will be made on the basis of the entire record including the public submissions and any further proceedings that the Assistant Secretary may consider appropriate in accordance with Appendix A of section 1910.7.

Signed at Washington, DC, this 14th day of November 1989.

G.F. Scannell,

Assistant Secretary.

[FR Doc. 89-27355 Filed 11-20-89; 8:45 am]

BILLING CODE 4510-22-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[89-81]

National Environmental Policy Act; Notice of Intent To Prepare a Draft Environmental Impact Statement (DEIS, TIER-2): Ulysses Mission

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to prepare a Draft Environmental Impact Statement (DEIS, TIER-2): Ulysses Mission.

SUMMARY: On November 30, 1987, NASA published a "Notice of Availability of a Supplemental Draft Environmental Impact Statement" (SDEIS) for the Galileo and Ulysses Missions (52 FR 45513) that addressed the proposed action of continuing preparation of the Galileo and Ulysses Missions for launch in October 1989 and October 1990, respectively, on board the Space Shuttle using the Inertial Upper State (STS/IUS) and, for Ulysses only, a third stage, the Payload Assist Module—Special (PAM-S). For purposes of the Ulysses Mission, the SDEIS (TIER-1) was necessitated by the cancellation of the Centaur G (Shuttle version) and the subsequent reconfiguration of the missions to use the IUS/PAM-S. The Final EIS (TIER-1) was published in November 1988 (53 FR 44684) and the Galileo Mission Final EIS (TIER-2) was published on June 2, 1989 (54 FR 23692). The Galileo Mission was successfully launched and deployed on October 18, 1989. NASA is preparing a DEIS (TIER-2) which will address the proposed action of completion of preparation and operation of the Ulysses Mission, including its planned launch in October 1990.

The Ulysses Mission is an international cooperative mission jointly of NASA and the European Space Agency (ESA) in which NASA will launch the mission and provide some of the scientific investigations and ESA will provide the spacecraft and its scientific investigations. The Ulysses Mission will, for the first time, explore the Sun and the heliosphere within a few astronomical units (i.e., Sun-to-Earth distances) of the Sun over the full range of heliographic latitudes, thereby providing the first characterization of the uncharted third dimension of the heliosphere. The mission will measure properties of the solar wind, the Sun/wind interface, the heliospheric magnetic field, solar radio bursts and plasma waves, solar x-rays, solar and galactic cosmic rays, and interplanetary and interstellar neutral gas and dust.

There is no combination of launch vehicles that can propel a spacecraft from Earth out of the ecliptic plane to the polar latitudes of the Sun. Therefore the spacecraft will conduct a gravity-assist flyby of Jupiter in order to gain the needed kinetic energy to swing out of the ecliptic plane, back toward the Sun. The trajectory is planned to carry the spacecraft over the Sun's South pole then up around the North pole and onward out of the solar system. During the 5-year duration of the mission, the spacecraft will never be closer to the Sun than is the Earth (i.e., it will never be closer than one astronomical unit (AU) to the Sun), and will be as far away as is the planet Jupiter (i.e., 5 AU).

The spacecraft will use a Radioisotope Thermoelectric Generator (RTG) to provide electric power and thermal control. Although Ulysses will study the Sun, its trajectory will carry it far from the Sun for an extended period. There are currently no feasible alternative power systems which could achieve this mission. At the time of launch, the RTG will contain approximately 24 pounds of plutonium dioxide, a ceramic form of the fuel.

The DEIS (TIER-2) for the Ulysses Mission will address: the proposed action of completion of preparation and operation of the mission, including its planned launch in October 1990 or in the back up opportunity in 1991; and the alternative of cancelling further work on the mission (i.e., the "No Action" alternative). The TIER-1 EIS included an alternative launch configuration, the Titan IV/IUS, in the context of a delay alternative. That launch configuration will, however, not be available to NASA until 1995; and even if one were made available at this time, it would not be possible to make mission-specific modifications to achieve either the 1990 or the 1991 launch opportunities. Delay of the mission beyond the earliest launch opportunities would add costs, threaten the viability of key scientific teams, and threaten the acquisition of key scientific data. The Ulysses Mission in the inner heliosphere is timed to collect data simultaneously with the Pioneer 10 and 11 and Voyager 1 and 2 spacecraft in the outer heliosphere. That configuration of spacecraft will enable a three-dimension study of the heliosphere.

Since the only launch configuration available is the STS/IUS, and the environmental impacts of an STS/IUS launch are the same whenever the launch occurs, the DEIS will not analyze a delay alternative. Such analysis would provide no new information.

The environmental effects of the proposed action are those associated

with the launch vehicle and those associated with the Ulysses spacecraft. Environmental effects associated with the launch vehicle have been considered in the previously published EIS's on the Space Shuttle program (1978), the Kennedy Space Center (Revision 1979), the EIS for the Galileo and Ulysses Missions (TIER-1 1988), and the EIS (TIER-2) for the Galileo Mission (May 1989).

The EIS (TIER-2) for the Ulysses Mission will consider potential environmental effects related to the possible release of plutonium-238 from the spacecraft Radioisotope Thermoelectric Generator (RTG). The potential effects associated with the Ulysses spacecraft which will be considered in preparing the DEIS (TIER-2) for the Ulysses Mission include impacts on air and water quality and local land area; health and safety impacts; biotic resources; wetland areas or areas containing historical sites; and socioeconomic impacts. The analysis will use the latest information from a detailed Final Safety Analysis Report currently under preparation.

This DEIS (TIER-2) for the Ulysses Mission is expected to be released for review in January 1990. Written comments or suggestions concerning the scope of this EIS are solicited at this time.

DATE: Written comments must be submitted on or before January 22, 1990.

ADDRESS: Office of Space Science and Applications, Code EL, National Aeronautics and Space Administration, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Dudley G. McConnell, (202) 453-1587.

Dated: November 15, 1989.

C. Howard Robins, Jr.,
Associate Administrator for Management.

[FR Doc. 89-27331 Filed 11-20-89; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Materials Submitted for OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting this notice of information collection that will affect the public.

Agency Clearance Officer: Herman G. Fleming, (202) 357-7335

OMB Desk Officer: Written comments to: Office of Information and Regulatory Affairs, ATTN: Jim Houser, Desk Officer, OMB, 722 Jackson Place, Room 3208, NEOB, Washington, DC 20503

Title: Survey of Scientific and Engineering Expenditures at Universities and Colleges, FY 1990-91-92

Affected Public: Non-profit institutions
Respondents/Burden Hours: 477 respondents—15.5 hours each response

Abstract: The survey provided academic R&D expenditures data by source and discipline, including research equipment. Data are used for planning and policy formulation related to academic science and engineering infrastructure. Users include Congress, Federal agencies, States, industry, universities, etc. Affected public—Higher education and associated federally funded R&D centers

Dated: November 15, 1989.

Herman G. Fleming,

NSF Clearance Officer.

[FR Doc. 89-27311 Filed 11-20-89; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The NRC has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

1. Type of submission, new, revision or extension: Revision.

2. Title of the information collection: Basic Quality Assurance Program, Records and Reports of Misadministrations or Events Relating to the Medical Use of Byproduct Material, revision to 10 CFR 35.

3. The form number if applicable: Not applicable.

4. How often the collection is required:

For the basic quality assurance program:

Reporting: Develop a written basic QA program, submit a certification to NRC by the effective date of the rule, and submit the QA program to NRC at the time of license renewal, one-time collection; audit and modify QA program, annually.

Recordkeeping: Maintain the written QA program for the duration of the license.

For records and reports of misadministrations or events:

Reporting: Whenever a misadministration or an event occurs.

Recordkeeping: Prescription, diagnostic referral, and clinical procedures manual, 3 years; reports of misadministrations or events, 10 years.

5. Who will be required or asked to report: Medical use licensees regulated by NRC and the Agreement States.

6. An estimate of the number of respondents: 7,500 respondents.

7. An estimate of the total number of hours needed to complete the requirements or request: 64,650 hours annually for all medical use licensees.

8. The average burden per respondent is about: 9 hours per years.

9. An indication of whether section 3504(h), Pub. L. 96-511 applies: Not applicable.

10. Abstract: The NRC is proposing to amend its regulations (10 CFR 35) that would require medical use licensees to establish and implement a written basic QA program to prevent, detect, and correct the cause of errors in the administration of byproduct material. The proposed amendment would also require medical use licensees to submit a certification to NRC, by the effective date of the final amendment, indicating that the basic QA program has been implemented; and to submit the basic QA program to NRC at the time of license renewal. The QA amendment is proposed in order to enhance patient safety while allowing the flexibility necessary for proper medical care. The NRC is also proposing certain modifications to the definition of misadministration and the associated reporting and recordkeeping requirements.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW., Lower Level, Washington, DC.

Comments and questions should be directed by mail to the OMB reviewer as follows: Nicolas B. Garcia, Paperwork Reduction Project (3150-0010), Office of Management and Budget, Washington, DC 20503. Comments can also be submitted by telephone (202) 395-3084.

NRC Clearance Officer is Brenda J. Shelton, (301) 492-8132.

Dated at Bethesda, Maryland, this 11th day of November 1989.

For the Nuclear Regulatory Commission.
Joyce A. Ameta,
Designated Senior Official for Information
Resources Management.
[FR Doc. 89-27335 Filed 11-20-89; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-271]

**Vermont Yankee Nuclear Power Corp.;
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. DPR-28 issued to Vermont Yankee Nuclear Power Corporation (the licensee) for operation of Vermont Yankee Nuclear Power Station located south of Brattleboro, Vermont.

The proposed amendment would change the Limiting Conditions of Operation (LCO) for the Uninterruptible Power Supply (UPS) out-of-service time. This change would be from 7-days to 30-days before requiring initiation of a plant shutdown. The UPSs provide power to certain Low Pressure Coolant Injection (LPCI) valves, and assure power is available in the event offsite power is lost and the diesel fails to function.

In conjunction with this request, on November 9, 1989, the licensee requested, and the staff granted a temporary waiver of compliance from the 7-day LCO in the ACTION STATEMENT for the Uninterruptible Power Supply (Technical Specification 3.5.A.4). Vermont Yankee entered this Action Statement November 5, 1989 due to a component failure in the power supply. The licensee had previous difficulty with these power supplies and was unsure of their ability to complete repairs within the limits of the LCO. The licensee requested the LCO be extended to 30-days for the duration of this fuel cycle (until fall 1990) when the UPSs will be replaced. Based on the licensee's submittal of November 9, 1989, the technical staff's evaluation, and after conferring with the Region, the Division of Reactor Projects issued a temporary waiver of compliance. By Friday, November 10, 1989, the licensee had returned the inoperative UPS to service; however, the staff intends to proceed with the requested amendment to the technical specifications.

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 request for amendment involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has reviewed the proposed change utilizing the criteria specified in 10 CFR 50.92 and has provided an analysis that is summarized below.

The Vermont Yankee FSAR addresses the consequences and mitigation of any postulated accidents in conjunction with a single failure and loss of off-site power. The single failure of the DG and Loss of a UPS train is not currently bounded by the safety analysis. However, Vermont Yankee considers the loss of a UPS train to be addressed by the availability of an additional off-site power source immediately available and accessible from the Control Room. This is the tie-in to the Vernon Hydro Dam. Further, Vermont Yankee believes that the new LOCA analysis recently completed using the Vermont Yankee Analysis Method, which demonstrates that one core spray pump is sufficient to keep the PCT well below the 10 CFR 50.46 limit of 2,200°F, indicates that this proposed change does not significantly increase the probability or consequences of a previously evaluated accident.

This proposed change does not change the function of the LPCI System, only the LCO out of service time for the UPS power source to be used during the 1989/1990 operating cycle, and therefore, does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Recent analyses by the licensee demonstrates that one core spray pump is sufficient to keep the PCT well below the 10 CFR 50.46 limit of 2,200°F. The pumps and other active components of the system have been tested in accordance with Technical Specification Section 4.5.A.4. requirements. Therefore, this proposed change presents no reduction in margin of safety.

The licensee concludes that these proposed changes do not constitute a significant hazards consideration, as defined in 10 CFR 50.92.

Therefore, based on the above considerations, the Commission has made a proposed determination that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the 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 this FEDERAL REGISTER notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. 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 December 21, 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 person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room located at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and

how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to

present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards considerations. The final determination will serve to decide when the hearing is held.

If the final determination is that the request for amendment involves no significant hazards consideration, 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 a final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards 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 and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and 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 Richard H. Wessman, Project Director: (petitioner's name and telephone number), (date petition was mailed), (plant name), and (publication date and page number of this Federal Register notice). A copy of the petition should also be sent to the Office of the General

Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to R. K. Gad, III Esq., Ropes & Gray, 225 Franklin Street, Boston, Massachusetts 02110, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated November 9, 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 located at Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301.

Dated at Rockville, Maryland, this 14th day of November, 1989.

For the Nuclear Regulatory Commission,
Morton B. Fairtile,

*Project Manager, Project Directorate II,
Division of Reactor Projects—I/II, Office of
Nuclear Reactor Regulation.*

[FR Doc. 89-27336 Filed 11-20-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-029]

Yankee Atomic Electric Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 128 to Facility Operating License No. DPR-3 issued to Yankee Atomic Electric Company (the licensee), which revised the Technical Specifications for operation of the Yankee Nuclear Power Station located in Franklin County, Massachusetts. The amendment was effective as of the date of issuance.

The amendment modifies specifications having cycle-specific parameter limits by replacing the values of those limits with a reference to the Core Operating Limits Report (COLR) for the values of those limits. The changes also include the addition of the COLR to the Definitions section and to the reporting requirements of the Administrative Controls section of TS.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the

Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which is set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the Federal Register on October 13, 1989 (54 FR 42119). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment and Finding of No Significant Impact (54 FR 46495) related to the action and has concluded that an environmental impact statement is not warranted and that the issuance of this amendment will not have a significant adverse effect on the quality of the human environment.

For further details with respect to the action see (1) the application for amendment dated September 14, 1989, (2) Amendment No. 128 to License No. DPR-3, and (3) the Commission's related Safety Evaluation and Environmental Assessment.

All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC and at the Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects I/II.

Dated at Rockville, Maryland, this 14th day of November 1989.

For the Nuclear Regulatory Commission,

Patrick M. Sears,

*Project Manager, Project Directorate I-3,
Division of Reactor Projects I/II, Office of
Nuclear Reactor Regulation.*

[FR Doc. 89-27337 Filed 11-20-89; 8:45 am]

BILLING CODE 7590-01-M

OVERSIGHT BOARD

Intent to Establish National and Regional Advisory Boards

Section 501(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (the "Act"), Public Law No. 101-73, 103 Stat. 183, 382-383, directs the Oversight Board to establish one national advisory board and not less than six regional advisory boards (collectively the "advisory boards"). The advisory boards will function solely as advisory bodies in compliance with the provisions of the

Federal Advisory Committee Act, as amended, 5 U.S.C. App.

The advisory boards will provide information and advice on the policies and programs for the sale or other disposition of real property assets of depository institutions the accounts of which were insured by the Federal Savings and Loan Insurance Corporation before August 9, 1989, the date of enactment of the Act, and for which the Resolution Trust Corporation ("RTC") has been or will be appointed as a conservator or receiver pursuant to the Act between January 1, 1989 and three years from the date of enactment of the Act. The national advisory board will provide information and advice to the Oversight Board. The regional advisory boards will provide advice to the RTC.

Six regional advisory boards will be established as follows:

The Region I Advisory Board will be headquartered in New York, New York, and will represent the Northeast Region of the United States composed of Connecticut, the District of Columbia, Delaware, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New York, New Jersey, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia.

The Region II Advisory Board will be headquartered in Atlanta, Georgia, and will represent the Southeast Region of the United States composed of Alabama, Florida, Georgia, Louisiana, Mississippi, South Carolina, and Tennessee.

The Region III Advisory Board will be headquartered in Kansas City, Kansas, and will represent the Midwest Region of the United States composed of Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin.

The Region IV Advisory Board will be headquartered in Dallas, Texas, and will represent the Southwest Region of the United States composed of Oklahoma and Texas.

The Region V Advisory Board will be headquartered in Denver, Colorado, and will represent the Rocky Mountain Region of the United States composed of Alaska, Colorado, Montana, Idaho, New Mexico, Utah, Washington, and Wyoming.

The Region VI Advisory Board will be headquartered in Los Angeles, California, and will represent the Western Region of the United States composed of Arizona, California, Hawaii, Nevada, and Oregon.

The regional advisory boards will each consist of five members to be

appointed by and serve at the pleasure of the Oversight Board for terms not to exceed two years. The regional advisory board members will be selected from those residents of the respective regions who will represent the views of low- and moderate-income consumers and small businesses, or who have knowledge and experience regarding business, financial, and real estate matters. The Oversight Board will select one appointed member from each regional advisory board to serve as chairperson of that board.

The national advisory board will consist of a chairperson appointed by the Oversight Board and the chairpersons of the regional advisory boards, and shall serve at the pleasure of the Oversight Board for terms not to exceed two years.

Interested persons are invited to submit comments and resumes regarding establishment of an appointment to the national advisory board or regional advisory boards to William Jasien, Office of Government Relations and Advisory Board Affairs, Oversight Board, Suite 906, 1825 Connecticut Ave., NW., Washington, DC 20232; telephone: (202) 376-5477.

Dated: November 15, 1989.

Daniel P. Kearney,

President and Chief Executive Officer,
Oversight Board.

[FR Doc. 89-27312 Filed 11-20-89; 8:45 am]

BILLING CODE 2222-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-27441; File No. SR-CSE-89-4]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by Cincinnati Stock Exchange Relating to National Securities Trading System Fee Schedule

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 2, 1989, the Cincinnati Stock Exchange ("CSE" 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 CSE Rule 11.10(h) which will change the National Securities Trading System ("NSTS") discount fee schedule.¹ The proposed fee schedule is as follows: [Additions italicized; deletions bracketed] Rule 11.10 National Securities Trading System Fees (h) No change to text.

Gross fees	Percentage ¹
[Up] 0 [to] \$[10,000] 5,000	0%
[10] 5-[25,000] 20,000	[5] 10%
[25] 20-50,000	[10] 15%
50-[75,000] 90,000	[15] 20%
[75] 90-[100,000] 125,000	[20] 25%
[100] 125 & Above	[25] 30%

¹ The percentage numbers indicate the discounts that will be applied to both Proprietary Members' and non-members' total gross fees charged in any month.

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 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 proposed rule change amends the Exchange's NSTS volume discount fee schedule as set forth in CSE Rule 11.10(h). The proposed change is intended to benefit those Proprietary Members who direct a substantial amount of order flow through NSTS, as well as to keep the Exchange's user fees competitive within the industry.

The proposed rule change is consistent with section 6(b)(4) of the Act

¹ The NSTS is the CSE's electronic securities communication and execution facility through which bids and offers of competing dealers, as well as public orders, are consolidated for review and execution by users.

which provides the Exchange with the ability to equitably allocate reasonable dues, fees and other charges among its members and other persons using its service.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition 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

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee or other charge imposed by the Exchange, it has become effective pursuant to section 19(b)(3)(A)(ii) of the Act and subparagraph (e) of Rule 19b-4 under the Act. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying 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 CSE. All submissions should refer to File No. SR-CSE-890-4 and should be submitted by December 12, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 13, 1989.

Jonathan G. Katz,
Secretary.

[FR Doc. 89-27323 Filed 11-20-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-27442; File No. SR-NYSE-89-21]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by New York Stock Exchange, Inc., Relating to Bond Listing Fees

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 October 25, 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 persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is revising listing fees for bonds. These revisions fall into two categories: outstanding issues and debt American Depositary Receipts ("ADRs"). The current bond initial listing fees are as follows:

(Rates Per \$ Million)

Issue Size (\$ Million Par Value) ¹

Base Maturity range	Additive			
	\$0-\$500	\$500-\$750	\$751-\$1,000	\$1,001+
1 to 5.....	\$115	\$80	\$55	\$30
6 to 14.....	230	160	110	80
15 to 25.....	260	180	130	110
26 +	290	210	160	130

¹ To determine the initial listing fee, begin with the maturity range and multiply the appropriate fee for the first \$0-\$500 million ("mm") par value. Remaining par values at each level are charged at the next par value range rate.

The Exchange is adding new features to its outstanding issue program for listing currently outstanding debt.¹ The new structure will allow issuers to total par values of outstanding issues and average maturities, thus availing themselves of discounts for larger issues and earlier maturities.

Furthermore, the new fee structure for ADRs issued against foreign debt is based on a percentage of the total issue. Where ADRs representing debt of a foreign company or sovereign are listed on the Exchange, listing fees are to be based on the above proposed bond listing fees after applying the following calculation to determine the ratable par value: 10% of the U.S. dollar value of the worldwide outstanding float for an issue available through a single offering; or 12.5% of the U.S. dollar value of the worldwide outstanding float for an issue that may be added to through future offerings.²

¹ The fee structure for currently outstanding, unlisted issues is based on the bond listing fee schedule but utilizes the remaining life and size of an issue. Under the existing program, the fee for outstanding issues is half the dollar amount calculated using the above bond listing fees. See Securities Exchange Act Release No. 25313 (February 4, 1988) (Approving File No. SR-NYSE-87-50).

² A 7-year bond with U.S. dollar value of \$1,000,000,000 will be the underlying issue for an ADR facility. The fee will be based on 10% of the total, or \$100,000,000, and will equal \$23,000.

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 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 is revising listing fees for bonds in the two areas of outstanding issues and debt ADRs. The fee structure for currently outstanding, unlisted issues is based on the bond listing fee schedule but utilizes the remaining life and size of an issue. Under the existing program, the fee for outstanding issues is half of the calculated dollar amount.³

If the same issue may be added to by future offerings, the fee will be based on 12.5% of the total outstanding, or \$125,000,000, and will amount to \$28,750.

³ See Securities Exchange Act Release No. 25313 (February 4, 1988) (Approving File No. SR-NYSE-87-50).

The Exchange now proposes to add two new features to the fee structure. First, the Exchange will total par values of outstanding issues where more than one issue is being listed, thus availing issuers of existing size discounts for larger issues.⁴ Second, where issuers are listing two or more outstanding issues, maturities will be averaged, thus availing issues of lower listing rates for shorter maturities.⁵

As previously required, to be eligible for this reduced listing fee, the bond issue must have been outstanding at least one year prior to application. This proposed program will be open to all eligible debt for 18 months and will, in addition, be extended for an additional 18 months to all equity issuers listing on the Exchange for the first time after the expiration of the first eighteen month period.

The restructured fees for outstanding issues and debt ADRs acknowledge the

⁴ Example: An issuer is listing a 30-year, \$500mm issue with 4 years remaining and a 15-year, \$350mm issue with 5 years remaining. The fee (\$41,500) is less than the fee for new issues of the same size and maturities (\$97,750) and the fee for outstanding issues calculated individually (\$48,875).

⁵ Example: In the example illustrated in footnote 4, if the remaining life of the \$350mm issue is 6 years, instead of 5 years, the remaining life of the total is averaged to 5 years. The fee is \$41,500, rather than \$69,000 which would be the correct fee if calculated individually without totalling or averaging maturities.

distinct characteristics of various categories of debt offerings and enhance the opportunity for their participation, through listing, in the Exchange's public secondary market for debt.

The statutory basis for the proposed rule change is section 6(b)(4) under the Act and its requirement that a national securities exchange have rules that provide for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and others using its services.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not impose any burden on competition 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

No written comments were 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 other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all 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-89-21 and should be submitted by December 12, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 13, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-27321 Filed 11-20-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-27444; File No. SR-OCC-89-13]

Self-Regulatory Organizations; the Options Clearing Corp.; Notice of Filing of Proposed Rule Change Relating to Netting of Cash Settlement Obligations

November 15, 1989.

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 October 27, 1989, the Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (SR-OCC-89-13) 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 proposed rule change would allow OCC to reduce the number of funds transfers necessary to effect daily settlement with its clearing members, and would make other clarifying and conforming changes in OCC's rules relating to daily cash settlement.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. In General

The primary purpose of the proposed rule change is to permit OCC to implement one of the recommendations made in a special study of OCC's backup system conducted by a Subcommittee of the Margin Committee of OCC's Board of Directors. That recommendation was that OCC net all cash obligations to be settled between it and any clearing member in OCC's regular morning settlement on any given day to one pay or collect amount. The Subcommittee's recommendation, consistent with the recommendations contained in Appendix D of the "Interim Report of the Working Group on Financial Markets," was intended to reduce the number of separate funds transfers, and the dollar value of the transfers, to the minimum necessary to effect regular morning settlement.

A secondary purpose of the proposed rule change is to conform the various provisions of OCC's rules that address cash settlement to each other in several respects, and thereby to clarify the settlement obligations of OCC and its clearing members.

2. Particular Changes to Permit Netting Cash Settlement Amounts

OCC's Rules 502, 503, 606 and 607 currently provide that OCC will make daily premium and margin settlement account by account. Rule 1605, in contrast, provides for foreign currency option exercise settlement on a net basis across all accounts, and Rules 1704 and 1806 provide that yield-based treasury options and index option exercise settlements, respectively, owing to the Corporation in any account may be netted against any other credit balance owned by the Corporation to the clearing member. The proposed rule change would amend these rules to permit OCC to net against each other: premiums due to and from the various accounts of a clearing member (Rules 502 and 503), excess cash margin amounts held by the Corporation and margin deficits in the various accounts of the clearing member (Rules 606 and 607), and settlement amounts due to and from the various accounts of the clearing member for exercises of foreign currency, yield-based treasury and index options (Rules 1605, 1704, and 1806).

Article VI, section 8 of OCC's By-laws currently provides that OCC may reject Exchange transactions in any account

for which OCC has not received all premiums owed to it by the clearing member. Since the proposed rule change would permit OCC to net all premiums across all accounts of a clearing member, OCC would be unable to determine to which account the failure to make settlement should be attributed if the clearing member failed to make regular morning settlement. The proposed rule change therefore amends Article VI, Section 8 to provide that the obligations of OCC to accept Exchange transactions of a clearing member and issue cleared securities to that clearing member are subject to the condition that OCC shall have received payment of all amounts owed to it by the clearing member on that morning.

Article VI, section 8 currently contains language that restricts OCC's ability, in the event that OCC in its discretion accepts an Exchange transaction for which a clearing member has failed to pay the premium, to apply customer funds to the payment of such a premium relating to an Exchange transaction arising in a non-customer account. This language was drafted before the Commission adopted Rule 15c3-3, and reflects commodities-style segregation concepts. The prohibition is not mandated by the Commission's hypothecation rules (which apply only to customer securities, and not to customer funds) or Rule 15c3-3, and becomes impossible to implement when cash settlements are netted across accounts. The proposed rule change therefore deletes this language from Article VI, Section 8.

3. Additional Changes

The proposed rule change makes other amendments to OCC's rules relating to cash settlement. Rule 203 is amended to reflect more expressly that a clearing member may (and most clearing members do) designate only one bank account for settlements in all the clearing member's accounts maintained with OCC.

Rule 501 states that OCC shall provide each clearing member information relating to the clearing member's transactions. The Rule is amended to reflect that the information provided to clearing members pursuant to the Rule is contained in three separate reports. OCC issues to each clearing member a "Daily Position Activity Report and Initial Transaction Statement" for equity options and a "Non-Equity Options Daily Position Activity Report and Initial Transaction Statement" for non-equity options. These reports show, among other things, all Exchange transactions of the clearing member in equity and non-equity options,

respectively. OCC also issues to each clearing member a "Daily Margin Report—Settlement/Summary," which shows the net daily premium due to or from OCC in each account of the clearing member.

Rule 1605 describes procedures for settlement of foreign currency option exercises. The Rule is amended to delete sentences that describe the sequence of cross-account netting operations. These sentences are unnecessarily detailed in the foreign currency settlement context, where settlement is effected with OCC rather than broker-to-broker. In a broker-to-broker settlement context, these sentences have the effect of minimizing the total number of settlements by first netting customer and market-maker settlement obligations against each other, since these settlements are more likely to be odd-lot settlements than are settlements in the firm account. However, the sentences have no effect where settlements are made directly with OCC.

Rule 1606(a) (relating to foreign currency option exercise settlement), Rule 1704(d) (relating to yield-based Treasury option settlement), and Rule 1806(d) (relating to index option exercise settlement) are amended to state expressly, in parallel with similar provisions elsewhere in OCC's rules, that OCC's obligations to a clearing member in connection with exercise settlement are discharged upon the netting of settlement obligations between OCC and the clearing member or the performance by OCC of its obligation to make payment or (in the case of foreign currency settlement) to deliver the requisite currency.

The proposed rule change is consistent with the purposes and requirements of section 17A of the Act because it would enhance the safeguarding of funds in the custody or control of OCC by minimizing funds flows in the course of regular daily settlement between OCC and its clearing members and by clarifying the settlement obligations of OCC and its clearing members.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited by OCC with respect to the proposed rule change and none have been received by OCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date publication of this notice in the *Federal Register* or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or,

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at OCC's principal office. All submissions should refer to the file number SR-OCC-89-13 and should be submitted by December 12, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-27320 Filed 11-20-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17211; 811-5067]

Utah Farm Bureau Life Variable Account; Application for Order

November 13, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for an Order under Section 8(f) of the Investment Company Act of 1940 (the "1940 Act").

Applicant: Utah Farm Bureau Life Variable Account (the "Applicant").

Relevant 1940 Act Section: Order requested under section 8(f).

Summary of Application: Applicant seeks an order under section 8(f) of the 1940 Act declaring that it has ceased to be an investment company.

Filing Date: September 12, 1989.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 on December 7, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street N.W., Washington, DC 20549. Applicant, Utah Farm Bureau Life Variable Account, 5300 South 360 West, Salt Lake City, Utah 84107.

FOR FURTHER INFORMATION CONTACT:

Michael V. Wible, Staff Attorney, at (202) 272-2026, or Clifford E. Kirsch, Acting Assistant Director, at (202) 272-2060 (Division of Investment Management, Office of Insurance Products and Legal Compliance).

SUPPLEMENTARY INFORMATION:

Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. On March 20, 1987 the Applicant filed a notification of registration as an investment company on Form N-8A pursuant to Section 8(a) of the Act, and a registration statement on Form N-8B-2 (File No. 811-5067) pursuant to Section 8(b) of the 1940 Act.

2. On March 20, 1987 the Applicant also filed a registration statement on Form S-6 (File No. 33-12790) with the SEC pursuant to the Securities Act of 1933 (the "1933 Act"). This registration statement covered the registration of certain flexible premium variable life insurance policies (the "Policies"). Pursuant to Rule 24f-2 under the 1940 Act, the Applicant registered an indefinite amount of securities under the

1933 Act with respect to the policies. A Pre-Effective Amendment to this registration statement was filed on September 4, 1987, and the registration statement was declared effective on October 15, 1987. A post-effective amendment was filed on April 28, 1988.

3. The Applicant was established by its depositor, Utah Farm Bureau Life Insurance Company ("Utah Farm Bureau"), as a segregated asset account for the purpose of funding variable life insurance policies pursuant to a resolution adopted by the Board of Directors of Utah Farm Bureau on February 18, 1987, in accordance with applicable Utah insurance law and regulation.

4. The Applicant is being terminated because its depositor, Utah Farm Bureau, is in the process of being dissolved. On December 29, 1988, the Board of Directors of Utah Farm Bureau adopted a resolution approving and authorizing the dissolution of Utah Farm Bureau, and the shareholders of Utah Farm Bureau consented to the dissolution. Effective December 31, 1988, all of Utah Farm Bureau's existing insurance business was reinsured with Farm Bureau Life Insurance Company and Utah Farm Bureau ceased conducting any business except that relating to the dissolution process. On September 12, 1989 Utah Farm Bureau also applied to the SEC pursuant to Rule 477 of the 1933 Act for withdrawal of its registration statement.

5. During the last 18 months, Applicant has not, for any reason, transferred any of its assets to a separate trust. The Applicant does not have, nor did it ever have, any assets. The Applicant does not have any debts or other liabilities which remain outstanding. The Applicant is not a party to any litigation or administrative proceeding. The Applicant has no security holders. The Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs. The Applicant never sold any Policies or other securities of which it was the issuer.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-27322 Filed 11-20-89; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket 46609]

U.S.-Japan Route Authority; Order Requesting Comments

Issued by the Department of Transportation on the 16th day of November, 1989.

On November 6, 1989, the Governments of the United States and Japan signed a new *ad referendum* Memorandum of Understanding (MOU) which provides major new opportunities for combination and cargo service between the two countries. The Department intends to institute proceedings to award the new authority that has been authorized by this MOU. In order to facilitate this process, we are soliciting comments from all interested parties on how these route proceedings should be structured and conducted. We are also requesting that potential applicants provide us with information as to the route authority they intend to seek and the number of frequencies they will require.

The recent MOU provides, *inter alia*, that each country may designate up to three carriers to operate combination service over three routes between any point in the U.S. and any point in Japan. Under the terms of the MOU, only one U.S. carrier may be selected to serve each of these three routes. In addition, the MOU authorizes the U.S. to designate a carrier not currently operating all-cargo services to Japan to provide a new all-cargo service to Japan from any point in the U.S.

Each of these combination services, as well as the new all-cargo service, is limited by the MOU to no more than seven weekly roundtrip frequencies. Moreover, the U.S. is limited to an aggregate of 24 weekly roundtrip frequencies for all four of these services.

In addition to the combination services described above, the U.S. may authorize up to three combination services between any point in the U.S. and any point in Japan, other than Tokyo and Osaka, as well as a combination service to operate, on a turnaround basis, between a point in Alaska and a point in Japan, other than Tokyo and Osaka. The U.S. may designate only one carrier on each of these routes. The MOU limits service on each of these routes to seven weekly roundtrips.

The MOU also provides for the designation of an additional carrier to

operate on routes between Guam/Saipan and Nagoya, Fukuoka, and Naha. The U.S. is not required to designate the same carrier for each of these routes. The U.S. may also designate up to two carriers on routes between Guam/Saipan and any two points in Japan other than Tokyo, Osaka, Nagoya, Fukuoka, and Naha.

Finally, the MOU provides that a U.S. carrier now authorized to provide all-cargo service to Japan may operate up to seven weekly frequencies to one additional point in Japan, to be selected from Sapporo, Nagoya, and Fukuoka, as a coterminal with Tokyo, Osaka, or Naha.¹

The Department intends to institute shortly one or more certificate proceedings to select carriers to operate the route opportunities obtained in the MOU, as well as the gateway cities from which they will serve. All of the services described above become available on October 1, 1990, except for the Guam/Saipan routes which become effective on the date that the MOU enters into force. It is our intention to begin considering the issues involved in gateway and carrier selection promptly in order to permit U.S. carriers the opportunity to inaugurate service on the new routes as close to the effective date as possible. We recognize, however, that this may result in some of the applicants in the ongoing *U.S.-Japan Service Proceeding* filing duplicative applications in a case to allocate the 1989 MOU routes. We now believe that the benefits of commencing the selection process prior to reaching a final decision in the *U.S.-Japan Service Proceeding* outweigh its potential drawbacks.

Before initiating the carrier selection process we seek the commenters' advice on this matter and the following additional procedural points. First, we must decide whether to consider the selection of the various cargo and combination routes in a single proceeding or institute two or more separate proceedings to consider each category of service.

If we were to adopt the latter approach, and that is our inclination at the present time, we must initially resolve the issue of the allocation of frequencies between the all-cargo and combination services to Tokyo, since all four of these services will be limited to a total of 24 weekly roundtrips. To assist us in making this determination, we ask

potential applicants, both for all-cargo and for combination routes, to specify the number of frequencies that they expect to request for this authority.²

If we were to predetermine the allocation of frequencies between cargo and combination services, we would still be required to allocate among the three combination services that are ultimately selected. We ask that commenters focus upon the criteria that we might use in determining the allocation of these frequencies. A subsidiary, but important question is whether we should, as an evidentiary matter in the interest of achieving direct comparability of exhibit materials, require filings reflecting a common level of frequencies by applicants for combination routes that are restricted by the aggregate frequency limitations contained in the MOU.³ Because it may be impossible to grant all of the selected carriers the frequency levels they propose, it may prove useful for all applicants to submit their service proposals based upon a hypothetical common frequency level, while allowing carriers interested in other frequency levels to file alternative service proposals. Parties should comment on the desirability of such an approach and on what common frequency level, if any, should be set.

We also must consider whether to solicit applications for the three non-Tokyo/Osaka services at the same time that we require applications to be filed for the three combination services that fall within the 24-frequencies-per-week limit. An advantage to this approach would be to allow us the option of consolidating all applications for combination service into a single proceeding. However, we do not want any proceeding to become so unwieldy, in terms of the number of routes at issue and the number of parties participating, that it is likely to delay substantially our ability to conclude the case. Therefore, we seek an indication from carriers intending to apply for combination authority as to what markets they will propose to serve, in order that we might assess how many routes are likely to be contested and the number of applicants.

Service on all the Guam/Saipan routes, as noted above, can be instituted immediately. To the extent that we may receive contested applications, we would particularly like to expedite the

selection process for these routes. Therefore, we ask carriers interested in service from Guam/Saipan, in addition to specifying which routes they intend to apply for, to comment on the desirability of considering the selection issues through non-oral hearing procedures.

Finally, we must consider whether to accept proposals for service to points other than Tokyo on the three combination routes that are restricted, together with the all-cargo service, to a total of 24 weekly roundtrip frequencies. We believe that the economic value of service to Tokyo may be significantly greater than to any other point in Japan. Moreover, we will also be considering applications for three separate routes that are restricted by the agreement to points other than Tokyo or Osaka. Therefore, it is our present view that we should entertain applications only for service to Tokyo on the three combination routes that are included in the aggregate frequency limitation.

We seek comments on the issues discussed in this order, as well as on any other procedural issues that commenters may feel we should consider prior to instituting gateway/carrier selection proceedings.

Interested persons should submit comments, as well as all other requested information, in this docket within 14 days of the service date of this order.⁴ Reply comments are due five calendar days thereafter.

Accordingly,

1. We request comments from interested persons addressing the procedural issues discussed above, as well as information regarding the routes and number of frequencies that may be sought by potential applicants;
2. An original and 12 copies of all comments should be filed with the Documentary Services Division, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 by December 4, 1989;
3. Any reply comments will be due December 11, 1989;
4. We will serve this order on all certificated air carriers, the Airport Operators Council International, and the U.S. Airports for Better International Air Service; and

¹ The MOU also provides a significant increase in charter opportunities for U.S. carriers. We will consider the issue of the allocation of these additional charters in a separate order.

² Carriers currently applicants in the *U.S.-Japan Service Case*, Docket 46438, may indicate that they will also be applicants for authority under the MOU.

³ We have previously required the filing of proposals reflecting a common level of frequencies in the *U.S.-Japan Gateways Case*, instituted by Order 85-11-29. (See 50 FR (47487) 11-18-85.)

⁴ A separate docket or dockets will be opened for selection cases at the time that such cases are instituted. Therefore, applicants should not file to consolidate any applications in this comment docket.

5. This order will be published in the Federal Register.

Jeffrey N. Shane,
Assistant Secretary for Policy and
International Affairs.

[FR Doc. 89-27418 Filed 11-17-89; 11:29 am]
BILLING CODE 4910-62-M

Federal Aviation Administration

[Summary Notice No. PE-89-44]

Petition for Exemption, Summary and Disposition

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before December 11, 1989.

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

FOR FURTHER INFORMATION: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of

part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on November 13, 1989.

Deborah Swank,
Acting Manager, Program Management Staff,
Office of the Chief Counsel.

Petitions for Exemption

Docket No.: 26009.

Petitioner: Jerry L. Chap.

Regulations Affected: 14 CFR 65.91(c).

Description of Relief Sought: To waive the requirement for holding an airframe and powerplant mechanic rating for at least 3 years prior to eligibility for receipt of an inspector's authorization.

Docket No.: 26031.

Petitioner: Rocky Mountain Helicopters, Inc.

Sections of the FAR Affected: 14 CFR 43.3(g).

Description of Relief Sought: To allow properly trained personnel employed by petitioner to exchange medical oxygen cylinders after such cylinders have been depleted. The exemption would cover only those occurrences when a rated mechanic is not immediately available as a standard operating practice.

Docket No.: 26032.

Petitioner: Loken Aviation.

Sections of the FAR Affected: 14 CFR 43.3(g).

Description of Relief Sought: To allow petitioner's pilots to remove and install seats in petitioner's single-engine aircraft when performing certain types of flight operations.

Docket No.: 23921.

Petitioner: Flight Safety International.

Sections of the FAR Affected: 14 CFR 61.57(a)(1), (c), and (d); 61.58(c)(1) and (d); 61.63(d)(2) and (3); 61.67(d)(2); 61.157(d)(1) and (2) and (e)(1) and (2); Appendix A to part 61; Appendix H to Part 121.

Description of Relief Sought/Disposition: To amend Exemption No. 4058D to add a subparagraph vi.b.(4), which would be an alternative qualifier for persons eligible to instruct in petition's simulator programs. This alternative would be for instructors to have a minimum of 2,500 hours of flight time, 500 of which is pilot-in-command time, in lieu of the flight instructor certificate. GRANT, November 8, 1989, Exemption No. 4058E.

[FR Doc. 89-27286 Filed 11-20-89; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96-511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Ann Bickoff, Veterans Health Services and Research Administration (136E), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-2282.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 30 days of this notice.

Dated: November 15, 1989.

By direction of the Secretary.

Frank E. Lalley,

Director, Office of Information, Management and Statistics.

Reinstatement

1. Veterans Health Services and Research Administration.

2. Patient Satisfaction Survey.

3. VA Forms 10-1465d through 10-1465f.

4. This survey is the only recurring, comprehensive evaluation of VA patients' satisfaction with the health care they receive. It meets medical, management and legislative requirements and helps assure that VA

maintains a high level of care to the Nation's veterans.

5. Quarterly.
6. Individuals or household.
7. 101,536 responses.
8. 10 minutes.
9. Not applicable.

[FR Doc. 89-27294 Filed 11-20-89; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:12 p.m. on Tuesday, November 14, 1989, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

A notice of an individual's proposal dual service as a director of two nonaffiliated depository institutions pursuant to section 205 of the Depository Institution Management Interlocks Act.

Administrative enforcement proceedings.

Matters relating to assistance agreements pursuant to section 13(c) of the Federal Deposit Insurance Act.

Recommendation regarding the liquidation of a depository institution's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. FL-89-0037

Silverado Bank, Savings and Loan Association, Denver, Colorado

Reports of the Inspector General:

Audit Report re:

Enforcement Action System Audit (Memo dated September 27, 1989)

Audit Report re:

Liquidation Overhead Allocation Audit (Memo dated September 26, 1989)

Audit Report re:

MVS Audit By Non-FDIC Users (Memo dated September 18, 1989)

Audit Report re:

Audit of Data Base Access (Memo dated September 18, 1989)

Audit Report re:

Audit of Legal Fees Incurred for Litigation of Directors and Officers Liability Cases, (Memo dated September 15, 1989)

Matters relating to the Corporation's corporate activities.

Matters relating to the possible closing of certain insured banks.

Application of Babcock & Brown Bank, a proposed new bank to be located at 1747 Pennsylvania Avenue, NW., Washington, D.C., for Federal deposit insurance.

In calling the meeting, the Board determined on motion of Director C. C. Hope, Jr. (Appointive), seconded by Director M. Danny Wall (Director of the Office of Thrift Supervision), concurred in by Chairman L. William Seidman, that Corporation business required its

consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550-17th Street, NW., Washington, DC.

Dated: November 16, 1989.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 89-2746 Filed 11-17-89; 1:30 pm]

BILLING CODE 6714-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, November 27, 1989.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed acquisition of computer equipment at two Federal Reserve Banks.
2. Proposed acquisition of automated material handling equipment within the Federal Reserve System.
3. Federal Reserve Bank and Branch director appointments. (This item was originally announced for a closed meeting on October 30, 1989.)
4. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
5. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Federal Register

Vol. 54, No. 223

Tuesday, November 21, 1989

Dated: November 17, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-27508 Filed 11-17-89; 3:36 pm]

BILLING CODE 6210-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Week of November 20, 27, December 4, and 11, 1989.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of November 20

Tuesday, November 21

9:00 a.m.

Briefing on Implementation of the U.S. Environmental Protection Agency's HLW Disposal Standards (Public Meeting)

Wednesday, November 22

11:30 a.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of November 27—Tentative

Thursday, November 30

2:00 p.m.

Briefing on DOE Views on Advanced Light Water Reactor Design and Certification (Public Meeting)

3:30 p.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of December 4—Tentative

Tuesday, December 5

11:30 a.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of December 11—Tentative

Thursday, December 14

10:00 a.m.

Briefing on Status of Implementation of the Severe Accident Master Integration Plan and Status of Licensee Progress on IPE (Public Meeting)

3:30 p.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

ADDITIONAL INFORMATION: By a vote of 3-0 (Commissioner Roberts not present) on November 15, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that Commission business required that "Affirmation of Seabrook Procedural Order Involving Pleadings and Schedules for Filing with the

Commission" (PUBLIC MEETING), scheduled for November 16, be held on less than one week's notice to the public.

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To verify the status of meetings call (Recording)—(303) 492-0292

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492-1661.

Dated: November 16, 1989.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 89-27482 Filed 11-17-89; 2:30 pm]

BILLING CODE 3590-01-M

Test Report Federal Register

Tuesday
November 21 1989

Part II

Environmental Protection Agency

40 CFR Part 300

National Priorities List of Uncontrolled
Hazardous Waste Sites; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL 3681-4]

National Priorities List for Uncontrolled Hazardous Waste Sites

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency ("EPA") is amending the National Priorities List ("NPL"). The NPL is appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 CFR part 300. The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) requires that the NCP include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States, and that the list be revised at least annually. The NPL, initially promulgated on September 8, 1983 (48 FR 40658), constitutes this list and is being revised today in the following way: (1) The addition of Radium Chemical Co. Inc., in Woodside, New York, New York, and Forest Glen Mobile Home Subdivision, in Niagara Falls, New York; (2) the addition of 27 Federal facility sites; and (3) the expansion of the definition of a previously listed Federal facility site. After carefully reviewing public comments on these sites, EPA has determined that they meet the eligibility requirements of the NPL and are consistent with the Agency's listing policies. Information supporting these actions is contained in the Superfund Public Dockets.

EFFECTIVE DATE: The effective date for this amendment to the NCP shall be December 21, 1989. CERCLA section 305 provides for a legislative veto of regulations promulgated under CERCLA. Although *INS v. Chadha*, 462 U.S. 919, 103 S. Ct. 2764 (1983), cast the validity of the legislative veto into question, EPA has transmitted a copy of this regulation to the Secretary of the Senate and the Clerk of the House of Representatives. If any action by Congress calls the effective date of this regulation into question, the Agency will publish a notice of clarification in the Federal Register.

ADDRESSES: Addresses for the Headquarters and Regional dockets follow. For further details on what these dockets contain, see section I of the

"Supplementary Information" portion of this preamble.

Tina Maragousis, Headquarters, U.S. EPA CERCLA Docket Office, OS-245, Waterside Mall, 401 M Street SW., Washington, DC 20460, 202/382-3046.

Evo Cunha, Region 1, U.S. EPA Waste Management Records Center, HES-CAN 6, J.F. Kennedy Federal Building, Boston, MA 02203, 617/565-3300.

U.S. EPA, Region 2, Document Control Center, Superfund Docket, 26 Federal Plaza, 7th Floor, Room 740, New York, NY 10278, Latchmin Serrano, 212/264-5540, Ophelia Brown, 212/264-1154.

Gayle Alston, Region 4, U.S. EPA Library, Room G-6, 345 Courtland Street NE., Atlanta, GA 30365, 404/347-4216.

Cathy Freeman, Region 5, U.S. EPA, 5 HS-12, 230 South Dearborn Street, Chicago, IL 60604, 312/886-6214.

Dolores Eddy, Region 8, U.S. EPA Library, 999 18th Street, Suite 500, Denver, CO 80202-2405, 303/293-1444.

Lisa Nelson, Region 9, U.S. EPA Library, 6th Floor, 215 Fremont Street, San Francisco, CA 94105, 415/768-1377.

David Bennett, Region 10, U.S. EPA, 9th Floor, 1200 6th Avenue, Mail Stop HW-093, Seattle, WA 98101, 206/442-2103.

FOR FURTHER INFORMATION CONTACT: Martha Otto, Hazardous Site Evaluation Division, Office of Emergency and Remedial Response (OS-230), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC, 20460, or the Superfund Hotline, Phone (800) 424-9346 (362-3000 in the Washington, DC, metropolitan area).

SUPPLEMENTARY INFORMATION:

Table of Contents:

- I. Introduction
- II. Purpose and Implementation of the NPL
- III. NPL Update Process
- IV. Contents of This NPL Update
- V. Response to Comments
- VI. Regulatory Impact Analysis
- VII. Regulatory Flexibility Act Analysis

I. Introduction

Background

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601-9657 ("CERCLA" or "the Act") in response to the dangers of uncontrolled or abandoned hazardous waste sites. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act ("SARA"), Public Law No. 99-499, stat. 1613 *et seq.* To implement CERCLA, the Environmental Protection Agency ("EPA" or "the Agency") promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan

("NCP"), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP further revised by EPA on September 16, 1985 (50 FR 37624) and November 20, 1985 (50 FR 47912), sets forth the guidelines and procedures needed to respond under CERCLA to releases and threatened releases of hazardous substances, pollutants, or contaminants. On December 21, 1988 (53 FR 51394), EPA proposed revisions to the NCP in response to SARA.

Section 105(a)(8)(A) of CERCLA, as amended by SARA, requires that the NCP include "criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable, taking into account the potential urgency of such action, for the purpose of taking removal action." The discussion below may refer to "releases or threatened releases" simply as "releases," "facilities," or "sites." Removal action involves cleanup or other measures that are taken in response to emergency conditions or on a short-term or temporary basis (CERCLA section 101(23)). Remedial action tends to be long-term in nature and involves response actions that are consistent with a permanent remedy for a release (CERCLA section 101(24)). Criteria for determining priorities for possible remedial actions financed by the Trust Fund established under CERCLA are included in the Hazard Ranking System ("HRS"), which EPA promulgated as Appendix A of the NCP (47 FR 31219, July 16, 1982). On December 23, 1988 (53 FR 51962), EPA proposed revisions to the HRS in response to CERCLA section 105(c), added by SARA.

In addition to the application of the HRS, there are two other mechanisms for listing sites on the NPL. Under CERCLA section 105(a)(8)(B), each State may designate a single site as its top priority, regardless of the HRS score. According to 40 CFR 300.66(b)(4) of the NCP, the Agency also may list sites if the Agency for Toxic Substances and Disease Registry (ATSDR) recommends dissociation of individuals from the release; if EPA determines that the release poses a significant public health threat; and if EPA anticipates that it would be more cost-effective to use remedial rather than removal authorities for cleanup. The three mechanisms are described in more detail in section III of this preamble.

Based in large part on the HRS listing mechanism and pursuant to section 105(a)(8)(B) of CERCLA, as amended by

SARA, EPA prepared a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The list, which is Appendix B of the NCP, is the National Priorities List ("NPL"). CERCLA section 105(a)(8)(B) also requires that the NPL be revised at least annually. A site can undergo CERCLA-financed remedial action only after it is placed on the final NPL, as provided in the NCP at 40 CFR 300.66(c)(2) and 300.68(a).

An original NPL of 406 sites was promulgated on September 8, 1983 (48 FR 40658). The NPL has been expanded since then, most recently on October 4, 1989 (54 FR 41000/41015). The Agency also has published a number of proposed rulemakings to add sites to the NPL, most recently October 26, 1989 (54 FR 43778).

EPA may delete sites from the NPL where no further response is appropriate, as explained in the NCP at 40 CFR 300.66(c)(7). To date, the Agency has deleted 28 sites from the final NPL, most recently on September 22, 1989 (54 FR 38994) when Cecil Lindsey, Newport, Arkansas, was deleted.

This rule adds two sites and 27 Federal facility sites to the NPL, and expands the definition of 1 previously listed Federal facility site. The two non-Federal sites were proposed to the NPL pursuant to § 300.66(b)(4) of the NCP (August 16, 1989, 54 FR 33846). The comment period for that rule ended on September 15, 1989. The 27 Federal facilities were proposed to the NPL, on the basis of their HRS scores, on July 14, 1989 (54 FR 29820), as was the expansion of the definition of 1 listed Federal facility site. The comment period for that rule ended on September 12, 1989. The other Federal facility sites in the July 1989 proposed rule will be addressed in future final rules.

EPA read all comments received on the sites in today's final rule, including late comments. In past rules, EPA responded even to late comments. However, because of the need to make final decisions on all currently proposed sites prior to the date that the revised HRS takes effect, EPA was not able to respond to all late comments received for sites in this rule. (EPA had previously indicated that it may no longer be able to consider late comments (53 FR 23990, June 24, 1988 and 54 FR 19527, May 5, 1989).) In section V of this preamble, EPA addresses those comments received no later than October 11, 1989 for all sites included in this final rule. Although EPA has not responded to all late comments, it has read all late comments. The

Agency has determined that none of the late comments received to date on the sites in today's final rule have brought to EPA's attention a fundamental error in the scoring of a site.

This rule results in a final NPL of 1,010 sites, 79 of them in the Federal section. In addition, 209 sites are currently in proposed status, 38 of them in the Federal section. With these changes, final and proposed sites now total 1,219.

EPA may include on the NPL sites at which there are or have been releases or threatened releases of hazardous substances, pollutants, or contaminants.

Information Available to the Public

The Headquarters and Regional public dockets for the NPL contain documents relating to the listing of these sites (see ADDRESSES portion of this notice). Appointments should be made to view these dockets. The hours of operation for the Headquarters docket are from 9 a.m. to 4 p.m., Monday through Friday excluding Federal holidays. The hours of operation for the Regional dockets are generally from 8 a.m. to 5 p.m., Monday through Friday excluding Federal holidays.

The Headquarters docket for the Federal facility sites added by this rule include the following documents: HRS score sheets; a Documentation Record describing the information used to compute the score; a list of documents referenced in the Documentation Record; and public comments received. The Headquarters docket for the two non-Federal sites contains the same documents in addition to, for each site, a Public Health Advisory issued by ATSDR, and an EPA memorandum addressing for each site, whether the release poses a significant threat to public health and whether it would be more cost-effective to use remedial rather than removal authorities at the sites.

The Regional docket includes all information available in the Headquarters docket, as well as the reference documents, which contain the data EPA relied upon in calculating or evaluating the HRS scores for these sites.

Copies of documents contained in the Headquarters or Regional dockets may be obtained by informal written request addressed to the appropriate docket contact as specified in the ADDRESSES section of this preamble.

II. Purpose and Implementation of the NPL

Purpose

The primary purpose of the NPL is stated in the legislative history of

CERCLA (Report of the Committee on Environment and Public Works, Senate Report No. 96-848, 96th Cong., 2d Sess. 60 (1980)):

The priority lists serve primarily informational purposes, identifying for the States and the public those facilities and sites or other releases which appear to warrant remedial actions. Inclusion of a facility or site on the list does not in itself reflect a judgment of the activities of its owner or operator, it does not require those persons to undertake any action, nor does it assign liability to any person. Subsequent government action in the form of remedial actions or enforcement actions will be necessary in order to do so, and these actions will be attended by all appropriate procedural safeguards.

The purpose of the NPL, therefore, is primarily to serve as an informational and management tool. The identification of a site for the NPL assists EPA in determining which sites warrant further investigation to assess the nature and extent of the public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. The NPL also serves to notify the public of sites that EPA believes warrant further investigation.

Implementation

As outlined in the NCP at 40 CFR 300.66(c)(2) and 300.68(a), Trust Fund monies can be spent for remedial actions only at sites that have been placed on the final NPL. However, EPA may take enforcement actions under CERCLA or other applicable statutes against responsible parties regardless of whether the site is on the NPL, although, as a practical matter, the focus of EPA's CERCLA enforcement actions has been and will continue to be on NPL sites. Similarly, in the case of CERCLA removal actions, EPA has the authority to act at any site, whether listed or not, that meets the criteria of the NCP at 40 CFR 300.65-300.67.

EPA's policy is to pursue cleanup of NPL sites using the appropriate response and/or enforcement actions available to the Agency, including authorities other than CERCLA. Listing a site will serve as notice to any potentially responsible party that the Agency may initiate CERCLA-financed remedial action. The Agency will decide on a site-by-site basis whether to take enforcement or other action under CERCLA or other authorities, proceed directly with CERCLA-financed response actions and seek to recover response costs after cleanup, or do both. To the extent feasible, once sites are on the NPL, EPA will determine high-priority candidates for Superfund-financed response action

and/or enforcement action through both State and Federal initiatives. These determinations will take into account which approach is more likely to most expeditiously accomplish cleanup of the site while using CERCLA's limited resources as efficiently as possible.

Remedial response actions will not necessarily be funded in the same order as a site's ranking on the NPL. Most sites are listed in the order of their HRS scores, and the Agency has recognized that the information collected to develop HRS scores is not sufficient in itself to determine either the extent of contamination or the appropriate response for a particular site. EPA relies on further, more detailed studies in the remedial investigation/feasibility study (RI/FS) to address these concerns.

The RI/FS determines the nature and extent of the threat presented by the contamination (40 CFR 300.68(d)). Specifically, it evaluates the amount of contaminants in the environment, the risk to affected populations and environment, the cost to correct problems at the site, and the response actions that have been taken by potentially responsible parties or others. Decisions on the type and extent of action to be taken at these sites are made in accordance with the criteria contained in subpart F of the NCP. After conducting these additional studies, EPA may conclude that it is not desirable to initiate a CERCLA remedial action at some sites on the NPL because of more pressing needs at other sites, or because a private party cleanup is already underway pursuant to an enforcement action. Given the limited resources available in the Trust Fund, the Agency must carefully balance the relative needs for response at the numerous sites it has studied. It also is possible that EPA will conclude, after further analysis, that the site does not warrant remedial action. Federal facility sites are eligible for the NPL pursuant to the NCP at 40 CFR 300.66(c)(2). However, section 111(e)(3) of CERCLA, as amended by SARA, limits the expenditure of CERCLA monies at Federally-owned facilities. Federal facility sites also are subject to the requirements of CERCLA section 120, added by SARA.

III. NPL Update Process

There are three mechanisms for placing sites on the NPL. The principal mechanism is the application of the HRS. The HRS serves as an objective screening device to evaluate the relative potential of uncontrolled hazardous substances to cause human health or safety problems, or ecological or environmental damage. The HRS score

represents an estimate of the relative "probability and magnitude of harm to the human population or sensitive environment from exposure to hazardous substances as a result of the contamination of ground water, surface water, or air" (47 FR 31180, July 16, 1982). Sites that score 28.50 or greater on the HRS are eligible for the NPL.

Under the second mechanism for adding sites to the NPL, each State may designate a single site as its top priority, regardless of the HRS score. This mechanism is provided by section 105(a)(8)(B) of CERCLA, as amended by SARA, which requires that, to the extent practicable, the NPL include within the 100 highest priorities, one facility designated by each State representing the greatest danger to public health, welfare, or the environment among known facilities in the State.

The third mechanism for listing, included in the NCP at 40 CFR 300.66(b)(4) (50 FR 37624-28, September 16, 1985), allows certain sites with HRS scores below 28.50 to be eligible for the NPL if all of the following occur:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Department of Health and Human Services issues a health advisory that recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

The third mechanism was added to the NCP by rulemaking, during which the Agency explained that the HRS may not fully reflect the risk at certain types of sites. For example, direct contact is not included in calculating the total HRS score. Thus, some sites involving direct contact to residents may pose a serious threat but not receive a sufficiently high score to qualify for the NPL. Similarly, where a small number of people are exposed to a hazardous substance, the site may fail to qualify for listing due to the low targets score.

States have the primary responsibility for identifying non-Federal sites, computing HRS scores, and submitting candidate sites to the EPA Regional Offices. EPA Regional Offices conduct a quality control review of the States' candidate sites, and may assist in investigating, sampling, monitoring, and scoring sites. Regional Offices also may consider candidate sites in addition to those submitted by States.

Federal agencies have the primary responsibility under CERCLA section

120(c) for identifying Federal facility sites. In conjunction with EPA Regional offices, the Federal agencies perform investigations, sampling, monitoring, and scoring of sites. Regional offices then conduct a quality control review of the candidate sites. EPA Headquarters conducts further quality assurance audits to ensure accuracy and consistency among the various EPA and State offices participating in the scoring. The Agency then proposes the sites that meet one of the three criteria for listing (and EPA's listing policies) and solicits public comment on the proposal. Based on these comments and further review by EPA, the Agency determines final HRS scores and places those sites that still qualify on the final NPL.

IV. Contents Of This Final Rule

This rule adds to the final NPL Radium Chemical Co. Inc., in Woodside, Queens Borough, New York City, New York, and the Forest Glen Mobile Home Subdivision in Niagara Falls, New York. Both were proposed to the NPL on August 16, 1989 (54 FR 33846) based upon § 300.66(b)(4) of the NCP (54 FR 33846). The comment period for these sites ended on September 15, 1989. EPA addresses two comments received regarding one of these sites in Section V of this preamble. A description of these two sites was included in the proposed rule (54 FR 33846, August 16, 1989).

This rule also adds 27 Federal facility sites to the NPL, and finalizes the expansion of the definition of another previously listed Federal facility site. The comment period for these sites ended on September 12, 1989. EPA addresses comments received by October 11, 1989, on these Federal facility sites in section V of this preamble. A brief discussion of the Federal facility expansion is provided below. Table 1 lists sites added to the NPL by this rule. Other Federal facility sites proposed in July 1989 will be addressed in future final rules.

Mather Air Force Base

The Mather Air Force Base (AC&W Disposal Area) located in Sacramento, California, was proposed to the NPL on October 15, 1984 (49 FR 40320) and was listed on July 22, 1987 (52 FR 27620). On July 14, 1989 (54 FR 29822), the Agency proposed to expand the site definition at this facility because it believed that additional areas of the facility were contributing to contamination of the aquifer, and possibly to off-site contamination. At this time, the site is being expanded and renamed "Mather Air Force Base."

TABLE 1.—NATIONAL PRIORITIES LIST, FEDERAL FACILITY SITES, NEW FINAL (BY GROUP), NOVEMBER 1989

NPL Gr ¹	ST	Site name	City/county
2	OH	Feed Materials Prod Cent (USDOE).	Fernald
3	WA	Bonneville Power Adm Ross (USDOE).	Vancouver
4	ID	Idaho National Engin Lab (USDOE).	Idaho Falls
4	TN	Oak Ridge Reservation (USDOE).	Oak Ridge
5	CA	Treasure Island Nav Sta-Hun Pt. An.	San Francisco
5	AK	Eielson Air Force Base.	Fairbanks N Star Bor
5	SC	Savannah River Site (USDOE).	Aiken
6	MA	Otis Air Nat Guard/Camp Edwards.	Falmouth
7	GA	Marine Corps Logistics Base.	Albany

TABLE 1.—NATIONAL PRIORITIES LIST, FEDERAL FACILITY SITES, NEW FINAL (BY GROUP), NOVEMBER 1989—Continued

NPL Gr ¹	ST	Site name	City/county
7	CO	Air Force Plant PJKS.	Waterton
8	FL	Pensacola Naval Air Station.	Pensacola
8	MA	Fort Devens.	Fort Devens
10	NY	Brookhaven National Lab (USDOE).	Upton
11	AZ	Williams Air Force Base.	Chandler
11	CA	Barstow Marine Corps Logist Base.	Barstow
12	UT	Monticello Mill Tailings (USDOE).	Monticello
13	WA	Fort Lewis Logistics Center.	Tillicum
13	OH	Mound Plant (USDOE).	Miamisburg
14	RI	Davisville Naval Constr Batt Cent.	North Kingstown

TABLE 1.—NATIONAL PRIORITIES LIST, FEDERAL FACILITY SITES, NEW FINAL (BY GROUP), NOVEMBER 1989—Continued

NPL Gr ¹	ST	Site name	City/county
14	CA	Camp Pendleton Marine Corps Base.	San Diego County
16	RI	Newport Naval Educat/ Training Cen.	Newport
16	FL	Jacksonville Naval Air Station.	Jacksonville
16	FL	Cecil Field Naval Air Station.	Jacksonville
16	CA	March Air Force Base.	Riverside
17	MN	Naval Industrial Reserve Ordnance.	Fridley
18	NY	Plattsburgh Air Force Base.	Plattsburgh
18	CA	Travis Air Force Base.	Solano County

¹ Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL. Number of New Final Federal Facility Sites: 27.

NATIONAL PRIORITIES LIST, NEW FINAL SITES (BY RANK), NOVEMBER 1989

NPL Gr ¹	Rank	ST	Site Name	City/County
19	930	NY	Forest Glen Mobile Home Subdivis.	Niagara Falls New York City
19	931	NY	Radium Chemical Co., Inc.	

¹ Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL. Number of New Final Sites: 2.

The NPL, which is Appendix B of the NCP, and which appears after this preamble, is arranged by HRS scores and is presented in groups of 50 to emphasize that minor differences in scores do not necessarily represent significantly different levels of risk. The two sites listed pursuant to § 300.66(b)(4) of the NCP have HRS scores below 28.50 and are included in the last group on the NPL.

V. Response to Comments

EPA received two comments in favor of listing Radium Chemical Co., Inc. These comments resulted in no change in the HRS score for the site or the Agency's determination that the criteria given at § 300.66(b)(4) of the NCP have been met. No comments were received for the Forest Glen Mobile Home Subdivision.

With respect to the 28 Federal facility sites addressed by this rule, EPA received several comments in support of the listing of Otis Air National Guard Base/Camp Edwards in Falmouth, Massachusetts, Barstow Marine Corps

Logistics Base in Barstow, California, and Idaho National Engineering Laboratory in Idaho Falls, Idaho. Some of these comments also included suggestions for cleanup or enforcement strategies. While the Agency appreciates these comments, they are not germane to listing these sites, and so will not be addressed at this time. No timely comments were received regarding the other Federal facility sites in today's final rule.

VI. Regulatory Impact Analysis

The costs of cleanup actions that may be taken at sites are not directly attributable to listing on the NPL, as explained below. Therefore, the Agency has determined that this rulemaking is not a "major" regulation under Executive Order 12291. EPA has conducted a preliminary analysis of the economic implications of today's final rule to add two new non-Federal sites and 27 Federal facility sites to the NPL, and finds that the kinds of economic effects associated with this revision are generally similar to those identified in

the regulatory impact analysis (RIA) prepared in 1982 for revisions to the NCP pursuant to section 105 of CERCLA (47 FR 31180, July 16, 1982) and the economic analysis prepared when amendments to the NCP were proposed (50 FR 5882, February 12, 1985). This rule was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Costs

EPA has determined that this rulemaking is not a "major" regulation under Executive Order 12291 because inclusion of a site on the NPL does not itself impose any costs. It does not establish that EPA necessarily will undertake remedial action, nor does it require any action by a private party or determine its liability for site response costs. Costs that arise out of site responses result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Nonetheless, it is useful to consider the costs associated with responding to the sites included in this rulemaking.

The major events that follow the listing of a site on the NPL include a search for potentially responsible parties and a remedial investigation/feasibility study (RI/FS) to determine if remedial actions will be undertaken at a site. Design and construction of the selected remedial alternatives follow completion of the RI/FS, and operation and maintenance (O&M) activities may continue after construction has been completed.

EPA initially bears the costs associated with responsible party searches. Responsible parties may bear some or all of the costs of the RI/FS, remedial design and construction, and O&M, or EPA and the States may share costs.

The State cost share for site cleanup activities has been amended by section 104 of SARA. For privately-owned sites, as well as for publicly-owned but not publicly-operated sites, EPA will pay for 100% of the costs of the RI/FS and remedial planning, and 90% of the costs associated with remedial action. The State will be responsible for 10% of the remedial action. For publicly-operated sites, the State will pay for at least 50% of all response costs at the site, including the RI/FS and remedial design and construction of the remedial action selected. After the remedy is implemented, costs fall into two categories:

- For restoration of ground water and surface water, EPA will share in startup costs according to the criteria in the previous paragraph for 10 years or until a sufficient level of protectiveness is achieved before the end of 10 years.
- For other cleanups, EPA will share for up to 1 year the cost of that portion of response needed to assure that a remedy is operational and functional. After that, the State assumes full responsibilities for O&M.

In previous NPL rulemakings, the Agency estimated the costs associated with these activities (RI/FS, remedial design, remedial action, and O&M) on an average total cost per site basis. EPA will continue with this approach, using the most recent cost estimates available (1988). These estimates are presented below. However, there is wide variation in costs for individual sites, depending on the amount, type, and extent of contamination. Additionally, EPA is unable to predict what portions of the total costs responsible parties will bear, since the distribution of costs depends on the extent of voluntary and

negotiated response and the success of any cost-recovery actions.

Cost category	Average total cost per site ¹
RI/FS.....	1,100,000
Remedial Design.....	750,000
Remedial Action.....	* 13,500,000
Net present value of O&M ³	* 3,770,000

¹ 1988 U.S. Dollars

² Includes State cost-share

³ Assumes cost of O&M over 30 years, \$400,000 for the first year and 10% discount rate.

Source: Office of Program Management, Office of Emergency and Remedial Response, U.S. EPA.

Costs to States associated with today's rule arise from the required State cost-share of: (1) 10% of remedial actions and 10% of first-year O&M costs at privately-owned sites and sites that are publicly-owned but not publicly-operated; and (2) at least 50% of the remedial planning (RI/FS and remedial design), remedial action, and first-year O&M costs at publicly-operated sites. The State will assume the costs generated by O&M, following EPA's period of participation. The Radium Chemical Company Site and the Forest Glen Mobile Home Subdivision Site are both privately-owned. Therefore, using the budget projections presented above, State costs arising from Federal remedial planning and action, excluding O&M costs, can be expected to reach approximately \$2.5 million. State O&M costs cannot be accurately determined because EPA, as noted above, will share O&M costs for up to 10 years for restoration of ground water and surface water, and it is not known if these sites will require this treatment and for how long. However, based on past experience, EPA believes a reasonable estimate is that it will share startup costs for up to 10 years at 25% of sites.

Placing a hazardous waste site on the NPL does not itself cause firms responsible for the site to bear cleanup costs. Nonetheless, a listing may induce firms to clean up the sites voluntarily, or it may act as a potential trigger for subsequent enforcement or cost-recovery actions. Such actions may impose costs on firms, but the decision to take such actions are discretionary and made solely on a case-by-case basis. Consequently, precise estimates of these effects cannot be made. EPA does not believe that every site will be cleaned up by a responsible party. EPA cannot project at this time which firms or industry sectors will bear specific portions of the response costs, but the Agency considers: the volume and nature of the waste at the site; the strength of the evidence linking the

wastes at the site to the parties; the parties' ability to pay; and other factors when deciding whether and how to proceed against the parties.

Economy-wide effects of this amendment to the NCP are aggregations of effects on firms and State and local governments. Although effects could be felt by some individual firms and States, the total impact of this final rule on output, prices, and employment is expected to be negligible at the national level, as was the case in the 1982 RIA.

Benefits

The benefits associated with adding two sites and 27 Federal facility sites to the NPL are increased health and environmental protection as a result of increased public awareness of potential hazards. In addition to the potential for more Federally-financed remedial actions, expansion of the NPL can accelerate privately-financed, voluntary cleanup efforts. Identifying sites as national priority targets also may give States increased support for funding responses at particular sites.

As a result of additional CERCLA remedies, there will be lower human exposure to high-risk chemicals, and higher-quality surface water, ground water, soil, and air. These benefits are expected to be significant, although difficult to estimate in advance of completing the RI/FS at these sites.

VII. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act of 1980 requires EPA to review the impacts of this action on small entities, or certify that the action will not have a significant impact on a substantial number of small entities. By small entities, the Act refers to small businesses, small government jurisdictions, and nonprofit organizations.

While these modifications to the NPL are considered revisions to the NCP, they are not typical regulatory changes since the revisions do not automatically impose costs. Placing sites on the NPL does not in itself require any action by any private party, nor does it determine the liability of any party for the cost of cleanup at the site. Further, no identifiable groups are affected as a whole. As a consequence, it is hard to predict impacts on any group. A site's inclusion on the NPL could increase the likelihood that adverse impacts to responsible parties (in the form of cleanup costs) will occur, but EPA cannot identify the potentially affected business at this time nor estimate the

number of small businesses that might be affected.

The Agency does expect that certain industries and firms within industries that have caused a proportionately high percentage of waste site problems could be significantly affected by CERCLA actions. However, EPA does not expect the impacts from the listing of these sites to have a significant economic impact on a substantial number of small businesses.

In any case, economic impacts would only occur through enforcement and cost-recovery actions, which are taken at EPA's discretion on a site-by-site basis. EPA considers many factors when determining what enforcement actions to take, including not only the firm's contribution to the problem, but also the firm's ability to pay.

The impacts (from cost recovery) on small governments and nonprofit organizations will be determined on a similar case-by-case basis.

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Dated: November 14, 1989.

M.A. Gade,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

PART 300—[AMENDED]

40 CFR part 300 is amended as follows:

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

Authority: 42 U.S.C. 9605; 42 U.S.C. 9620; 33 U.S.C. 1321(c)(2); E.O. 11735 (38 FR 21243); E.O. 12580 (52 FR 2923).

2. Appendix B of part 300 is revised to read as set forth below.

BILLING CODE 6560-50-M

Appendix B to Part 300

National Priorities List (by Rank)
November 1989

NPL Rank	EPA Reg	Site Name	City/County
Group 1 (HRS Scores 75.60 - 58.54)			
1	02	NJ Lipari Landfill	Pitman
2	03	DE Tybouts Corner Landfill *	New Castle County
3	03	PA Bruin Lagoon	Bruin Borough
4	02	NJ Helen Kramer Landfill	Mantua Township
5	01	MA Industri-Plex	Woburn
6	02	NJ Price Landfill *	Pleasantville
7	02	NY Pollution Abatement Services *	Oswego
8	07	IA Labounty Site	Charles City
9	03	DE Army Creek Landfill	New Castle County
10	02	NJ CPS/Madison Industries	Old Bridge Township
11	01	MA Nyanza Chemical Waste Dump	Ashland
12	02	NJ GEMS Landfill	Gloucester Township
13	05	MI Berlin & Farro	Swartz Creek
14	01	MA Baird & McGuire	Holbrook
15	02	NJ Lone Pine Landfill	Freehold Township
16	01	NH Somersworth Sanitary Landfill	Somersworth
17	05	MN FMC Corp. (Fridley Plant)	Fridley
18	06	AR Vertac, Inc.	Jacksonville
19	01	NH Keefe Environmental Services	Epping
20	08	MT Silver Bow Creek/Butte Area	Sil Bow/Deer Lodge
21	08	SD Whitewood Creek *	Whitewood
22	06	TX French, Ltd.	Crosby
23	05	MI Liquid Disposal, Inc.	Utica
24	01	NH Sylvester *	Nashua
25	03	PA Tysons Dump	Upper Merion Twp
26	03	PA McAdoo Associates *	McAdoo Borough
27	06	TX Motco, Inc. *	La Marque
28	05	OH Arcanum Iron & Metal	Darke County
29	08	MT East Helena Site	East Helena
30	06	TX Sikes Disposal Pits	Crosby
31	04	AL Triana/Tennessee River	Limestone/Morgan
32	09	CA Stringfellow *	Glen Avon Heights
33	01	ME McKin Co.	Gray
34	06	TX Crystal Chemical Co.	Houston
35	02	NJ Bridgeport Rental & Oil Services	Bridgeport
36	08	CO Sand Creek Industrial	Commerce City
37	06	TX Geneva Industries/Fuhrmann Energy	Houston
38	01	MA W.R. Grace & Co Inc (Acton Plant)	Acton
39	05	WV Reilly Tar (St. Louis Park Plant) *	St. Louis Park
40	05	MN New Brighton/Arden Hills	New Brighton
41	04	FL Schuykill Metals Corp.	Plant City
42	02	NJ Vineland Chemical Co., Inc.	Vineland
43	02	NJ Burnt Fly Bog	Harboro Township
44	03	PA Publicker Industries Inc.	Philadelphie
45	02	NY Old Bethpage Landfill	Oyster Bay
46	02	NJ Shieldalloy Corp.	Newfield Borough
47	04	FL Reeves Southeast Galvanizing Corp	Tampa
48	08	MT Anaconda Co. Smelter	Anaconda
49	10	WA Western Processing Co., Inc.	Kent
50	05	WI Omega Hills North Landfill	Germantown
Group 2 (HRS Scores 58.41 - 55.97, except for State top priority sites)			
51	04	FL American Creosote (Pensacola Plt)	Pensacola
52	02	NJ Caldwell Trucking Co.	Fairfield
53	02	NY GE Moreau	South Glen Falls
54	06	OK Tar Creek (Ottawa County)	Ottawa County
55	07	KS Cherokee County	Cherokee County
56	05	IN Seymour Recycling Corp. *	Seymour
57	05	OH United Scrap Lead Co., Inc.	Troy
58	04	FL Peak Oil Co./Bay Drum Co.	Tampa
59	02	NJ Brick Township Landfill	Brick Township
60	02	NJ Brook Industrial Park	Bound Brook
61	05	MI American Anodco, Inc.	Ironia
62	10	WA Frontier Hard Chrome, Inc.	Vancouver
63	05	WI Janesville Old Landfill	Janesville
64	05	MI Northern Plating	Cadillac
65	04	SC Kalama Specialty Chemicals	Beaufort
66	04	SC Independent Nail Co.	Beaufort
67	05	WI Janesville Ash Beds	Janesville
68	04	FL Davie Landfill	Davie
69	05	OH Miami County Incinerator	Troy
70	10	WA General Electric (Spokane Shop)	Spokane
71	04	FL Gold Coast Oil Corp.	Miami
72	09	AZ Tucson International Airport Area	Tucson
73	05	IN International Minerals (E. Plant)	Terre Haute
74	05	WI Wheeler Pit	La Prairie Township
75	09	CA Operating Industries, Inc. Landfill	Monterey Park
76	02	NY Wide Beach Development	Brant
77	09	CA Iron Mountain Mine	Redding
78	02	NJ Scientific Chemical Processing	Carlstadt
79	05	MI Gratiot County Landfill *	St. Louis
80	01	RI Picillo Farm *	Coventry
81	01	MA New Bedford Site *	New Bedford
82	06	LA Old Inger Oil Refinery *	Darrow
83	05	OH Chem-Dyne *	Hamilton
84	04	SC SCRDI Bluff Road *	Columbia
85	01	CT Laurel Park, Inc. *	Naugatuck Borough
86	08	CO Marshall Landfill *	Boulder County
87	05	IL Outboard Marine Corp. *	Waukegan
88	06	NM South Valley *	Albuquerque
89	01	VT Pine Street Canal *	Burlington
90	03	WV West Virginia Ordnance *	Point Pleasant
91	07	MO Ellisville Site *	Ellisville
92	08	ND Arsenic Trioxide Site *	Southeastern ND
93	07	IA Aidex Corp. *	Council Bluffs
94	05	WI N.W. Mauthe Co., Inc. *	Appleton
95	04	TN North Hollywood Dump *	Memphis
96	04	KY A.L. Taylor (Valley of Drums) *	Brooks
97	09	GU Ordof Landfill *	Guam
98	04	MS Flowood Site *	Flowood
99	08	UT Rose Park Sludge Pit *	Salt Lake City
100	07	KS Arkansas City Dump *	Arkansas City

National Priorities List (by Rank)
November 1989

NPL Rank	EPA Reg	St	Site Name	City/County
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Group 4 (HRS Scores 52.15 - 49.09)

151	03	DE	Coker's Sanitation Service Landfills	Kent County
152	05	MI	Rockwell International (Allegan)	Allegan
153	05	MN	Pine Bend Sanitary Landfill	Dakota County
154	07	IA	Lawrence Todtz Farm	Camanche
155	05	IN	Fisher-Calo	LaPorte
156	04	FL	Pioneer Sand Co.	Warrington
157	05	MI	Springfield Township Dump	Davisburg
158	03	PA	Hranica Landfill	Buffalo Township
159	04	NC	Martin-Hartlett, Sodexo, Inc.	Charlotte
160	03	PA	Hellertown Manufacturing Co.	Hellertown
161	04	FL	Zellwood Ground Water Contamin	Zellwood
162	05	MI	Packaging Corp. of America	Filer City
163	05	MI	Muskego Sanitary Landfill	Muskego
164	10	ID	Kerr-McGee Chemical (Soda Springs)	Soda Springs
165	02	NY	Hooker (S Area)	Niagara Falls
166	03	PA	Lindane Dump	Harrison Township
167	08	CO	Central City-Clear Creek	Idaho Springs
168	04	NJ	Ventron/Velsicol	Wood Ridge Borough
169	04	FL	Taylor Road Landfill	Seffner
170	01	RI	Western Sand & Gravel	Burrillville
171	02	NY	Rosen Brothers Scrap Yard/Dump	Cortland
172	04	SC	Koppers Co Inc (Florence Plant)	Florence
173	02	NJ	Maywood Chemical Co.	Maywood/Rochelle Pk
174	02	NJ	Nascolite Corp.	Millville
175	05	OH	Industrial Excess Landfill	Uniontown
176	06	OK	Hardage/Criner	Criner
177	05	MI	Rose Township Dump	Rose Township
178	05	MN	Waste Disposal Engineering	Andover
179	02	NY	Liberty Industrial Finishing	Farmingdale
180	02	NJ	Kin-Buc Landfill	Edison Township
181	05	IN	Waste, Inc., Landfill	Michigan City
182	05	OH	Bowers Landfill	Circleville
183	06	TX	Brio Refining, Inc.	Friendswood
184	02	NJ	Ciba-Geigy Corp.	Toms River
185	05	MI	Butterworth #2 Landfill	Grand Rapids
186	02	NJ	American Cyanamid Co.	Bound Brook
187	03	PA	Heleva Landfill	North Whitehall Twp
188	02	NJ	Ewan Property	Shamong Township
189	02	NY	Batavia Landfill	Batavia
190	05	IL	Woodstock Municipal Landfill	Woodstock
191	05	MN	Boise Cascade/Onan/Medtronics	Fridley
192	01	RI	Landfill & Resource Recovery	North Smithfield
193	03	PA	Butler Mine Tunnel	Pittston
194	04	FL	Northwest 58th Street Landfill	Hialeah
195	02	NJ	Delilah Road	Egg Harbor Township
196	03	PA	Mill Creek Dump	Erie
197	02	NJ	Glen Ridge Radium Site	Glen Ridge
198	02	NJ	Montclair/West Orange Radium Site	Montclair/W Orange
199	01	CT	Precision Plating Corp.	Vernon
200	04	FL	Sixty-Second Street Dump	Tampa

National Priorities List (by Rank)
November 1989

NPL Rank	EPA Reg	St	Site Name	City/County
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Group 3 (HRS Scores 55.84 - 52.23)

101	08	CO	California Gulch	Leadville
102	02	NJ	D'Imperio Property	Hamilton Township
103	05	MN	Oakdale Dump	Oakdale
104	05	IL	Parsons Casket Hardware Co.	Belvidere
105	05	IL	A & F Material Reclaiming, Inc.	Greenup
106	03	PA	Douglasville Disposal	Douglasville
107	05	MN	Koppers Coke	St. Paul
108	01	MA	Plymouth Harbor/Cannon Eng. Corp.	Smethville
109	10	ID	Bunker Hill Mining & Metallurg	Pinehurst
110	02	NY	Hudson River PCBs	Hudson River
111	02	NJ	Universal Oil Products (Chem Div)	East Rutherford
112	09	CA	Aerofjet General Corp.	Rancho Cordova
113	10	WA	Com Bay, South Tacoma Channel	Tacoma
114	03	PA	Osborne Landfill	Grove City
115	08	UT	Portland Cement (Kiln Dust 2 & 3)	Salt Lake City
116	01	CT	Old Southington Landfill	Southington
117	02	NY	Syosset Landfill	Oyster Bay
118	02	NY	Circuitron Corp.	East Farmingdale
119	09	AZ	Nineteenth Avenue Landfill	Phoenix
120	10	OR	Teledyne Wah Chang	Albany
121	10	WA	Midway Landfill	Kent
122	02	NY	Sinclair Refinery	Wellsville
123	04	AL	Mowbray Engineering Co.	Greenville
124	05	MI	Spiegelberg Landfill	Green Oak Township
125	04	FL	Miami Drum Services	Miami
126	02	NJ	Reich Farms	Pleasant Plains
127	10	ID	Union Pacific Railroad Co.	Pocatello
128	02	NJ	South Brunswick Landfill	South Brunswick
129	03	PA	Raymark	Hatboro
130	04	AL	Ciba-Geigy Corp. (McIntosh Plant)	McIntosh
131	04	FL	Kassau-Kimerling Battery	Tampa
132	05	IL	Wauconda Sand & Gravel	Wauconda
133	05	MI	Bofors Nobel, Inc.	Muskegon
134	06	TX	Bailey Waste Disposal	Bridge City
135	01	NH	Ottati & Goss/Kingston Steel Drum	Kingston
136	05	MI	Ott/Story/Cordova Chemical Co.	Dalton Township
137	05	MI	Thermo-Chem, Inc.	Muskegon
138	09	CA	Brown & Bryant, Inc. (Arvin Plant)	Arvin
139	03	VA	Greenwood Chemical Co.	Newtown
140	02	NJ	NL Industries	Pedricktown
141	05	MN	St. Regis Paper Co.	Cass Lake
142	04	NC	Aberdeen Pesticide Dumps	Aberdeen
143	01	VT	Burgess Brothers Landfill	Woodford
144	02	NJ	Ringwood Mines/Landfill	Ringwood Borough
145	04	FL	Whitehouse Oil Pits	Whitehouse
146	04	GA	Hercules 009 Landfill	Brunswick
147	02	NY	Jones Sanitation	Hyde Park
148	05	MI	Velsicol Chemical (Michigan)	St. Louis
149	05	OH	Summit National	Deerfield Township
150	02	NY	Love Canal	Niagara Falls

National Priorities List (by Rank)
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NPL Rank	EPA Reg	Site Name	City/County
Group 5 (HRS Scores 49.09 - 46.77)			
201	05 MI	G&H Landfill	Utica
202	01 VT	Bennington Municipal Sanitary Lfl	Bennington
203	04 NC	Celanese(Shelby Fiber Operations)	Shelby
204	02 NJ	Metaltec/Aerosystems	Franklin Borough
205	05 WI	Schmalz Dump	Harrison
206	05 MI	Motor Wheel, Inc.	Lansing
207	09 CA	Southern Calif Edison (Visalia)	Visalia
208	02 NJ	Lang Property	Pemberton Township
209	06 TX	Stewco, Inc.	Waskom
210	02 NJ	Sharkey Landfill	Parsippany/Troy Hls
211	09 CA	Selma Treating Co.	Selma
212	06 LA	Cleve Reber	Sorrento
213	05 IL	Velsicol Chemical (Illinois)	Marshall
214	07 MO	Wheeling Disposal Service Co. Lf	Amazonia
215	05 MI	Tar Lake	Mancelona Township
216	02 NY	Johnstown City Landfill	Town of Johnstown
217	04 NC	NC State U (Lot 86, Farm Unit #1)	Raleigh
218	08 CO	Lourey Landfill	Arapahoe County
219	05 MN	MacGill's & Gibbs/Bell Lumber	New Brighton
220	03 PA	Hunterstown Road	Straban Township
221	03 MD	Woodlawn County Landfill	Woodlawn
222	05 WI	Hechimovich Sanitary Landfill	Williamstown
223	07 IA	Mid-America Tanning Co.	Sergeant Bluff
224	07 NE	Lindsay Manufacturing Co.	Lindsay
225	02 NJ	Combe Fill North Landfill	Mount Olive Twp
226	01 MA	Re-Solve, Inc.	Dartmouth
227	02 NJ	Goose Farm	Plumstead Township
228	04 TN	Velsicol Chem (Hardeman County)	Toone
229	02 NY	York Oil Co.	Moir
230	04 FL	Sapp Battery Salvage	Cottontale
231	04 SC	Wamchem, Inc.	Burton
232	02 NJ	Chemical Leaman Tank Lines, Inc.	Bridgeport
233	05 WI	Master Disposal Service Landfill	Brookfield
234	07 KS	Doepke Disposal (Holliday)	Johnson County
235	02 NJ	Florence Land Recontouring Lndfl	Florence Township
236	01 RI	Davis Liquid Waste	Smithfield
237	01 MA	Charles-George Reclamation Lndfl	Tyngsborough
238	02 NJ	King of Prussia	Winslow Township
239	03 VA	Chisman Creek	York County
240	05 OH	Nease Chemical	Salem
241	08 CO	Eagle Mine	Hinturn/Redcliff
242	02 NJ	Chemical Control	Elizabeth
243	04 NC	Charles Macon Lagoon & Drum Stor	Cordova
244	04 SC	Leonard Chemical Co., Inc.	Rock Hill
245	05 OH	Allied Chemical & Ironton Coke	Ironton
246	05 MI	Verona Well Field	Battle Creek
247	07 MO	Lee Chemical	Liberty
248	01 CT	Beacon Heights Landfill	Beacon Falls
249	04 AL	Stauffer Chem (Cold Creek Plant)	Bucks
250	05 MN	Burlington Northern (Brainerd)	Brainerd/Baxter

National Priorities List (by Rank)
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NPL Rank	EPA Reg	Site Name	City/County
Group 6 (HRS Scores 46.72 - 44.87)			
251	05 MI	Torch Lake	Houghton County
252	01 RI	Central Landfill	Johnston
253	03 PA	Malvern TCE	Malvern
254	02 NY	Facet Enterprises, Inc.	Elmira
255	03 DE	Delaware Sand & Gravel Landfill	New Castle County
256	03 PA	Tonoli Corp.	Nesquehoning
257	04 NC	National Starch & Chemical Corp.	Salisbury
258	03 PA	MW Manufacturing	Valley Township
259	03 VA	C & R Battery Co., Inc.	Chesterfield County
260	04 TN	Murray-Ohio Dump	Lawrenceburg
261	05 IN	Envirochem Corp.	Zionsville
262	05 IN	MIDCO I	Gary
263	05 OH	Ormet Corp.	Hannibal
264	05 OH	South Point Plant	South Point
265	01 CT	Gallup's Quarry	Plainfield
266	03 PA	Whitmyer Laboratories	Jackson Township
267	04 FL	Coleman-Evans Wood Preserving Co.	Whitehouse
268	02 NJ	Dayco Corp./L.E Carpenter Co.	Wharton Borough
269	03 PA	Shriver's Corner	Straban Township
270	03 PA	Dorney Road Landfill	Upper Macungie Twp
271	03 PA	Berks Landfill	Spring Township
272	05 IN	Northside Sanitary Landfill, Inc	Zionsville
273	05 IL	Interstate Pollution Control, Inc	Rockford
274	09 CA	Pacific Coast Pipe Lines	Fillmore
275	02 NJ	Global Sanitary Landfill	Old Bridge Township
276	04 FL	Florida Steel Corp.	Indian town
277	03 PA	Occidental Chem/Firestone Tire	Lower Pottsgrove Twp
278	03 VA	Culpeper Wood Preservers, Inc.	Culpeper
279	05 IL	Pagel's Pit	Rockford
280	05 MN	University Minn Rosemount Res Cen	Rosemount
281	05 MN	Freeway Sanitary Landfill	Burnsville
282	05 WI	Tomah Municipal Sanitary Landfill	Tomah
283	09 AZ	Litchfield Airport Area	Goodyear/Avondale
284	09 CA	Firestone Tire (Salinas Plant)	Salinas
285	02 NJ	Spence Farm	Plumstead Township
286	06 AR	Mid-South Wood Products	Mena
287	04 MS	Newsom Brothers/Old Reichhold	Columbia
288	09 CA	Atlas Asbestos Mine	Fresno County
289	09 CA	Coalinga Asbestos Mine	Coalinga
290	04 FL	Brown Wood Preserving	Live Oak
291	02 NY	Port Washington Landfill	Port Washington
292	05 IN	Columbus Old Municipal Lndfl #1	Columbus
293	02 NJ	Combe Fill South Landfill	Chester Township
294	02 NJ	JIS Landfill	Jamesburg/S. Brnswck
295	02 NY	Tronic Plating Co., Inc.	Farmingdale
296	03 PA	Centre County Kepone	State College Boro
297	04 FL	Agrico Chemical Co.	Pensacola
298	01 OH	Fields Brook	Ashtabula
299	01 CT	Solvents Recovery Service New Eng	Southington
300	08 CO	Woodbury Chemical Co.	Commerce City

National Priorities List (by Rank)
November 1989

NPL Rank	EPA Reg	Site Name	City/County
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Group 8 (HRS Scores 42.69 - 41.92)

351	02	NJ	Chemsol, Inc.	Piscataway
352	05	WI	Lauer I Sanitary Landfill	Menomonee Falls
353	05	MI	Petoskey Municipal Well Field	Petoskey
354	05	MN	Union Scrap Iron & Metal Co.	Minneapolis
355	02	NJ	Radiation Technology, Inc.	Rockaway Township
356	02	NJ	Fair Lawn Well Field	Fair Lawn
357	05	IN	Main Street Well Field	Elkhart
358	05	MN	Lehillier/Mankato Site	Lehillier/Mankato
359	10	WA	Lakewood Site	Lakewood
360	03	PA	Industrial Lane	Williams Township
361	05	IN	Fort Wayne Reduction Dump	Fort Wayne
362	05	WI	Onalaska Municipal Landfill	Onalaska
363	03	PA	A.I.W. Frank/Mid-County Mustang	Exton
364	05	WI	National Presto Industries, Inc.	Eau Claire
365	02	NJ	Monroe Township Landfill	Monroe Township
366	03	PA	Commodore Semiconductor Group	Lower Providence Twp
367	02	NJ	Rockaway Borough Well Field	Rockaway Township
368	05	IL	Lenz Oil Service, Inc.	Lemont
369	05	IN	Wayne Waste Oil	Columbia City
370	03	MO	Mid-Atlantic Wood Preservers, Inc	Harmans
371	03	PA	Novak Sanitary Landfill	South Whitehall Twp
372	10	ID	Pacific Hide & Fur Recycling Co.	Pocatello
373	07	IA	Des Moines TCE	Des Moines
374	02	NJ	Beachwood/Berkley Wells	Berkley Township
375	02	NJ	South Jersey Clothing Co.	Minotola
376	02	NY	Vestal Water Supply Well 4-2	Vestal
377	02	PR	Vega Alta Public Supply Wells	Vega Alta
378	05	IL	Southeast Rockford Grnd Wtr Con	Rockford
379	05	IN	Galen Myers Dump/Drum Salvage	Osceola
380	05	MI	Sturgis Municipal Wells	Sturgis
381	05	MI	Barrels, Inc.	Lansing
382	05	MN	Washington County Landfill	Lake Elmo
383	06	TX	Odessa Chromium #1	Odessa
384	06	TX	Odessa Chromium #2 (Andrews Hwy)	Odessa
385	07	IA	Electro-Coatings, Inc.	Cedar Rapids
386	07	NE	Hastings Ground Water Contamin	Hastings
387	09	AZ	Indian Bend Wash Area	Scottsdale/Tmpe/Phnx
388	09	CA	San Gabriel Valley (Area 1)	El Monte
389	09	CA	San Gabriel Valley (Area 2)	Baldwin Park Area
390	09	CA	San Fernando Valley (Area 1)	Los Angeles
391	09	CA	San Fernando Valley (Area 2)	Los Angeles/Glendale
392	09	CA	San Fernando Valley (Area 3)	Glendale
393	09	CA	T.H. Agriculture & Nutrition Co.	Fresno
394	10	WA	Com Bay, Near Shore/Tide Flats	Pierce County
395	05	IL	LaSalle Electric Utilities	LaSalle
396	05	IL	Cross Brothers Pail (Pembroke)	Pembroke Township
397	04	NC	Jadco-Hughes Facility	Belmont
398	05	IN	Southside Sanitary Landfill	Indianapolis
399	02	NJ	Monitor Devices/Intercircuits Inc	Wall Township
400	01	VT	BFI Sanitary Landfill(Rockingham)	Rockingham

National Priorities List (by Rank)
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NPL Rank	EPA Reg	Site Name	City/County
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Group 7 (HRS Scores 44.86 - 42.69)

301	02	NJ	Waldick Aerospace Devices, Inc.	Wall Township
302	01	MA	Hocomonco Pond	Westborough
303	04	KY	Distler Brickyard	West Point
304	02	NY	Ramapo Landfill	Ramapo
305	09	CA	Coast Wood Preserving	Ukiah
306	09	CA	South Bay Asbestos Area	Altiso
307	02	NY	Mercury Refining, Inc.	Colonie
308	04	FL	Hollingsworth Solderless Terminal	Fort Lauderdale
309	02	NY	Olean Well Field	Olean
310	09	CA	Fairchild Semiconductor(S San Jose)	South San Jose
311	05	MN	Joslyn Manufacturing & Supply Co.	Brooklyn Center
312	03	PA	York County Solid Waste/Refuse Lf	Hopewell Township
313	05	WI	Spickler Landfill	Spencer
314	08	CO	Denver Radium Site	Denver
315	02	NY	Tri-Cities Barrel Co., Inc.	Port Crane
316	03	PA	Route 940 Drum Dump	Pocono Summit
317	04	FL	Tower Chemical Co.	Clermont
318	01	VT	Darling Hill Dump	Lyndon
319	03	PA	C & D Recycling	Foster Township
320	07	MO	Syntex Facility	Verona
321	08	MT	Milltown Reservoir Sediments	Milltown
322	05	MN	Arrowhead Refinery Co.	Hermantown
323	10	OR	Martin-Marietta Aluminum Co.	The Dalles
324	08	CO	Uravan Uranium (Union Carbide)	Uravan
325	02	NJ	Pijak Farm	Plumstead Township
326	02	NJ	Syncon Resins	South Kearny
327	05	MN	Oak Grove Sanitary Landfill	Oak Grove Township
328	09	CA	Liquid Gold Oil Corp.	Richmond
329	09	CA	Purity Oil Sales, Inc.	Malaga
330	01	NH	Tinkham Garage	Londonderry
331	04	FL	Alpha Chemical Corp.	Galloway
332	02	NJ	Bog Creek Farm	Howell Township
333	01	ME	Saco Tannery Waste Pits	Saco
334	03	PA	River Road Lf/Waste Mngmnt, Inc.	Hermitage
335	02	PR	Frontera Creek	Rio Abajo
336	04	FL	Pickettville Road Landfill	Jacksonville
337	05	OH	Alsco Anaconda	Gnadenhutten
338	01	MA	Iron Horse Park	Billerica
339	03	PA	Palmer Zinc Pile	Palmerston
340	05	IN	Neal's Landfill (Bloomington)	Bloomington
341	05	WI	Kohler Co. Landfill	Kohler
342	04	AL	Interstate Lead Co. (ILCO)	Leeds
343	04	FL	Standard Auto Bumper Corp.	Hialeah
344	07	KS	Hydro-Flex Inc.	Topeka
345	09	AZ	Hassayampa Landfill	Hassayampa
346	06	LA	Gulf Coast Vacuum Services	Abbeville
347	05	IL	Tri-County Lf/Waste Mgmt Illinois	South Elgin
348	01	MA	Silresim Chemical Corp.	Lowell
349	01	MA	Wells G&H	Woburn
350	01	CT	Nutmeg Valley Road	Wolcott

National Priorities List (by Rank)
November 1989

NPL Rank	EPA Reg	Site Name	City/County
Group 9 (HRS Scores 41.92 - 39.93)			
401	02 PR	Upjohn Facility	Barceloneta
402	04 NC	Koppers Co Inc (Morrisville Plnt)	Morrisville
403	09 CA	McColl	Fullerton
404	03 PA	Henderson Road	Upper Merion Twp
405	02 NY	Hooker Chemical/Ruco Polymer Corp	Hicksville
406	10 WA	Colbert Landfill	Colbert
407	06 LA	Petro-Processors of Louisiana Inc	Scottlandville
408	02 NY	Applied Environmental Services	Glenwood Landing
409	02 PR	Barceloneta Landfill	Florida Afuera
410	01 NH	Tibbets Road	Barrington
411	03 MD	Sand, Gravel & Stone	Elkton
412	03 PA	Delta Quarries/Stotler Landfill	Antis/Logan Twp
413	01 CT	Revere Textile Prints Corp.	Sterling
414	05 MI	Spartan Chemical Co.	Wyoming
415	02 NJ	Roebing Steel Co.	Florence
416	03 PA	East Mount Zion	Springettsbury Twp
417	04 GA	T.H. Agricul & Nutri (Albany)	Albany
418	04 TN	Amnicola Dump	Chattanooga
419	02 NJ	Vineland State School	Vineland
420	09 AZ	Motorola, Inc.(52nd Street Plant)	Phoenix
421	01 MA	Groveland Wells	Groveland
422	02 NY	General Motors (Cent Foundry Div)	Massena
423	01 NH	Mottolo Pig Farm	Raymond
424	03 VA	Buckingham County Landfill	Buckingham
425	04 SC	SCRDI Dixiana	Cayce
426	05 MI	Roto-Finish Co., Inc.	Kalamazoo
427	05 MN	Olmsted County Sanitary Landfill	Oronoco
428	07 MO	Quality Plating	Sikeston
429	05 IN	Prestolite Battery Division	Vincennes
430	07 MO	Fulbright Landfill	Springfield
431	02 NJ	Williams Property	Swanton
432	02 NJ	Renora, Inc.	Edison Township
433	04 NC	FCX, Inc. (Washington Plant)	Washington
434	03 PA	Jacks Creek/Sitkin Smelting & Ref	Maitland
435	06 NM	Cleveland Mill	Silver City
436	02 NJ	Denzer & Schafer X-Ray Co.	Bayville
437	02 NJ	Hercules, Inc. (Gibbstown Plant)	Gibbstown
438	05 IN	Ninth Avenue Dump	Gary
439	03 MD	Bush Valley Landfill	Abingdon
440	04 SC	Golden Strip Septic Tank Service	Simpsonville
441	06 TX	Texarkana Wood Preserving Co.	Texarkana
442	06 AR	Gurley Pit	Edmondson
443	04 FL	Petroleum Products Corp.	Pembroke Park
444	01 RI	Peterson/Puritan, Inc.	Lincoln/Cumberland
445	07 MO	Times Beach Site	Times Beach
446	05 MI	Wash King Laundry	Pleasant Plains Twp
447	05 MN	Whittaker Corp.	Minneapolis
448	05 WI	Algonia Municipal Landfill	Algonia
449	05 MN	NL Industries/Taracorp/Golden	St. Louis Park
450	09 CA	Westinghouse Elec (Sunnyvale Plt)	Sunnyvale
Group 10 (HRS Scores 39.92 - 38.10)			
451	01 CT	Kellogg-Deering Well Field	Norwalk
452	03 PA	Boarhead Farms	Bridgeton Township
453	01 MA	Cannon Engineering Corp. (CEC)	Bridgewater
454	05 MI	H. Brown Co., Inc.	Grand Rapids
455	02 NY	Nepera Chemical Co., Inc.	Maybrook
456	02 NY	Niagara County Refuse	Wheatfield
457	04 FL	Sherwood Medical Industries	DeLand
458	04 AL	Olin Corp. (McIntosh Plant)	McIntosh
459	05 MI	Southwest Ottawa County Landfill	Park Township
460	02 NY	Kentucky Avenue Well Field	Horseheads
461	02 NY	Pasley Solvents & Chemicals, Inc.	Hempstead
462	06 TX	Sol Lynn/Industrial Transformers	Houston
463	02 NJ	Asbestos Dump	Hillington
464	04 KY	Lee's Lane Landfill	Louisville
465	06 AR	Frit Industries	Walnut Ridge
466	05 OH	Fultz Landfill	Jackson Township
467	04 NC	New Hanover Cnty Airport Burn Pit	Wilmington
468	05 OH	Coshocott Landfill	Franklin Township
469	03 PA	AMP, Inc. (Glen Rock Facility)	Glen Rock
470	04 NC	JFD Electronics/Channel Master	Oxford
471	04 TN	Arlington Blending & Packaging	Arlington
472	06 LA	PAB Oil & Chemical Service, Inc.	Abbeville
473	04 FL	Sydney Mine Sludge Ponds	Brandon
474	06 NM	Cimarron Mining Corp.	Carriazo
475	01 RI	Davis (GSR) Landfill	Glocester
476	03 PA	Lord-Shope Landfill	Girard Township
477	10 WA	FMC Corp. (Yakima Pit)	Yakima
478	05 WI	Northern Engraving Co.	Sparta
479	06 TX	South Cavalcade Street	Houston
480	01 MA	PSC Resources	Palmer
481	05 MI	Forest Waste Products	Otisville
482	03 PA	Drake Chemical	Lock Haven
483	01 NH	Kearsarge Metallurgical Corp.	Conway
484	04 SC	Palmetto Wood Preserving	Dixiana
485	05 IL	Petersen Sand & Gravel	Libertyville
486	05 MI	Clare Water Supply	Clare
487	03 PA	Havertown PCP	Haverford
488	03 DE	New Castle Spill	New Castle County
489	07 MO	St Louis Airport/HIS/Fut Coatings	St. Louis County
490	08 MT	Idaho Pole Co.	Bozeman
491	03 DE	NCR Corp. (Millsboro Plant)	Millsboro
492	05 IN	Lake Sandy Jo (M&M Landfill)	Gary
493	05 IL	Johns-Manville Corp.	Waukegan
494	05 MI	Chem Central	Wyoming Township
495	05 MI	Novaco Industries	Temperance
496	05 MN	Windom Dump	Windom
497	01 RI	Rose Hill Regional Landfill	South Kingstown
498	02 NJ	Jackson Township Landfill	Jackson Township
499	05 IL	NL Industries/Taracorp Lead Smelt	Granite City
500	04 KY	Red Penn Sanitation Co. Landfill	Peewee Valley

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NPL Rank	EPA Reg	Site Name	City/County
Group 11 (HRS Scores 38.10 - 36.73)			
501	05 MI	K&L Avenue Landfill	Oshkosh Township
502	05 OH	TRM, Inc. (Minerva Plant)	Minerva
503	10 WA	Kaiser Aluminum Mead Works	Mead
504	01 CT	Barkhamsted-New Hartford Landfill	Barkhamsted
505	05 MN	Perham Arsenic Site	Perham
506	05 MI	Charlevoix Municipal Well	Charlevoix
507	02 NJ	Montgomery Township Housing Devel	Montgomery Township
508	02 NJ	Rocky Hill Municipal Well	Rocky Hill Borough
509	02 NJ	Cinnaminson Ground Water Contamin	Cinnaminson Township
510	02 NY	Brewster Well Field	Putnam County
511	02 NY	Vestal Water Supply Well 1-1	Vestal
512	03 PA	Bally Ground Water Contamination	Bally Borough
513	04 FL	Chemform, Inc.	Pompano Beach
514	04 FL	Wilson Concepts of Florida, Inc.	Pompano Beach
515	04 NC	Bypass 601 Ground Water Contamin	Concord
516	04 SC	Lexington County Landfill Area	Cayce
517	07 MO	Solid State Circuits, Inc.	Republic
518	07 NE	Waverly Ground Water Contamin	Waverly
519	08 UT	Utah Power&Light/American Barrel	Salt Lake City
520	09 CA	Advanced Micro Devices, Inc.	Sunnyvale
521	10 WA	Hidden Valley Landfill (Thun Field)	Pierce County
522	05 MN	Yakima Plating Co.	Yakima
523	05 MN	Nutting Truck & Caster Co.	Faribault
524	02 NJ	U.S. Radium Corp.	Orange
525	05 MI	Carter Industrials, Inc.	Detroit
526	06 TX	Highlands Acid Pit	Highlands
527	03 PA	Resin Disposal	Jefferson Borough
528	08 MT	Libby Ground Water Contamination	Libby
529	04 KY	Newport Dump	Newport
530	03 PA	Moyers Landfill	Eagleview
531	01 NH	Savage Municipal Water Supply	Milford
532	05 MN	LaGrand Sanitary Landfill	LaGrand Township
533	05 IN	Poor Farm	Hancock County
534	03 PA	Brown's Battery Breaking	Shoemakersville
535	02 NY	SMS Instruments, Inc.	Deer Park
536	05 MI	Hedblum Industries	Oscoda
537	06 TX	United Creosoting Co.	Conroe
538	02 NY	Byron Barrel & Drum	Byron
539	08 WY	Baxter/Union Pacific Tie Treating	Laramie
540	02 MI	Anchor Chemicals	Hicksville
541	05 MI	Waste Management-Mich (Holland)	Holland
542	06 TX	North Cavalcade Street	Sayreville
543	02 NJ	Sayreville Landfill	Houston
544	01 NH	Dover Municipal Landfill	Dover
545	02 NY	Ludlow Sand & Gravel	Clayville
546	03 VA	Saunders Supply Co.	Chuckatuck
547	05 WI	City Disposal Corp. Landfill	Dunn
548	02 NJ	Tabernacle Drum Dump	Tabernacle Township
549	07 MO	Minker/Stout/Romaine Creek	Imperial
550	04 KY	Howe Valley Landfill	Howe Valley

National Priorities List (by Rank)
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NPL Rank	EPA Reg	Site Name	City/County
Group 12 (HRS Scores 36.72 - 35.57)			
551	01 CT	Yaworski Waste Lagoon	Canterbury
552	03 WV	Leetown Pesticide	Leetown
553	04 SC	Rochester Property	Travelers Rest
554	04 FL	Cabot/Koppers	Gainesville
555	02 NJ	Evor Phillips Leasing	Old Bridge Township
556	03 PA	William Dick Lagoons	West Caln Township
557	05 IN	Douglas Road/Uniroval, Inc., Lf	Mishawaka
558	03 PA	Lackawanna Refuse	Old Forge Borough
559	06 OK	Compass Industries (Avery Drive)	Tulsa
560	02 NJ	Mannheim Avenue Dump	Galloway Township
561	05 IN	Neal's Dump (Spencer)	Spencer
562	02 NY	Fulton Terminals	Fulton
563	06 LA	Dutchtown Treatment Plant	Ascension Parish
564	03 PA	Westinghouse Elevator Co. Plant	Gettysburg
565	01 NH	Auburn Road Landfill	Londonderry
566	03 WV	Fike Chemical, Inc.	Nitro
567	05 MN	General Mills/Henkel Corp.	Minneapolis
568	04 TN	Wrigley Charcoal Plant	Wrigley
569	05 OH	Laskin/Poplar Oil Co.	Jefferson Township
570	05 OH	Old Mill	Rock Creek
571	07 KS	Johns' Sludge Pond	Wichita
572	05 WI	Stoughton City Landfill	Stoughton
573	09 CA	Del Norte Pesticide Storage	Crescent City
574	01 VT	Tansitor Electronics, Inc.	Bennington
575	02 NJ	De Rewal Chemical Co.	Kingwood Township
576	03 PA	Middletown Air Field	Middletown
577	02 NJ	Swope Oil & Chemical Co.	Pennsauken
578	04 GA	Monsanto Corp. (Augusta Plant)	Augusta
579	01 NH	South Municipal Water Supply Well	Peterborough
580	01 ME	Winthrop Landfill	Winthrop
581	03 WV	Ordnance Works Disposal Areas	Morgantown
582	05 OH	Zanesville Well Field	Zanesville
583	02 NY	Suffern Village Well Field	Village of Suffern
584	02 NY	Endicott Village Well Field	Village of Endicott
585	03 DE	Dover Gas Light Co.	Dover
586	03 PA	Aladdin Plating	Scott Township
587	03 PA	North Penn - Area 1	Souderton
588	03 PA	North Penn - Area 7	North Wales
589	03 PA	North Penn - Area 6	Lansdale
590	03 PA	North Penn - Area 2	Hatfield
591	03 PA	North Penn - Area 5	Montgomery Township
592	04 FL	Harris Corp. (Palm Bay Plant)	Palm Bay
593	05 MN	Kummer Sanitary Landfill	Benidji
594	05 OH	Sanitary Landfill Co. (IMD)	Dayton
595	05 WI	Eau Claire Municipal Well Field	Eau Claire
596	06 NM	Pagano Salvage	Los Lunas
597	07 MO	Valley Park TCE	Valley Park
598	09 CA	San Fernando Valley (Area 4)	Los Angeles
599	09 CA	Monolithic Memories	Sunnyvale
600	09 CA	National Semiconductor Corp.	Santa Clara

National Priorities List (by Rank)
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NPL Rank	EPA Reg	Site Name	City/County
Group 13 (HRS Scores 35.57 - 34.60)			
601	09 CA	Fresno Municipal Sanitary Landfill	Fresno
602	09 CA	Newmark Ground Water Contamin	San Bernardino
603	04 GA	Powersville Site	Peach County
604	05 MI	Grand Traverse Overall Supply Co.	Greilickville
605	05 MI	Metamora Landfill	Metamora
606	05 MI	Whitchall Municipal Wells	Whitchall
607	03 DE	Standard Chlorine of Delaware, Inc	Delaware City
608	05 MN	South Andover Site	Andover
609	02 NJ	Diamond Alkali Co.	Newark
610	05 IN	Carter Lee Lumber Co.	Indianapolis
611	01 NH	Fletcher's Paint Works & Storage	Milford
612	03 VA	Avtex Fibers, Inc.	Front Royal
613	05 MI	Kentwood Landfill	Kentwood
614	05 MI	Electrovoice	Buchanan
615	09 CA	Jasco Chemical Corp.	Mountain View
616	02 NY	Katonah Municipal Well	Town of Bedford
617	09 CA	Teddyne Semiconductor	Mountain View
618	02 PR	Fibers Public Supply Wells	Jobs
619	03 VA	Dixie Caverns County Landfill	Salem
620	05 IN	Marion (Bragg) Dump	Marion
621	05 OH	Pristine, Inc.	Reading
622	04 WI	Mid-State Disposal, Inc. Landfill	Cleveland Township
623	04 TN	American Creosote (Jackson Plant)	Cleveland Township
624	08 CO	Broderick Wood Products	Denver
625	02 NY	C & J Disposal	Hamilton
626	05 OH	Buckeye Reclamation	St. Clairsville
627	02 NY	Preferred Plating Corp.	Farmingdale
628	06 TX	Bio-Ecology Systems, Inc.	Grand Prairie
629	08 UT	Monticello Rad Contaminated Props	Monticello
630	02 NJ	Woodland Route 532 Dump	Woodland Township
631	05 IN	American Chemical Service, Inc.	Griffith
632	01 MA	Salem Acres	Salem
633	02 NY	Richardson Hill Road Landfill/Pond	Sidney Center
634	01 VT	Old Springfield Landfill	Springfield
635	03 PA	Bell Landfill	Terry Township
636	02 NY	Solvent Savers	Lincklaen
637	03 VA	U.S. Titanium	Piney River
638	05 IL	Galesburg/Koppers Co.	Galesburg
639	09 CA	J.H. Baxter & Co.	Weed
640	02 NY	Hooker (Hyde Park)	Niagara Falls
641	05 MI	SCA Independent Landfill	Muskegon Heights
642	02 NY	Action Anodizing, Plating Polish	Copague
643	09 CA	MGM Brakes	Cloverdale
644	06 LA	Bayou Sorrel Site	Bayou Sorrel
645	05 MI	Duell & Gardner Landfill	Dalton Township
646	10 WA	Mica Landfill	Mica
647	02 NJ	Ellis Property	Evesham Township
648	04 KY	Distler Farm	Jefferson County
649	09 CA	Waste Disposal, Inc.	Santa Fe Springs
650	10 WA	Harbor Island (Lead)	Seattle

National Priorities List (by Rank)
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NPL Rank	EPA Reg	Site Name	City/County
Group 14 (HRS Scores 34.58 - 33.76)			
651	05 WI	Lemberger Transport & Recycling	Franklin Township
652	05 OH	E.M. Schilling Landfill	Hamilton Township
653	05 MI	Cliff/Dow Dump	Marquette
654	02 NY	Clothier Disposal	Town of Granby
655	03 PA	Ambler Asbestos Piles	Ambler
656	10 WA	Queen City Farms	Maple Valley
657	02 NJ	Curcio Scrap Metal, Inc.	Saddle Brook Twp
658	03 VA	L.A. Clarke & Son	Spotsylvania County
659	05 WI	Scrap Processing Co., Inc.	Medford
660	03 MD	Southern Maryland Wood Treating	Hollywood
661	05 IL	Ilada Energy Co.	East Cape Girardeau
662	05 WI	Sauk County Landfill	Excelsior
663	06 NM	Homestake Mining Co.	Milan
664	06 TX	Dixie Oil Processors, Inc.	Friendswood
665	09 CA	Beckman Instruments (Porterville)	Porterville
666	04 FL	Dubose Oil Products Co.	Cantonment
667	05 MI	Mason County Landfill	Pere Marquette Twp
668	05 MI	Cemetery Dump	Rose Center
669	07 IA	Red Oak City Landfill	Red Oak
670	05 IN	Lakeland Disposal Service, Inc.	Claypool
671	02 NJ	Hopkins Farm	Plumstead Township
672	04 NC	Cape Fear Wood Preserving	Fayetteville
673	01 RI	Stamina Mills, Inc.	North Smithfield
674	05 WI	Lemberger Landfill, Inc.	Whitelaw
675	05 IN	Reilly Tar (Indianapolis Plant)	Indianapolis
676	01 ME	Pinette's Salvage Yard	Washburn
677	01 CT	Durham Meadows	Durham
678	05 MI	Kysor Industrial Corp.	Cadillac
679	09 CA	Lorentz Barrel & Drum Co.	San Jose
680	02 NJ	Wilson Farm	Plumstead Township
681	02 NY	Conklin Dumps	Conklin
682	03 PA	Old City of York Landfill	Seven Valleys
683	03 PA	Modern Sanitation Landfill	Lower Windsor Twp
684	05 IL	Byron Salvage Yard	Byron
685	05 MI	North Bronson Industrial Area	Bronson
686	03 PA	Stanley Kessler	King of Prussia
687	07 MO	Kem-Pest Laboratories	Cape Girardeau
688	02 NJ	Imperial Oil/Champion Chemicals	Morganville
689	02 NJ	Cosden Chemical Coatings Corp.	Beverly
690	05 MN	St. Augusta San Landfill/Engen Dump	St. Augusta Township
691	02 NJ	Myers Property	Franklin Township
692	02 NJ	Pepe Field	Boonton
693	04 KY	Tri-City Disposal Co.	Shepherdsville
694	10 WA	Northwest Transformer	Everton
695	02 NY	Genzale Plating Co.	Franklin Square
696	05 MI	Albion-Sheridan Township Landfill	Albion
697	05 WI	Sheboygan Harbor & River	Sheboygan
698	05 MI	Ossineke Ground Water Contamin	Ossineke
699	03 WV	Follansbee Site	Follansbee
700	03 PA	Keystone Sanitation Landfill	Union Township

National Priorities List (by Rank)
November 1989

NPL Rank	EPA Reg	Site Name	City/County
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Group 16 (HRS Scores 32.37 - 31.62)

751	04	FL	Munisport Landfill	North Miami
752	06	LA	D.L. Mud, Inc.	Abbeville
753	04	AL	Stauffer Chem (LeMayne Plant)	Axis
754	02	NJ	M&T Delisa Landfill	Asbury Park
755	06	TX	Crystal City Airport	Crystal City
756	04	SC	Geiger (C & M Oil)	Rantoul
757	05	WI	Moss-American (Kerr-McGee Oil Co.)	Milwaukee
758	05	WI	Waste Research & Reclamation Co.	Eau Claire
759	10	OR	Gould, Inc.	Portland
760	01	ME	Union Chemical Co., Inc.	South Hope
761	02	NY	Cortese Landfill	Vil of Narrowsburg
762	09	CA	Montrose Chemical Corp.	Torrance
763	05	MI	Auto Ion Chemicals, Inc.	St. Louis County
764	05	PA	Recticon/Allied Steel Corp.	Kalamazoo
765	03	WI	Hagen Farm	East Coventry Twp
766	04	SC	Carolawn, Inc.	Stoughton
767	07	IA	Midwest Manufacturing/North Farm	Fort Lawn
768	03	PA	Berks Sand Pit	Kallogg
769	07	CA	Valley Wood Preserving, Inc.	Longswamp Township
770	09	CA	Butz Landfill	Turlock
771	03	PA	City Industries, Inc.	Stroudsburg
772	04	FL	Sparta Landfill	Orlando
773	05	IL	Acme Solvent (Morristown Plant)	Sparta Township
774	05	IL	Holton Circle Ground Water Contam	Morristown
775	01	NH	Pomona Oaks Residential Wells	Londonderry
776	02	NY	Rome Industries Ground Water Cont	Galloway Township
777	02	PA	Hebelka Auto Salvage Yard	Moyack/Sag Harbor
778	03	FL	Hipps Road Landfill	Weisenberg Township
779	04	FL	Long Prairie Ground Water Contam	Duval County
780	05	MI	Waite Park Wells	Long Prairie
781	05	CA	Applied Materials	Waite Park
782	09	CA	Intel Magnetics	Santa Clara
783	09	CA	Intel Corp. (Santa Clara III)	Santa Clara
784	09	CA	Synertek, Inc. (Building 1)	Santa Clara
785	09	CA	Pepper Steel & Alloys, Inc.	Santa Clara
786	04	FL	Mattace Petrochemical Co., Inc.	Medley
787	02	NY	O'Connor Co.	Glen Cove
788	01	ME	Oconomowoc Electroplating Co. Inc	Augusta
789	05	IN	Continental Steel Corp.	Ashippin
790	05	MI	Rasmussen's Dump	Kokomo
791	05	NY	Kemmark Textile Corp.	Green Oak Township
792	02	FL	Wingate Road Munic Incinerat Dump	Farmingdale
793	04	PA	Westline Site	Fort Lauderdale
794	03	PA	Haxey Flats Nuclear Disposal	Westline
795	04	NC	Benfield Industries, Inc.	Hillsboro
796	04	MT	Mouat Industries	Hazelwood
797	08	MT	J & L Landfill	Columbus
798	05	NY	Claremont Polychemical	Rochester Hills
799	02	OH	Powell Road Landfill	Old Bethpage
800	05	OH		Dayton

National Priorities List (by Rank)
November 1989

NPL Rank	EPA Reg	Site Name	City/County
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Group 15 (HRS Scores 33.76 - 32.38)

701	04	NC	Carolina Transformer Co.	Fayetteville
702	02	NY	North Sea Municipal Landfill	North Sea
703	03	PA	Bendix Flight Systems Division	Bridgewater Township
704	09	CA	Koppers Co. Inc. (Oroville Plant)	Oroville
705	09	CA	Louisiana-Pacific Corp.	Oroville
706	03	VA	H & H Inc., Burn Pit	Farrington
707	05	MI	South Macomb Disposal (Lf 9 & 9A)	Macomb Township
708	05	MI	U.S. Avtex	Howard Township
709	03	PA	Walsh Landfill	Honeybrook Township
710	02	NJ	Landfill & Development Co.	Mount Holly
711	02	NJ	Upper Deerfield Township San Lndf	Upper Deerfield Twp
712	02	NY	Hertel Landfill	Plattekill
713	02	NY	Haviland Complex	Town of Hyde Park
714	04	NY	Malta Rocket Fuel Area	Malta
715	04	GA	Cedartown Municipal Landfill	Cedartown
716	05	MI	Kent City Mobile Home Park	Kent City
717	05	MI	Adrian Municipal Well Field	Adrian
718	06	NM	AT & SF (Clovis)	Clovis
719	07	KS	Strother Field Industrial Park	Cowley County
720	07	KS	Obee Road	Hutchinson
721	02	NJ	Fried Industries	East Brunswick Twp
722	02	NY	American Thermostat Co.	South Cairo
723	08	ND	Minot Landfill	Minot
724	04	TN	Lewisburg Dump	Lewisburg
725	05	MI	McGraw Edison Corp.	Albion
726	02	NY	Goldisc Recordings, Inc.	Holbrook
727	02	NY	Islip Municipal Sanitary Landfill	Islip
728	04	NY	Airco	Calvert City
729	03	PA	Metal Banks	Philadelphia
730	05	IL	Yeoman Creek Landfill	Waukegan
731	02	NY	Sanney Farm	Amenia
732	05	MI	Folkertsma Refuse	Grand Rapids
733	01	MA	Rose Disposal Pit	Lanesboro
734	05	OH	Van Dale Junkyard	Marietta
735	08	MT	Montana Pole and Treating	Butte
736	04	NC	Geigy Chemical Corp (Aberdeen Plt)	Aberdeen
737	04	KY	B.F. Goodrich	Calvert City
738	05	MI	Organic Chemicals, Inc.	Grandville
739	02	NY	BioClinical Laboratories, Inc.	Bohemia
740	02	NY	Volney Municipal Landfill	Town of Volney
741	02	NY	FMC Corp. (Dublin Road Landfill)	Town of Shelby
742	05	MI	Tomah Fairgrounds	Tomah
743	01	MA	Sullivan's Ledge	New Bedford
744	04	KY	Smith's Farm	Brooks
745	10	OR	Joseph Forest Products	Joseph
746	02	PR	Juncos Landfill	Juncos
747	07	KS	Big River Sand Co.	Wichita
748	05	IN	Bennett Stone Quarry	Bloomington
749	10	WA	Wyckoff Co./Eagle Harbor	Bainbridge Island
750	02	NJ	Industrial Latex Corp.	Wallington Borough

National Priorities List (by Rank)
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NPL Rank	EPA Reg	Site Name	City/County
Group 17 (HRS Scores 31.60 - 30.44)			
801	03 PA	Croydon TCE	Croydon
802	04 SC	Medley Farm Drum Dump	Gaffney
803	04 SC	Elmore Waste Disposal	Greer
804	07 IA	Vogel Paint & Wax Co.	Orange City
805	05 MN	Kurt Manufacturing Co.	Fridley
806	05 MI	Parsons Chemical Works, Inc.	Grand Ledge
807	03 PA	Revere Chemical Co.	Rockhampton Township
808	05 MI	Ionia City Landfill	Ionia
809	06 TX	Koppers Co Inc (Texarkana Plant)	Texarkana
810	08 CO	Lincoln Park	Canon City
811	08 CO	Smuggler Mountain	Pitkin County
812	05 IN	Wedzeb Enterprises, Inc.	Lebanon
813	02 PR	GE Wiring Devices	Juana Diaz
814	05 MI	Avenue "E" Ground Water Contamin	Traverse City
815	05 OH	New Lyme Landfill	New Lyme
816	02 NJ	Woodland Route 72 Dump	Woodland Township
817	02 PR	RCA Del Caribe	Barceloneta
818	05 MN	Koch Refining Co./N-Ren Corp.	Pine Bend
819	03 PA	Brothead Creek	Stroudsburg
820	05 WI	Fadrowski Drum Disposal	Franklin
821	10 OR	United Chrome Products, Inc.	Corvallis
822	03 PA	Eastern Diversified Metals	Hometown
823	05 MI	Anderson Development Co.	Adrian
824	05 WI	Hunts Disposal Landfill	Caledonia
825	05 MI	Shiawassee River	Howell
826	06 OK	Tenth Street Dump/Junkyard	Oklahoma City
827	10 AK	Alaska Battery Enterprises	Fairbanks N Star Bor
828	03 PA	Taylor Borough Dump	Taylor Borough
829	03 DE	Halby Chemical Co.	New Castle
830	06 OK	Double Eagle Refinery Co.	Oklahoma City
831	04 GA	Mathis Bros Lf (S Marble Top Rd)	Kensington
832	03 DE	Harvey & Knott Drum, Inc.	Kirkwood
833	04 TN	Galloway Pits	Galloway
834	05 OH	Big D Campground	Kingsville
835	06 AR	Midland Products	Ola/Birta
836	02 NY	Robintech, Inc./National Pipe Co.	Town of Vestal
837	02 NY	BEC Trucking	Town of Vestal
838	03 PA	Strasburg Landfill	Neulin Township
839	06 OK	Fourth Street Abandoned Refinery	Oklahoma City
840	02 NJ	Witco Chemical Corp.(Oakland Pit)	Oakland
841	05 WI	Tonah Armory	Tonah
842	03 DE	Wildcat Landfill	Dover
843	05 MI	Burrows Sanitation	Hartford
844	03 PA	Blosenski Landfill	West Caln Township
845	03 VA	Rhinhardt Tire Fire Dump	Frederick County
846	03 DE	Delaware City PVC Plant	Delaware City
847	03 MD	Limestone Road	Cumberland
848	02 NY	Hooker (102nd Street)	Niagara Falls
849	02 NJ	Higgins Farm	Franklin Township
850	10 WA	American Crossarm & Conduit Co.	Chehalis

National Priorities List (by Rank)
November 1989

NPL Rank	EPA Reg	Site Name	City/County
Group 18 (HRS Scores 30.36 - 29.07)			
851	06 NM	United Nuclear Corp.	Church Rock
852	03 PA	Reaser's Landfill	Upper Macungie Twp
853	03 VA	Rentokil, Inc. (VA Wood Pres Div)	Richmond
854	06 AR	Industrial Waste Control	Fort Smith
855	09 CA	Celtor Chemical Works	Hoopa
856	01 MA	Haverhill Municipal Landfill	Haverhill
857	04 AL	Perdido Ground Water Contamin	Perdido
858	02 NY	Marathon Battery Corp.	Cold Springs
859	02 NY	Colesville Municipal Landfill	Town of Colesville
860	04 FL	Yellow Water Road Dump	Baldwin
861	04 GA	Marzone Inc./Chevron Chemical Co.	Tifton
862	05 OH	Skinner Landfill	West Chester
863	03 VA	First Piedmont Quarry (Route 719)	Pittsylvania County
864	04 NC	Chemtronics, Inc.	Swannanoa
865	05 IN	MIDCO II	Gary
866	06 TX	Sheridan Disposal Services	Hempstead
867	07 KS	Pester Refinery Co.	El Dorado
868	03 MO	Kane & Lombard Street Drums	Baltimore
869	07 MO	Shenandoah Stables	Moscow Mills
870	04 GA	Firestone Tire (Albany Plant)	Albany
871	07 IA	Shaw Avenue Dump	Charles City
872	03 PA	Berkley Products Co. Dump	Denver
873	10 WA	Silver Mountain Mine	Loomis
874	06 TX	Petro-Chemical (Turtle Bayou)	Liberty County
875	05 OH	Republic Steel Corp. Quarry	Elyria
876	07 MO	Conservation Chemical Co.	Kansas City
877	05 MN	Ritari Post & Pole	Sebek
878	06 LA	Bayou Bonfouca	Slidell
879	09 CA	Intel Corp. (Mountain View Plant)	Mountain View
880	09 CA	Raytheon Corp.	Fairview Township
881	05 MN	Agate Lake Scrapyard	Lansing
882	05 MI	Adam's Plating	Jacksonville
883	06 AR	Jacksonville Municipal Landfill	Jacksonville
884	06 AR	Rogers Road Municipal Landfill	Saltville
885	03 VA	Saltville Waste Disposal Ponds	Columbia
886	04 SC	Palmetto Recycling, Inc.	Norton/Attleboro
887	01 MA	Shpack Landfill	Kimberton Borough
888	03 PA	Kimberton Site	Waynesboro
889	04 TN	Mallory Capacitor Co.	Norwood
890	01 MA	Norwood PCBs	Norwood
891	02 NY	Warwick Landfill	Warwick
892	02 NY	Sidney Landfill	Sidney
893	10 WA	Pesticide Lab (Yakima)	Yakima
894	05 IN	Lenon Lane Landfill	Bloomington
895	05 IN	Tri-State Plating	Columbus
896	10 ID	Arcom (Drexler Enterprises)	Rathdrum
897	01 NH	Coakley Landfill	North Hampton
898	04 NC	Potter's Septic Tank Service Pits	Maco
899	04 NC	ABC One Hour Cleaners	Jacksonville
900	03 PA	Fischer & Porter Co.	Harminster

National Priorities List (by Rank)
November 1989

NPL Rank	EPA Reg	St	Site Name	City/County
Group 19 (HRS Scores 28.98 - 28.50, except for health-advisory sites)				
901	03	PA	Elizabethtown Landfill	Elizabethtown
902	06	AR	Arkwood, Inc.	Omaha
903	09	CA	Jibboom Junkyard	Sacramento
904	02	NJ	A. O. Polymer	Sparta Township
905	05	WI	Wausau Ground Water Contamination	Wausau
906	02	NJ	Dover Municipal Well #4	Dover Township
907	02	NJ	Rockaway Township Wells	Rockaway
908	02	NJ	Pohatcong Valley Ground Water Con	Warren County
909	02	NJ	Garden State Cleaners Co.	Minotola
910	03	DE	Sussex County Landfill No. 5	Laurel
911	05	WI	Delavan Municipal Well #4	Delavan
912	07	MO	North-U Drive Well Contamination	Springfield
913	09	CA	San Gabriel Valley (Area 3)	Alhambra
914	09	CA	San Gabriel Valley (Area 4)	La Puente
915	09	CA	Modesto Ground Water Contamin	Modesto
916	10	WA	American Lake Gardens	Tacoma
917	10	WA	Greenacres Landfill	Spokane County
918	10	WA	Northside Landfill	Spokane
919	06	OK	Sand Springs Petrochemical Cmplx	Sand Springs
920	06	TX	Pesses Chemical Co.	Fort Worth
921	05	MN	East Bethel Demolition Landfill	East Bethel Township
922	06	TX	Triangle Chemical Co.	Bridge City
923	02	NJ	PJP Landfill	Jersey City
924	03	PA	Craig Farm Drum	Parker
925	05	IL	Belvidere Municipal Landfill	Belvidere
926	07	MO	Bee Cee Manufacturing Co.	Malden
927	03	PA	CryoChem, Inc.	Worman
928	02	NJ	Kaufman & Minter, Inc.	Jobstown
929	03	PA	Lansdowne Radiation Site	Lansdowne
930	02	NY	Forest Glen Mobile Home Subdivis	Niagara Falls
931	02	NY	Radium Chemical Co., Inc.	New York City
Number of NPL Sites:				931

* = State top priority site

National Priorities List,
Federal Section (by Group)
November 1989

NPL Gr	St	Site Name	City/County
1	WA	Hanford 200-Area (USDOE)	Benton County
1	WA	Hanford 300-Area (USDOE)	Benton County
1	CO	Rocky Flats Plant (USDOE)	Golden
1	NM	Cal West Metals (USSBA)	Lemitar
1	MO	Weldon Spring (USDOE/Army)	St. Charles County
2	CO	Rocky Mountain Arsenal	Adams County
2	TN	Milan Army Ammunition Plant	Milan
2	PA	Naval Air Develop Center(8 Areas)	Warminster Township
2	CA	McClellan AFB (Ground Water Cont)	Sacramento
2	OH	Wright-Patterson Air Force Base	Dayton
2	OH	Feed Materials Prod Cent (USDOE)	Fernald
3	WA	Bonneville Power Adm Ross (USDOE)	Vancouver
4	ID	Idaho National Engin Lab (USDOE)	Idaho Falls
4	AL	Anniston Army Depot (SE Ind Area)	Anniston
4	GA	Robins AFB (Lndfill #4/Sludge Lag)	Houston County
4	TN	Oak Ridge Reservation (USDOE)	Oak Ridge
4	NE	Cornhusker Army Ammunition Plant	Hall County
4	NJ	Naval Air Engineering Center	Lakehurst
4	UT	Hill Air Force Base	Ogden
5	CA	Treasure Island Nav Sta-Hun Pt An	San Francisco
5	AK	Eielson Air Force Base	Fairbanks N Star Bor
5	SC	Savannah River Site (USDOE)	Aiken
5	NJ	W.R. Grace/Wayne Int Stor (USDOE)	Wayne Township
6	WA	Hanford 100-Area (USDOE)	Benton County
6	MA	Otis Air Nat Guard/Camp Edwards	Falmouth
6	UT	Ogden Defense Depot	Ogden
7	GA	Marine Corps Logistics Base	Albany
7	CA	Sacramento Army Depot	Sacramento
7	IL	Sangamo/Crab Orchard NWR (USDOI)	Carterville
7	ME	Brunswick Naval Air Station	Brunswick
7	CO	Air Force Plant PJKS	Waterton
8	FL	Pensacola Naval Air Station	Pensacola

1: Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL

National Priorities List.
Federal Section (by Group)
November 1989

NPL Gr. 1	St	Site Name	City/County	NPL Gr. 1	St	Site Name	City/County
8	OK	Tinker AFB (Soldier Cr/Bldg 3001)	Oklahoma City	16	WA	Fairchild Air Force Base (4 Areas)	Spokane County
8	CA	Sharpe Army Depot	Lathrop	16	CA	March Air Force Base	Riverside
8	CA	Lawrence Livermore Lab (USDOE)	Livermore	16	TX	Lone Star Army Ammunition Plant	Texarkana
8	MA	Fort Devens	Fort Devens	17	OR	Umatilla Army Depot (Lagoons)	Hermiston
8	WA	McChord AFB (Wash Rack/Treatment)	Tacoma	17	MD	Aber Prov Ground-Michaelsville Lf	Aberdeen
8	IL	Savanna Army Depot Activity	Savanna	17	MN	Naval Industrial Reserve Ordnance	Fridley
10	NY	Brookhaven National Lab (USDOE)	Upton	17	WA	Bangor Ordnance Disposal	Bremerton
10	CA	Norton Air Force Base	San Bernardino	18	NY	Plattsburgh Air Force Base	Plattsburgh
11	CA	Barstow Marine Corps Logist Base	Barstow	18	LA	Louisiana Army Ammunition Plant	Doyline
11	AZ	Williams Air Force Base	Chandler	18	CA	Moffett Naval Air Station	Sunnyvale
11	CA	Castle Air Force Base	Merced	18	CA	Travis Air Force Base	Solano County
11	PA	Letterkenny Army Depot (PDO Area)	Franklin County	19	CA	Mather Air Force Base	Sacramento
11	NJ	Fort Dix (Landfill Site)	Pemberton Township				
11	AL	Alabama Army Ammunition Plant	Childersburg				
12	WA	Hanford 1100-Area (USDOE)	Benton County				
12	DE	Dover Air Force Base	Dover				
12	UT	Monticello Mill Tailings (USDOE)	Monticello				
13	WA	Fort Lewis Logistics Center	Tillicum				
13	IL	Joliet Army Ammu Plant (LAP Area)	Joliet				
13	OH	Mound Plant (USDOE)	Miamisburg				
14	RI	Davisville Naval Constr Batt Cent	North Kingstown				
14	PR	Naval Security Group Activity	Sabana Seca				
14	PA	Letterkenny Army Depot (SE Area)	Chambersburg				
14	NY	Griffiss Air Force Base	Rome				
14	VA	Defense General Supply Center	Chesterfield County				
14	CA	Camp Pendleton Marine Corps Base	San Diego County				
14	WA	Fort Lewis (Landfill No. 5)	Tacoma				
15	MO	Lake City Army Plant (NW Lagoon)	Independence				
15	MN	Twin Cities Air Force (SAR Lndfl)	Minneapolis				
15	WA	Naval Undersea Warf Sta (4 Areas)	Keyport				
15	NC	Camp Lejeune Military Reservation	Onslow County				
16	RI	Newport Naval Educat/Training Cen	Newport				
16	FL	Jacksonville Naval Air Station	Jacksonville				
16	IL	Joliet Army Ammu Plant (Mfg Area)	Joliet				
16	FL	Cecil Field Naval Air Station	Jacksonville				

Number of NPL Federal Facility Sites: 79

Federal Register

Tuesday
November 21, 1989

Part III

Department of Labor

Mine Safety and Health Administration

30 CFR Parts 7 and 25

Multiple-Shot Blasting Units; Final Rule

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 7 and 25

RIN 1219-AA42

Multiple-Shot Blasting Units

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: This final rule implements new procedures and requirements for testing and approval of multiple-shot blasting units used underground in coal mines and certain metal and nonmetal mines. It transfers certain existing provisions in 30 CFR part 25 to a new subpart in part 7 and revises and upgrades them to include current terminology, eliminate duplicative or unnecessary provisions, and provide alternative methods of compliance where possible. The rule also recognizes advances in technology and is consistent with the part 75, subpart N revisions to the Agency's safety standards for the use of explosives and blasting in underground coal mines, published on November 18, 1988 (53 FR 46768).

EFFECTIVE DATE: New subpart D in part 7 is effective January 22, 1990. Manufacturers who choose to proceed under the provisions of the previous rule may file requests for approval or extensions of approval of blasting units under part 25 until January 22, 1991. After January 22, 1991, 30 CFR Part 25 will no longer be effective and will be removed from title 30.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA, 4015 Wilson Blvd., Room 631, Arlington, Virginia 22203 (703) 235-1910.

SUPPLEMENTARY INFORMATION:**I. Paperwork Reduction Act**

This rule contains information collection requirements subject to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

Section 7.63 requires applicants seeking approval of multiple-shot blasting units to submit an application for approval. MSHA estimates there will be 1.1 applications for approval or extension of approval per year, each requiring 4 hours to prepare. At an estimated cost of \$37 per hour, 1.1 applications would require 4.4 hours and cost \$163. The application fee of \$100 being charged under the revised fee schedule is applied toward the cost of processing the application, and therefore

is not included as a cost of the application.

Under this rule, part 7, subpart A, § 7.4(a) requires records of test results and procedures to be retained for at least three years. Standard testing protocols used by the manufacturing community include the keeping of records of product testing. Therefore, MSHA estimates there will be no additional cost for applicants to maintain these records.

Under this rule, part 7, subpart A, § 7.5(d) requires applicants to report to MSHA any knowledge of a product distributed with critical characteristics not in accordance with the approval specifications. Rarely would such a report be submitted; however, for the purpose of this analysis, based on a worst-case scenario, MSHA estimates an annual cost of \$37 or 15 minutes per manufacturer.

The rule requires applicants to maintain records on the distribution of each blasting unit bearing an approval marking as set forth in part 7, subpart A, § 7.7(c). This provision does not specify the type of record, and MSHA believes applicants will use existing sales record systems to comply. Therefore, MSHA has assigned no cost to this requirement.

Section 7.71 requires the applicant to include an approval checklist with each blasting unit bearing an approval marking. MSHA estimates that it will require two hours to develop the checklist. At \$37 an hour, the one-time cost is \$74 for each manufacturer, or \$296 total. MSHA has also investigated the cost of inserting the checklist with each blasting unit and has determined that the cost is minimal. It takes only a few seconds to insert the checklist, and only about 544 blasting units are sold annually.

In accordance with § 3504(h) of the Paperwork Reduction Act of 1980, the collection of information requirements contained in §§ 7.63 and 7.71 of the final rule have been approved by OMB under control number 1219-0100.

Background

This final rule will replace, in one year, the current regulations covering the testing and approval of multiple-shot blasting units found in 30 CFR part 25. These revisions are issued pursuant to section 508 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 957).

On June 5, 1984, MSHA published a notice of availability of its preproposal draft revisions concerning approval requirements for blasting units, 30 CFR part 25, and scheduled a public conference (49 FR 23281). The public conference, held July 11, 1984, in Pittsburgh, Pennsylvania, was well

attended by representatives of the mining community. MSHA also received written comments from manufacturers of blasting units and other segments of the mining community.

After reviewing the comments received in response to the preproposal draft, MSHA published a proposed rule in the Federal Register on June 22, 1988 (53 FR 23506). The proposal did not retain the existing procedures for MSHA testing of multiple-shot blasting units submitted for approval under part 25. Instead, it proposed that blasting units be tested by the applicant or a third party selected by the applicant under the provisions of 30 CFR part 7, Underground Mining Equipment; Product Testing by Applicant or Third Party. Technical requirements and test procedures for blasting unit approval were proposed as subpart D to part 7.

MSHA reviewed all written statements submitted in response to the proposed rule. No public hearing was requested or held on subpart D. Comments were received from all segments of the mining community including equipment manufacturers, trade associations, and representatives of miners. This final rule was developed after a full evaluation of the entire public record.

The Agency's final rule addresses the comments received and is consistent with Executive Order 12291, the Regulatory Flexibility Act, and the Paperwork Reduction Act.

III. Discussion and Summary of the Final Rule**A. General discussion**

MSHA's regulations found in 30 CFR part 25 governing the approval of blasting units were last revised in 1960. Since that time, technological advances in electronic components and circuitry have led to the development of improved blasting units suitable for use in underground mines having potentially explosive atmospheres.

Under this final rule, multiple-shot blasting units will be evaluated for approval under MSHA's new part 7 and subject to general provisions located in subpart A of that part. Blasting units meet the criteria for applicant or third party testing because they are a product possessing characteristics that can be objectively tested in a routine and readily reproducible manner without subjective analysis.

Part 7 revises MSHA's role in the evaluation and testing of selected products used in underground mines. Products approved under part 7 are required to be tested by the applicant or

by a third party selected by the applicant to conduct the testing. All testing is to be conducted using MSHA-specified test procedures with certification of test results by the applicant. In addition, the Agency has the right to observe all product testing. When requesting approval, the applicant is required to submit certain product information. This includes, for example, drawings and specifications to document compliance with the technical requirements. Based upon an evaluation of the technical documentation, any MSHA observations of product testing, and a review of the certification statements, MSHA will issue an approval or notice denying approval of the product.

Once a product is approved under part 7, an approval-holder is required to inspect or test critical characteristics of the product as part of its quality assurance program. MSHA will perform periodic audits of products approved under part 7 to ensure that they are being manufactured as approved. If a product fails to meet the technical requirements of the applicable subpart of part 7 or creates a hazard related to its use, MSHA will take immediate action to address the problem including revocation of the approval if necessary.

As subpart D to part 7, this rule specifies the technical requirements and test procedures for the approval of multiple-shot blasting units. It revises part 25 through improved, more up-to-date requirements, replacing subjective technical requirements with performance-oriented tests and introducing charts which specify maximum electrical values. These changes when compared to part 25, will provide better safety to miners. The tests are based on MSHA's engineering experience with the subjective criteria of approval requirements. Except where indicated, they are not intended to introduce more stringent testing methods, but rather to explicitly state the tests used in MSHA's current testing program which have proven to be effective. This rule provides objective criteria for applicant or third party testing. By using these test procedures, manufacturers can measure and evaluate their product with the performance portion of the technical requirements of this subpart in order to receive an MSHA approval.

The rule deletes requirements for generator-powered blasting unit designs which are no longer used in underground mines. Also deleted are the part 25 classifications referred to as 10- and 20-shot blasting units. The capacity of blasting units under the final rule is

indicated by the maximum blasting circuit resistance displayed on the blasting unit label.

Section 25.9, which concerned observers at test and evaluations, is now addressed by the general product testing requirements in § 7.4 in subpart A of part 7. Similarly, revocation of blasting unit approval is governed by the provisions of § 7.9 located in subpart A of this part.

A commenter suggested adding a new section to the final rule to require that MSHA maintain a list of approved blasting units which would be available to the public. Lists of approved products are maintained by MSHA and are available to the public. This is not an issue that needs to be addressed by rulemaking.

New requirements and test procedures for the energy output of blasting units are contained in the final rule. Although these requirements are more stringent than the existing requirements, they address state-of-the-art design technology already incorporated in most blasting units currently approved for use. These requirements address potential hazards where MSHA believes that the incorporation of advanced technology improves safety.

There are three elements present in an electric blasting system: the explosive, the electric detonator, and the blasting unit. Degraded performance or malfunction of any one of these elements has the potential to cause incomplete or premature detonation and lead to a blasting accident. The Agency has based this rule on its field experience, testing under the existing approval standards, developmental research and the availability of improved technology.

B. Section-by-Section Discussion

The following section-by-section analysis discusses each provision of subpart D and addresses the comments received on the proposed rule.

Section 7.61 Purpose and effective date.

This section, derived from § 25.1, revises and simplifies the statement of purpose and requires that multiple-shot blasting units be approved under part 7. It applies to blasting units used underground in both coal mines and certain metal and nonmetal mines, as defined in subpart T of 30 CFR part 57, where MSHA approved blasting units are required (52 FR 24924, July 1, 1987; 52 FR 41394, October 27, 1987).

One commenter expressed concern and requested assurance that the requirements contained in 30 CFR part

57.22606 pertaining to blasting units used in certain metal and nonmetal mines to fire more than 20 detonators, would not change subsequent to the promulgation of subpart D. As indicated in the preamble discussion in the final rule on methane standards (52 FR 24924 July 1, 1987), some changes to § 54.22606 are necessary based on the revised technical specifications for approval of multiple-shot blasting units which allow for the approval of units capable of firing more than 20 shots. The Agency is currently considering certain conforming amendments to § 57.22606 resulting from the approval requirements in this subpart D final rule. Amendments to part 57 will be proposed in a future rulemaking and therefore subject to public comment.

Section 7.61 provides that the requirements of subpart D take effect 60 days after publication. It further provides that manufacturers may request approval or extension of approval of blasting units under part 25 until one year from the effective date of subpart D. After the one-year period, part 25 will be removed and all new applications for approval or extension of approval of blasting units will be evaluated under the provisions of subpart D of this part.

This phase-in period of one year will enable manufacturers and third-party laboratories to make arrangements to conduct the necessary blasting unit testing. During this period, both part 25 and subpart D will be in effect. Applicants can, therefore, choose to submit applications for approval under part 25 and have the blasting units tested by MSHA or under subpart D where the obligation to test will be with the applicant. Applicants must submit extensions of approval in accordance with the approval regulations under which the original approval was granted.

After the one-year phase-in period for this subpart and the removal of part 25, approvals for blasting units will be granted only under subpart D. At the expiration of the one year, all applications for extensions of approval of blasting units approved under part 25 will be treated as new applications, and applicants will be required to apply for an original approval under subpart D. MSHA will not revoke, except for cause, any blasting unit approvals previously granted. Blasting units approved under prior regulations and in compliance with those regulations, may continue to be manufactured as long as no changes are made which would deviate from conformance with the approval documentation. MSHA will audit these

blasting units based upon the technical requirements upon which the approval was issued.

Section 7.62 Definitions.

The following definitions applying to the approval of blasting units are new with the exception of the term "blasting unit" which is derived from § 25.2. They are designed to clarify the requirements of subpart D and respond to the issues identified by commenters.

Blasting circuit. This term identifies the items connected to the firing line terminals of the blasting unit. It is necessary to identify these items in order to determine the electrical parameters used in the acceptable performance section of the output energy test.

Blasting unit. This term essentially retains the definition given in part 25 but clarifies that the requirements of this subpart apply only to electric initiating systems which are the only types permitted in underground coal and gassy metal and nonmetal mines under MSHA's explosives and blasting safety standards.

Normal operation. This term specifies the electrical parameters to be used by the applicant to determine if the maximum power, voltage, current and temperature attainable under these conditions are in compliance with § 7.64 (f), (g), and (h).

One commenter on the proposed rule suggested retaining the preproposal draft's separate definitions for multiple-shot and large capacity blasting units, with the technical requirements for each separately identified. This, the commenter believed, would prevent misunderstanding and the potential for blasting units being used inappropriately for the specific mine application. This suggestion has not been adopted because the preproposal designation of a large capacity blasting unit was not intended to limit the use of such a unit to firing more than 20 shots. Instead, it was intended to designate those units which perform in all other respects like the multiple-shot unit but which would have additional capacity. The final rule requires that the maximum blasting circuit resistance for an approved blasting unit be at least 150 ohms which is equivalent to the capacity of the 20-shot unit defined in part 25. Therefore, when used with detonators of the type commonly used in underground mines today, blasting units approved under this subpart will have sufficient capacity to fire at least 20 shots. Further, all blasting units approved under this final rule, including those with greater capacity than 20 shots, may be used to safely fire from 1 to 20 shots. The

applicable provisions of part 75 for underground coal mines and part 57 for underground gassy metal and nonmetal mines regulate the use of those blasting units approved under the final rule with the capacity to fire more than 20 shots. All blasting units approved under this subpart are required to have an approval marking identifying their capacity in terms of maximum blasting circuit resistance. This information will enable mine operators to determine the number of shots which can be safely fired with each blasting unit.

The same commenter urged that subpart D include a definition of "manufacturing site survey" as it appeared in the preproposal draft of part 25 and that MSHA conduct such surveys of applicants' manufacturing facilities. During rulemaking on the general provisions of subpart A of this part, MSHA determined that its resources are more appropriately used to evaluate approved products being distributed to underground mines rather than to evaluate an applicant's manufacturing site. Since this term is not used in part 7, no definition of "manufacturing site survey" has been added to subpart D.

A recommendation was also received to include a definition of "permissible" in subpart D. The term "permissible," used in part 25 and also in the preproposal to describe blasting units which have been approved by MSHA, has been replaced with the term a "approved." The terminology used to identify products which have been examined by the Agency to determine conformity with regulatory requirements must be standardized. The term which most appropriately reflects MSHA's action in this area is "approved." Therefore, the phrase "approved blasting unit" is used in subpart D of part 7 in lieu of "permissible blasting unit." However, since blasting units approved as permissible under part 25 may continue to be manufactured and used in underground mines requiring approved blasting units, the safety standard in part 75 defines the term "permissible blasting unit" as one approved by MSHA.

General definitions such as "applicant," "approval," and "post-approval product audit" which were contained in part 25 are not included in this subpart. They are defined in the general provisions of subpart A of part 7.

The following definitions, which appeared in part 25 or the preproposal draft, are not retained in the final rule. The acronyms "MESA" and "MSHA" are not defined since these terms are defined in 30 CFR part 1. The terms

"permissible," "short-delay electric detonator," and "manufacturing site surveys" are not used and therefore are not defined.

Section 7.63 Application requirements.

Paragraph (a), derived from § 25.6(c), prescribes the documentation to be submitted with each multiple-shot blasting unit approval application. The required drawings and specifications are to demonstrate compliance with the rule and to identify the blasting unit.

A commenter recommended adding language to § 7.63(a) requiring that all applications for approval of blasting units be submitted in English. Current MSHA policy is to accept for approval evaluation only those applications submitted in English. The Agency has not experienced problems with this policy and therefore has not included this requirement in § 7.63(a).

The overall assembly drawing is one that describes pictorially how the unit is assembled, its physical dimensions, and the location of major subassemblies. The requirement for a schematic diagram and parts list demonstrates compliance with the electrical performance requirements of this subpart. The component layout drawing is to demonstrate compliance with the technical requirements of § 7.64 and will facilitate conducting post-approval audits of the blasting unit. Applicants may submit drawings specifically prepared for approval applications or may submit the actual drawings used in the assembly of the blasting unit. In either case, the drawings are required to represent the blasting unit exactly as it will be manufactured.

The Agency agrees with a commenter who suggested that the application for approval include the model number or other manufacturer's designation of the blasting unit in order to avoid confusion with similar products and to promote easier identification. Section 7.63(a)(5) has been added to the final rule to require applicants to submit this information with their application.

Paragraph (b) is derived from § 25.6(c) and requires that each drawing be titled, numbered, dated, and include the latest revision. This paragraph permits drawings to be combined into one or more composite drawings which would reduce the number of drawings that must be maintained both by the applicant and by MSHA. An example of a composite drawing is a parts list printed on a schematic diagram. All drawings that are required by this subpart could be combined into a single composite drawing.

Paragraph (c), which is new, requires applications for approval to contain a list of the drawings submitted. This list must include drawing titles, numbers, and revisions.

Paragraph (d) is derived from § 25.6(a). It requires that a description of the operation and use of the blasting unit be submitted with the application. Use instructions are necessary to establish the conditions under which the normal operation of the blasting unit is determined.

Fees

In accordance with 30 CFR part 5, Fees for Testing Evaluation and Approval of Mining Products, fees for MSHA processing of an application under part 7, subpart A will be subject to an hourly charge. Fee schedules are updated at least once every three years and published in the **Federal Register**.

The Agency will charge \$35 per hour and an application fee of \$100 for processing requests for approval or extension of approval for multiple-shot blasting units under subpart D of part 7.

Section 7.64 Technical requirements.

This section revises and updates the technical requirements for the approval of blasting units.

Paragraph (a) is derived from § 25.7 (g), (h), and (i) and specifies that blasting units meet the acceptable performance criteria of the output energy test in § 7.66. The acceptable performance criteria of that test increases the minimum firing current from an average current of 1.5 amperes, specified in part 25, to 2 amperes under this final rule. In addition, it decreases the voltage cut-off time from a maximum of 15 milliseconds, as required in part 25, to 10 milliseconds. Increasing the current from the blasting unit reduces the likelihood of misfires in the blasting circuit. Decreasing the maximum allowable time for voltage cut off reduces the likelihood that an incendive spark, created by the post-firing contact of wires in the blasting circuit, could ignite an explosive methane-air atmosphere. The acceptable performance criteria of the output energy test have been developed for approved blasting units to maintain compatibility with and reliably initiate electric detonators of the type currently used in gassy underground mines in the United States. This type electric detonator typically fires when an average current of 1.5 amperes is applied to the detonator for 5 milliseconds, does not misfire when up to an average of 100 amperes is applied to the detonator for 10 milliseconds, and

has an electrical resistance less than 7 ohms.

Blasting units approved under part 25 can fire up to a maximum of 20 shots. Subpart D does not limit the number of shots a blasting unit can be designed to fire. The capacity of the blasting unit is determined by the maximum blasting circuit resistance as specified by the applicant. This final rule allows units capable of firing more than 20 shots to be approved.

Under paragraph (b), which is derived from § 25.25, the maximum blasting circuit resistance of a blasting unit is the highest value of resistance that can be connected to the firing line terminals of a blasting unit without exceeding its capacity. When a blasting unit is connected to a blasting circuit having a resistance that exceeds the unit's capacity, all detonators may not fire. This could result in dangerous conditions such as partially detonated rounds of explosives or erratic timing resulting in blown-out shots.

The final rule requires applicants for approval to specify the maximum value of blasting circuit resistance of their blasting units. However, only units with a maximum blasting circuit resistance capacity of at least 150 ohms will be approved. This aspect of the rule is derived from § 25.25, which requires that blasting units be capable of firing 20 electric detonators connected in a single series with a total resistance of 150 ohms. This requirement that the maximum firing resistance be at least 150 ohms ensures that blasting units approved under this subpart have at least the same energy output as blasting units approved under part 25.

The footnote included in the preamble of the proposed rule has been deleted. The footnote was a formula to calculate the maximum number of detonators that can be fired by a blasting unit. One commenter said the calculation implied that the number of detonators in the blasting circuit could exceed the recommendations of the detonator manufacturer. The purpose served by the footnote was to show the relationship of the maximum blasting circuit resistance to the number of detonators in the blasting circuit and not to determine the number of detonators to be used. The Agency recommends that the number of detonators connected in the blasting circuit not exceed the detonator manufacturer's recommendation.

Paragraph (c), derived from § 25.7(f), requires that a blasting unit have a visual indicator to alert the user when the unit is ready to be operated. In a typical blasting unit design, the visual indicator is activated when the unit's energy storage capacitors have been

charged to the voltage necessary to produce the required firing current through the blasting circuit. The unit may not be capable of providing energy to the blasting circuit sufficient to initiate all the detonators prior to this time. Under § 7.64(h), the lamp used to visually indicate readiness cannot be an incandescent lamp or other type of lamp having a temperature greater than 302 °F (150 °C) because of methane gas and coal dust ignition hazards.

The majority of commenters on the proposed rule disagreed with MSHA's proposed § 7.64 (c)(2) and (d)(3) which required a high resistance circuit indicator and interlock of the firing switch of blasting units. These requirements were included in the proposed rule in response to a comment on the part 25 preproposal requesting additional safeguards to protect against firing into high resistance blasting circuits. The incorporation of an integral blaster's ohmmeter into the design of the blasting unit was suggested. Blasting units approved under part 25 have incorporated this feature with no safety problems resulting from its use.

The Agency, in response to this concern, incorporated these features into the proposed rule to address the hazard of misfires resulting from firing into blasting circuits exceeding the capacity of the blasting unit. One commenter stated that these proposed features would be an unnecessary complication of questionable value. Another commenter believed that the introduction of an additional current would create a potential hazard in that an electrical component fault in this circuit could result in detonation of the round when the blasting unit user is intending to check the resistance of the blasting circuit. Another commenter suggested that the interlock could be easily defeated and yet another stated that a blasting unit could be used in place of a blaster's galvanometer to determine the blasting circuit resistance.

The final rule deletes the proposed requirements in (c)(2) and (d)(3) that a high resistance indicator and interlock of the firing switch be included in approved blasting units. Recent rulemaking in the explosives and blasting safety standards requires that the resistance of the blasting circuit be measured by an appropriate device immediately prior to connecting the blasting circuit to the blasting unit. As a result of this rulemaking, the Agency's concern regarding the resistance of the blasting circuit has been addressed. Accordingly, the requirement for resistance verification and interlocking circuitry is not included in the final rule.

Paragraph (d) requires two safety features for the firing switch of blasting units. These requirements are derived from §§ 25.7(e) and 25.8(b)(3) and 25.7(f), respectively. First, the firing switch is required to operate by a deliberate action to prevent accidental firing. Recessing the switch in the blasting unit enclosure or protecting it with a raised guard are examples of switches which require a deliberate action. The other safety feature for the firing switch is that it not be operable when the voltage necessary to produce the required firing current is not available to the blasting circuit. The firing switch may be made inoperable by either mechanical or electrical means.

Paragraph (e)(1) is new and requires that the blasting unit firing line terminals provide a secure, low resistance connection to the blasting circuit as measured by the firing line terminals test in § 7.68. Although this requirement is new, it does not introduce a more stringent requirement than previously existed. Paragraph 7.64(e)(1) introduces minimum performance requirements to clarify ambiguous language such as "suitable materials" and "sound engineering principles" in § 25.7(a) and "adequacy of design and construction," "practically in operation" and "suitability for underground service" in § 25.7(c). Performance requirements in § 7.68 provide that the contact resistance through each firing line terminal not exceed 1 ohm. Poor electrical connections to the firing line terminals can create additional blasting circuit resistance and increase the risk of misfires.

One commenter on the proposed rule suggested that, in addition to stating the requirements for maximum contact resistance, the internal resistance of the blasting unit also be addressed. The internal resistance limits the electric current that is available at the firing line terminals. This is an important parameter in the performance of the blasting unit. It is addressed by test and documentation requirements in the final rule. The performance-oriented output energy test of § 7.66 determines if sufficient electric current is available at the firing line terminals, within the specified capacity of the blasting unit. The parts list and schematic diagram, to be submitted by the applicant under § 7.63(a) (3) and (4), document the values of internal components used in the blasting unit. This information documents the designed internal resistance of the blasting unit.

Under paragraph (e)(2), which is derived from § 25.7(c), the firing line

terminals must be constructed of corrosion-resistant material, such as nickel or chromium-plated copper. Blasting units are exposed to corrosive agents in underground mines which could cause deterioration of metal in the firing terminals. This condition could result in a high resistance connection to the blasting circuit and contribute to the risk of misfires.

Paragraphs (e)(3) and (e)(4) address the need for insulation on and around the firing line terminals and are derived from § 25.7(k). Paragraph (e)(3) requires that the firing line terminals be insulated so that no metal conductors are exposed. This protects the user from electric shock. Examples of well-insulated firing line terminals include binding posts which are covered with plastic or rubber and connectors recessed into an insulated blasting unit enclosure. Paragraph (e)(4) requires that an insulated barrier separate the firing line terminals of a blasting unit to prevent the uninsulated ends of the blasting cables from contacting each other when connected to the unit.

Paragraph (f) requires that in the normal operation of the blasting unit, no electric components, other than the batteries, be operated at more than 90 percent of their electrical ratings. It is derived from §§ 25.7(c) and 25.8(b)(1). Electric components operated at less than their power rating reduce the likelihood of component failure which could render the blasting units unsafe.

Paragraph (g) and (h) are derived from § 25.7 (d) and (c), respectively. They address the hazard of blasting units releasing sufficient electric or thermal energy to cause a methane ignition or fire. Blasting units, having the capacity necessary to reliably fire electric detonators, generate incentive energy that can cause such an ignition and may have components that operate at temperatures sufficient to ignite coal dust. These requirements are evaluated in the "normal operation" of the blasting unit as defined in § 7.62.

Paragraph (g) retains the existing requirement that blasting units be incapable of igniting an explosive mixture of methane and air when electric energy is released by making and breaking moveable electric contacts in the unit. Although the energy stored within the blasting unit is capable of igniting explosive gas mixtures, this energy is not to be released, under normal conditions, at operating electric contacts. To determine compliance with this requirement, the rule provides electric current and voltage limitations. These limitations are described by curves which relate electric current and

voltage to that amount which will ignite an explosive mixture of methane and air. The curves appear as Figures D-1, D-2, and D-3. The curves address the electric current through an electric contact that interrupts a circuit not containing an inductive component, the voltage applied across an electric contact that discharges a capacitor, and the electric current through an electric contact that interrupts a circuit containing an inductive component. MSHA's Approval and Certification Center has developed these specifications from industry accepted minimum ignition curves for methane-air mixtures used by consensus standards. The Center's curves include a safety factor and have been utilized for a number of years in evaluating electric circuits. The specifications provide an objective basis upon which the applicant can determine whether or not the blasting unit is capable of causing ignition of an explosive methane atmosphere.

Paragraph (h) addresses the risk of fire caused by blasting units and requires that the maximum temperature of any electric component during normal operation not exceed 302 °F (150 °C). This is the maximum surface temperature allowed by 30 CFR 18.23 for electric equipment approved by MSHA and is the minimum ignition temperature of a coal dust layer. Combustible coal dust on heat-producing electric components can cause a fire. Compliance with this requirement can be determined by using a pyrometer or similar device to detect "hot spots" in blasting units and by measuring the temperature of components with a thermocouple or similar device. A commenter expressed concern that an incandescent bulb can ignite a methane-air atmosphere. The maximum temperature restriction of paragraph (h) prohibits the use of incandescent lamps.

Paragraph (i) is derived from § 25.8(b)(2). It requires that blasting units be equipped with an automatic means to dissipate any electric charge remaining in any capacitor after the blasting unit is deenergized and not in use. Dissipating the electric charge in the capacitors in blasting units reduces the risk of causing an ignition in a methane-air atmosphere.

Under paragraph (j), blasting units must meet the acceptable performance criteria of the construction test in § 7.67. This requirement is derived from § 25.7 (c) and (m). The enclosure of a blasting unit needs to be substantially constructed to prevent dust and moisture from being deposited on the electric circuits. Water and corrosive

dusts can cause an internal short circuit, which can result in a fire or blasting unit malfunction. Details of these criteria are described in the explanation of that test.

Paragraph (k) requires that blasting units be equipped with a locking device to prevent unauthorized use and is derived from § 25.7(e). A device such as a key-operated firing switch, lockable cover, a padlock, or a removable firing pin over the firing switch meets the requirements of this paragraph.

Paragraph (l) is derived from § 25.7(m) and 25.8 (b)(4). It retains the requirements that blasting units be sealed to prevent tampering as well as designed and constructed to enable battery replacement without disturbing or damaging other electric components. The rule allows two alternative methods of compliance. Blasting unit enclosures, except for batteries, could be permanently sealed, for example, by continuous welding around the enclosure so that the unit would be destroyed if entered. Alternatively, the electric components could be sealed in a solidified insulating material, such as an epoxy. With this option, the rule requires that the enclosure be assembled with tamper-resistant hardware so that it could be opened only with special tools. Either method provides protection against tampering, such as substitution of inadequate electric components or improper adjustment of potentiometer settings in a blasting unit that may adversely affect its timing or energy output. Such changes in performance could lead to misfires or potential ignition hazards of methane or coal dust.

Section 7.64(l)(1) from the proposed rule has been modified to clarify the intent of the Agency. One commenter pointed out that the battery compartments need to be vented to allow the escape of chemical vapors which are liberated from batteries during charging or discharging. Based on this comment, the final rule does not require battery compartments to be sealed or watertight. Paragraph (b)(5) of the construction test in § 7.67 has also been revised to be consistent with this point. Paragraph (1)(2) of the proposal has been moved to the section on approval marking in § 7.69.

Paragraphs (m) (1) and (2) require that a blocking diode, or equivalent device, be in series with the battery and that the battery charging connector, if provided, be recessed into the blasting unit enclosure. These requirements are derived from § 25.7(d). A blocking diode prevents electric energy in the battery from being available at the charging connector. This energy could cause an ignition of a methane-air atmosphere or

initiate an electric detonator. Also, the charging connector is required to be recessed into the blasting unit enclosure to prevent short-circuiting of the connector while the unit is on an electrically-conductive surface, such as a metal work table. Paragraph (m)(3) of the proposal has been relocated to the section on approval marking in § 7.69.

Section 7.65 Critical characteristics.

This section is new and lists the critical characteristics which are required to be inspected or tested on each blasting unit having an approval marking. As defined in subpart A of this part, a "critical characteristic" is a feature of a product that, if not manufactured as approved, could have a direct adverse effect on safety. The characteristics identified for inspection or testing on every blasting unit are the blasting unit's output current, voltage cut-off time, the components that control the voltage and current through each making and breaking electric contact, and the operation of the visual indicator and the firing switch.

Section 7.66 Output energy test.

The output energy test prescribed by this section is used to determine whether blasting units have energy output sufficient to safely initiate all of the detonators in a blasting circuit. The operating parameters of this test are predicated on certain performance characteristics of electric detonators historically used in underground mining. This test is to be performed on the blasting unit prior to the construction test. It is also performed after each of the three water baths conducted in the construction test.

Paragraph (a) is new and specifies test procedures for determining the output energy by connecting various resistive loads to the blasting unit. There are three different blasting circuit resistance test conditions within the range of the capacity of the blasting unit.

Paragraph (b) provides the criteria for acceptable performance of the blasting unit. Paragraph (b)(1) is derived from § 25.7 (g) and (l). It is revised to require that voltage be cut off at the firing line terminals 10 milliseconds after operation of the firing switch rather than 15 milliseconds as previously provided in § 25.7(g). An approved blasting unit must provide electric energy of sufficient quantity and duration to initiate the detonators in the blasting circuit. After the detonator initiation, the electric energy must be cut off to reduce the risk of generating a spark by the post-firing contact of wires in the blasting circuit. This can happen when the force of the blast disturbs the surrounding area. The

blast also releases gas and raises and suspends explosive coal dust which could be ignited if such sparks are generated. The 10 milliseconds provide ample time for the blasting unit to initiate electric detonators and allow for timing variations caused by component tolerances, temperature variations, and component aging within the blasting unit.

Paragraph (b)(2)(i), derived from § 25.7(d), requires that electric current in excess of 50 milliamperes not be available except during firing of the blasting unit. This amount is approximately one-fifth of the maximum no-fire current for typical electric detonators used in underground mines in the U.S. today. According to the 16th edition of the Dupont Handbook, the Institute of Makers of Explosives (IME) has established the maximum "safe" current permitted to flow through an electric blasting cap without hazard of initiation as one-fifth of the minimum firing current, or 0.05 amperes (50 milliamperes). This provides a current safety factor of five or an energy factor of 25. This requirement minimizes the potential hazard of electrical shock to the user and premature firing of electric detonators.

Paragraph (b)(2)(ii) is derived from § 25.7(k) and requires that the electric current be available through the firing line terminals only. This minimizes the potential hazard of electric shock to the user and prevents the user from accidentally or deliberately firing electric detonators from any location on the blasting unit other than at the firing line terminals.

Under paragraph (b)(2)(iii), which is derived from §§ 25.7(h) and 25.26(a), a blasting unit is required to produce an average firing current of at least 2 amperes during the first 5 milliseconds after operation of the firing switch. This paragraph has been revised from the proposal in response to comments to clarify that the 2 ampere firing current is the average value over 5 milliseconds. The test is conducted with resistive loads up to the maximum blasting circuit resistance. An average of 2 amperes for 5 milliseconds represents the current and time necessary to consistently fire a typical electric detonator.

Paragraph (b)(2)(iv) is derived from §§ 25.7(j) and 25.26(b). It requires that the electric current from the blasting unit not exceed an average of 100 amperes during the first 10 milliseconds after the blasting unit is operated to prevent arcing in the detonator. An electric current greater than an average of 100 amperes through a typical electric detonator could result in erratic

detonator timing, a damaged detonator shell, or an ejected detonator sealing plug.

The test procedure, as contained in the proposed rule, included firing the blasting unit into a resistive load exceeding the unit's rating. As explained earlier, this load was to verify operation of the high resistance indicator and interlock of the firing switch, which are not required in this final rule. Therefore, the provisions concerning firing into this load in paragraphs (a) and (b) have been deleted and appropriate modifications and renumbering made to the remaining provisions of these paragraphs.

Section 7.67 Construction test.

This section requires that blasting units be tested to determine if they perform reliably when exposed to the physical stresses of the underground mining environment. The construction test provides objective criteria for determining whether a blasting unit is sufficiently rugged for use in mining. It is derived from § 25.7(m), which requires the housing to be mechanically strong for mine service, and § 25.7(c), where moisture resistance, drop test, durability of construction and suitability for underground service have been identified, among other factors, to determine the adequacy of design and construction. For clarity, a statement has been added to this section specifying that this test is to be performed subsequent to the output energy test of § 7.66.

Paragraph (a) sets forth the procedures for testing blasting units. The test is conducted by dropping the blasting unit 20 times from a height of 3 feet onto a concrete floor. The orientation of the blasting unit is to be varied each time it is dropped in an effort to have a different surface, corner, or edge strike the floor first for each drop. Three feet is the height at which a blasting unit is normally carried. If the blasting unit is not rugged, internal circuitry can be damaged and safe performance of the unit can be adversely affected, resulting in misfiring of detonators. Batteries or other components that are ejected from the unit or exposed can provide an ignition source.

This section also requires testing of blasting units for moisture resistance and the ability to operate properly at various temperatures. After being dropped, the blasting unit is required to be submerged for 1 hour under 1 foot of water at each of three temperatures. Operating blasting units at a temperature range of approximately 35°F to 105°F (1.7°C to 40.6°C) is representative of the broad range of

temperatures that occur in the underground mining environment.

The submersion of a blasting unit in 1 foot of water for 1 hour provides an assessment criterion for the requirement, derived from § 25.7(c), that the blasting unit be resistant to moisture. Moisture within the blasting unit could cause corrosion, short circuiting, and physical damage to the components. The test is uncomplicated and does not require special or expensive test equipment to perform.

After operation with the firing line terminals open circuited and short circuited, the blasting unit is to be tested in accordance with the output energy test. This sequence is repeated following removal from each water bath. Operating the blasting unit under these conditions is a common event and should not cause damage to the unit.

One commenter stated that the construction test, as contained in the proposed rule, was too severe and found the requirement to test five units excessive. The construction test has been developed to provide uniform testing and to be representative of the mining environment in which blasting units are used. Blasting units approved under part 25 have been subjected to similar drop tests to determine their ruggedness. Similarly, MSHA utilizes a 3-foot drop test for approval of other hand-held devices such as methane detectors, portable transceivers and dust sampling devices.

The construction test has been modified in the rule to require one blasting unit to be dropped instead of the five units specified in the proposal. Also, the wording has been changed to better define the test procedures. As contained in the proposed rule, the blasting unit would have had to be dropped until each external surface, corner, or edge had struck the floor first at least one time. This criteria was derived to provide an objective means of testing the ruggedness of the blasting unit. This procedure could have, however, resulted in an inordinate number of tests being conducted on a blasting unit to ensure that each surface, corner, or edge struck the floor first. The 20 drops specified in the final rule is consistent with MSHA's procedures when conducting drop tests under other regulations.

The modification of the test enables verification of performance at the same operating parameters as proposed while reducing the number of units which are required to be subjected to this testing. During the development of this rule, the construction test has evolved to provide objective performance criteria for evaluating the ruggedness of blasting

units. This test, combined with specific construction requirements contained in § 7.64, ensures a blasting unit design which will function properly in the mining environment.

Paragraph (b) provides the criteria for evaluating blasting units tested under this section. Each blasting unit is required to meet the output energy test of § 7.66 after the drop and submersion portions of the construction test set out in (a) (1) and (2) have been conducted. The rule also requires that there be no damage to the firing line terminals which exposes an electric conductor, that the visual indicator be operational, that no batteries be separated from the blasting unit, and that no water be present inside the blasting unit enclosure, except for the battery compartment. Failure of the blasting unit to meet any of these criteria indicates a reduction in the ability of the blasting unit to perform reliably and safely in underground mines.

Section 7.68 Firing line terminals test.

This section is new and requires that firing line terminals on blasting units be tested to establish that they provide a secure, low resistance connection, as required by § 7.64(e)(1).

Paragraph (a) requires that the contact resistance through each firing line terminal be determined and that a 10-pound pull be applied to a No. 18 gauge wire that has been connected to each firing line terminal according to the manufacturer's instructions. A No. 18 gauge wire is commonly used for blasting cables. The 10-pound pull test permits the evaluation of the gripping strength of the connection at the firing line terminal to maintain electric contact.

Paragraph (b) sets forth the acceptable performance criteria for this test. Contact resistance through the firing line terminals shall be less than 1 ohm to minimize output energy losses that could reduce the total energy available to the blasting circuit. In the pull test, the wire connected to the blasting unit firing line terminals must remain connected.

A commenter suggested that spring-loaded binding posts not be permitted for blasting unit firing line terminals. The performance requirements of this section are sufficient to determine the suitability of a given type of connecting device. There is no evidence or field experience which suggests that spring-loaded binding posts are inappropriate for blasting units in mines.

Section 7.69 Approval marking.

This section is derived from § 25.11. It specifies the information to be marked on each approved blasting unit. This section requires that all blasting units be identified as MSHA approved with a permanent, legible marking securely attached, stamped or molded to the outside of the unit. The approval marking must contain (1) the assigned MSHA approval number, (2) the maximum blasting circuit resistance, (3) a warning that the unit's components not be disassembled or removed, and (4) depending on whether or not rechargeable batteries are used, either the replacement battery types or a warning placed next to the charging connector that the battery be charged only in a fresh air location. The warning against disassembly or removal of components and the requirement to specify replacement battery types are currently included on blasting units under § 25.11(a).

The provision in 7.69(e) is new. It requires that a marking be placed adjacent to the charging connector to warn that the battery is to be charged only in a fresh air location. The marking is intended to address two hazards: one created by ignitable hydrogen gas which may be present when batteries are charged and another created by incendive arcing which can occur during connecting and disconnecting of the charger in an explosive methane-air atmosphere. This warning is required on other MSHA-approved instruments containing chargeable batteries.

In addition, certain detonator characteristics with which the unit will produce reliable detonation must also be included on the marking. These are typical of blasting circuit parameters which must be present in order to ensure compatibility between the blasting unit and detonator so that reliable initiation can occur. The availability of this information to the user is critical to ensure that detonators within the blasting circuit are consistent with the design and demonstrated performance parameters of the blasting unit. These detonators characteristically fire when an average 1.5 amperes is applied for 5 milliseconds. They will not misfire when up to an average 100 amperes is applied for 10 milliseconds. They also will not fire when a current of 250 milliamperes or less is applied. Hazards are encountered when MSHA-approved blasting units are used with detonators not having these characteristics. These hazards are unintended or premature detonation of explosives and misfires resulting in undetonated explosives.

Part 75, subpart N has been revised to require the use of detonators which are compatible with the approved blasting unit. As a result, this final rule has been modified to include this information as necessary to notify the user of the characteristics a detonator must possess to be electrically compatible with the blasting unit as a required by 30 CFR part 75.1310(e).

Section 7.70 Post-approval product audit.

This section requires an approval-holder to make an approved blasting unit available to MSHA at a mutually agreeable site and time. The approval-holder may be required to provide, at no cost to MSHA, an approved blasting unit no more than once a year, except for cause. However, MSHA can obtain blasting units from the approval-holder or other sources such as mine suppliers or distributors at any time at MSHA expense.

All post-approval audits of blasting units approved under this part will be conducted in accordance with this section and with § 7.8 of subpart A of this part. Detailed discussion of this provision is found in 53 FR 23486, at 23493-23494 (June 22, 1988).

When deficiencies are found during MSHA audits of approved blasting units, MSHA will require that the approval-holder take the necessary corrective action to address the deficiencies. These actions include, but are not limited to, the approval-holder recalling or retrofitting the approved blasting units involved and issuing user notices. Consistent with part 7, § 7.9, revocation of the approval by MSHA may result when discrepancies in approved blasting units are not successfully corrected.

Section 7.71 Approval checklist.

This section requires that manufacturers provide, with each blasting unit, a description of what is necessary to maintain the blasting unit in an approved condition. Maintaining blasting units in an approved condition is fundamental to their safe use in underground mines and is required of all mine operators.

Section 7.72 New technology.

The technical requirements for blasting units include both design and performance requirements. MSHA is aware that design requirements can, at times, limit the introduction of technological improvements or hinder new applications of existing technology. To address this, the rule includes a "new technology" provision which applies to either new technology or new

applications of existing technology to blasting units.

The rule therefore allows approval of blasting units that incorporate technology for which the specific requirements of this subpart are not appropriate if MSHA determines that the blasting units are as safe as those which have met the requirements of this subpart D. To implement this provision, MSHA will prescribe appropriate technical requirements and test procedures when such approval is sought.

Once MSHA approves a blasting unit under this section, the Agency will make the modified tests and requirements used by MSHA to evaluate a particular technology available to manufacturers and other interested persons. If, over a period of time, MSHA receives a number of applications for the same type of technology or newly adapted technology, MSHA will revise the blasting unit approval regulations through the rulemaking process to recognize such developments.

Derivation Table

The following derivation table lists: (1) Each section number of the final rule (new section) and (2) the section number of the standard from which the section is derived (old section).

New section	Old section
7.61	25.1.
7.62	25.2.
7.63 (a), (b)	25.6(c).
7.63(c)	New.
7.63(d)	25.6(a).
7.64(a)	25.7 (g)-(i).
7.64(b)	25.25.
7.64(c)	25.7(f).
7.64(d)(1)	25.7(e) and 25.8(b)(3).
7.64(d)(2)	25.7(f).
7.64(e)(1)	New.
7.64(e)(2)	25.7(c).
7.64(e) (3), (4)	25.7(k).
7.64(f)	25.7(c) and 25.8(b)(1).
7.64(g)	25.7(d).
7.64(h)	25.7(c).
7.64(i)	25.8(b)(2).
7.64(j)	25.7 (c), (m).
7.64(k)	25.7(e).
7.64(l)	25.7(m) and 25.8(b)(4).
7.64(m)	25.7(d).
7.65	New.
7.66(a)	New.
7.66(b)(1)	25.7 (g) and (i).
7.66(b)(2)(i)	25.7(d).
7.66(b)(2)(ii)	25.7(k).
7.66(b)(2)(iii)	25.7(h) and 25.26(a).
7.66(b)(2)(iv)	25.7(j) and 25.26(b).
7.67	25.7 (c) and (m).
7.68	New.
7.69	25.11
7.70	New.
7.71	New.
7.72	New.

Distribution Table

The following distribution table lists: (1) Each section number of the part 25 standard (old section) and (2) each section number of final subpart D of part 7 (new section). New section numbers marked with an asterisk (*) refer to subpart A—General Provisions of part 7 published in 53 FR 23488, at 23500–23502.

Old section	New section
25.1.....	7.1* and 7.61.
25.2.....	7.2* and 7.62.
25.3.....	Removed.
25.4.....	7.3(b).*
25.5.....	Removed.
25.6(a).....	7.3(a)* and 7.63(d).
25.6(b).....	Removed.
25.6(c).....	7.63 (a) and (b).
25.7(a).....	Removed.
25.7(b).....	7.1.*
25.7(c).....	7.64 (e) (2)–(4), (f), (h), (j), and 7.67.
25.7(d).....	7.64 (g), (m) and 7.66(b)(2)(i).
25.7(e).....	7.64 (d)(1), (k).
25.7(f).....	7.64 (c), (d)(2).
25.7(g).....	7.64(a) and 7.66(b)(1).
25.7(h).....	7.64(a) and 7.66(b)(2)(iii).
25.7(i).....	7.64(a).
25.7(j).....	7.66(b)(2)(iv).
25.7(k).....	7.64(e) (3), (4) and 7.66(b)(2)(ii).
25.7(l).....	7.66(b)(1).
25.7(m).....	7.64 (j), (l)(1) and 7.67.
25.7(n).....	Removed.
25.8(a).....	Removed.
25.8(b)(1).....	7.64(f).
25.8(b)(2).....	7.64(i).
25.8(b)(3).....	7.64(d)(1).
25.8(b)(4).....	7.64(l).
25.9.....	7.4.*
25.10 (a), (b).....	7.5(b).*
25.10(c).....	7.7(c).*
25.11(a).....	7.6(a)* and 7.69.
25.11(b).....	7.69.
25.11(c).....	7.7(c)* and 7.69.
25.11(d).....	7.5(a),* 7.7(c)* and 7.69.
25.12 (a), (b).....	7.3(e).*
25.12(c).....	7.3(e),* 7.6(b).*
25.13.....	7.9.*
25.20.....	Removed.
25.21.....	Removed.
25.25.....	7.64(b).
25.26(a).....	7.66(b)(2)(iii).
25.26(b).....	7.66(b)(2)(iv).

IV. Drafting Information

The principal persons responsible for preparing this final rule are: Kenneth A. Sproul, Arthur E. Page, and Roland Berry Ann, Approval and Certification Center, MSHA; Helen B. Caraway, Office of Standards, Regulations and Variances, MSHA; and Linda B. Fort, Office of the Solicitor, Department of Labor.

V. Executive Order 12291 and Regulatory Flexibility Act

In accordance with Executive Order 12291, MSHA has prepared an analysis to identify the potential costs and benefits associated with subpart D. This analysis has formed the basis for the

Initial Regulatory Flexibility Analysis required by the Regulatory Flexibility Act. In this analysis, MSHA has determined that this rule neither results in major cost increases nor has an incremental effect of \$100 million or more on the economy. Therefore, the rule is not within the criteria for a major rule, and a Regulatory Impact Analysis is not required.

The Regulatory Flexibility Act requires that agencies evaluate and include, wherever possible, compliance alternatives that minimize any adverse impact on small businesses when developing regulatory rules. This rule does not significantly alter the existing technical requirements for multiple-shot blasting units.

This rule increases private-sector involvement in the approval of mining equipment. For the first time, in lieu of testing only by MSHA, the applicant or a third party selected by the applicant will test multiple-shot blasting units. The Agency anticipates that this new procedure will reduce duplicate testing of products in some cases and eliminate associated costs and potential delays in equipment approvals. In addition, the procedure is expected to enhance the safety of miners through the more rapid introduction of technological advances in mining products.

Any necessary testing of products required by MSHA either is not substantially different from that currently undertaken or does not impose significant costs compared to the sales value of the product. The application procedures, quality assurance program, and annual audit do not impose significant costs. This subpart D clarifies the standards which must be met by industry for approval of multiple-shot blasting units and makes the approval process more efficient, thereby reducing costs for large as well as small businesses.

The Agency estimates that incremental annual cost increases totaling \$8,659 are offset by an annual cost savings of approximately \$3,699. The net incremental annual cost impact, therefore, is expected to be \$4,960. In addition, the final rule imposes an incremental initial cost of \$74 for each blasting unit manufacturer. There are no capital costs.

List of Subjects

30 CFR part 7.

Blasting units, Mine safety and health, Reporting and recordkeeping requirements, Underground mining.

30 CFR part 25.

Explosives, Mine safety and health, Research.

Accordingly, chapter I of title 30, Code of Federal Regulations is amended as set forth below.

Dated: November 14, 1989.

William J. Tattersall,

Assistant Secretary for Mine Safety and Health.

Part 7, subchapter B, chapter I, title 30 of the Code of Federal Regulations is amended as follows:

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

Authority: 30 U.S.C. 957.

2. A new subpart D is added to part 7 to read as follows:

PART 7—TESTING BY APPLICANT OR THIRD PARTY

* * * * *

Subpart D—Multiple-Shot Blasting Units

Sec.	
7.61	Purpose and effective date.
7.62	Definitions.
7.63	Application requirements.
7.64	Technical requirements.
7.65	Critical characteristics.
7.66	Output energy test.
7.67	Construction test.
7.68	Firing line terminals test.
7.69	Approval marking.
7.70	Post-approval product audit.
7.71	Approval checklist.
7.72	New technology.
* * * * *	

§ 7.61 Purpose and effective date.

This subpart establishes the specific requirements for MSHA approval of multiple-shot blasting units. It is effective January 22, 1990. Applications for approval or extensions of approval submitted after January 22, 1991 shall meet the requirements of this subpart.

§ 7.62 Definitions.

The following definitions apply in this subpart:

Blasting circuit. A circuit that includes one or more electric detonators connected in a single series and the firing cable used to connect the detonators to the blasting unit.

Blasting unit. An electric device used to initiate electric detonators.

Normal operation. Operation of the unit according to the manufacturer's instructions with fully-charged batteries, with electric components at any value within their specified tolerances, and with adjustable electric components set to any value within their range.

§ 7.63 Application requirements.

(a) Each application for approval of a blasting unit shall include the following:

(1) An overall assembly drawing showing the physical construction of the blasting unit.

(2) A schematic diagram of the electric circuit.

(3) A parts list specifying each electric component and its electrical ratings, including tolerances.

(4) A layout drawing showing the location of each component and wiring.

(5) The model number or other manufacturer's designation of the blasting unit.

(b) All drawings shall be titled, numbered, dated, and include the latest revision number. The drawings may be combined into one or more composite drawings.

(c) The application shall contain a list of all the drawings submitted, including drawing titles, numbers, and revisions.

(d) A detailed technical description of the operation and use of the blasting unit shall be submitted with the application.

(Approved by the Office of Management and Budget under control number 1219-0100)

§ 7.64 Technical requirements.

(a) *Energy output.* Blasting units shall meet the acceptable performance criteria of the output energy test in § 7.66.

(b) *Maximum blasting circuit resistance.* The maximum value of the resistance of the blasting circuit that can be connected to the firing line terminals of the blasting unit, without exceeding its capacity, shall be specified by the applicant. The specified maximum blasting circuit resistance shall be at least 150 ohms.

(c) *Visual indicator.* The blasting unit shall provide a visual indication to the user prior to the operation of the firing switch when the voltage necessary to produce the required firing current is attained.

(d) *Firing switch.* The switch used to initiate the application of energy to the blasting circuit shall—

(1) Require deliberate action for its operation to prevent accidental firing; and

(2) Operate only when the voltage necessary to produce the required firing current is available to the blasting circuit.

(e) *Firing line terminals.* The terminals used to connect the blasting circuit to the blasting unit shall—

(1) Provide a secure, low-resistance connection to the blasting circuit as demonstrated by the firing line terminals test in § 7.68;

(2) Be corrosion-resistant;

(3) Be insulated to protect the user from electrical shock; and

(4) Be separated from each other by an insulated barrier.

(f) *Ratings of electric components.* No electric component of the blasting unit, other than batteries, shall be operated at more than 90 percent of any of its electrical ratings in the normal operation of the blasting unit.

(g) *Non-incendive electric contacts.* In the normal operation of a blasting unit, the electric energy discharged by making and breaking electric contacts shall not be capable of igniting a methane-air atmosphere, as determined by the following:

(1) The electric current through an electric contact shall not be greater than that determined from Figure D-1.

(2) The maximum voltage that can be applied across an electric contact that discharges a capacitor shall not be greater than that determined from Figure D-2.

(3) The electric current through an electric contact that interrupts a circuit containing inductive components shall not be greater than that determined from Figure D-3. Inductive components include inductors, chokes, relay coils, motors, transformers, and similar electric components that have an inductance greater than 100 microhenries. No inductive component in a circuit with making and breaking electric contacts shall have an inductance value greater than 100 millihenries.

BILLING CODE 4510-43-M

FIGURE D-1

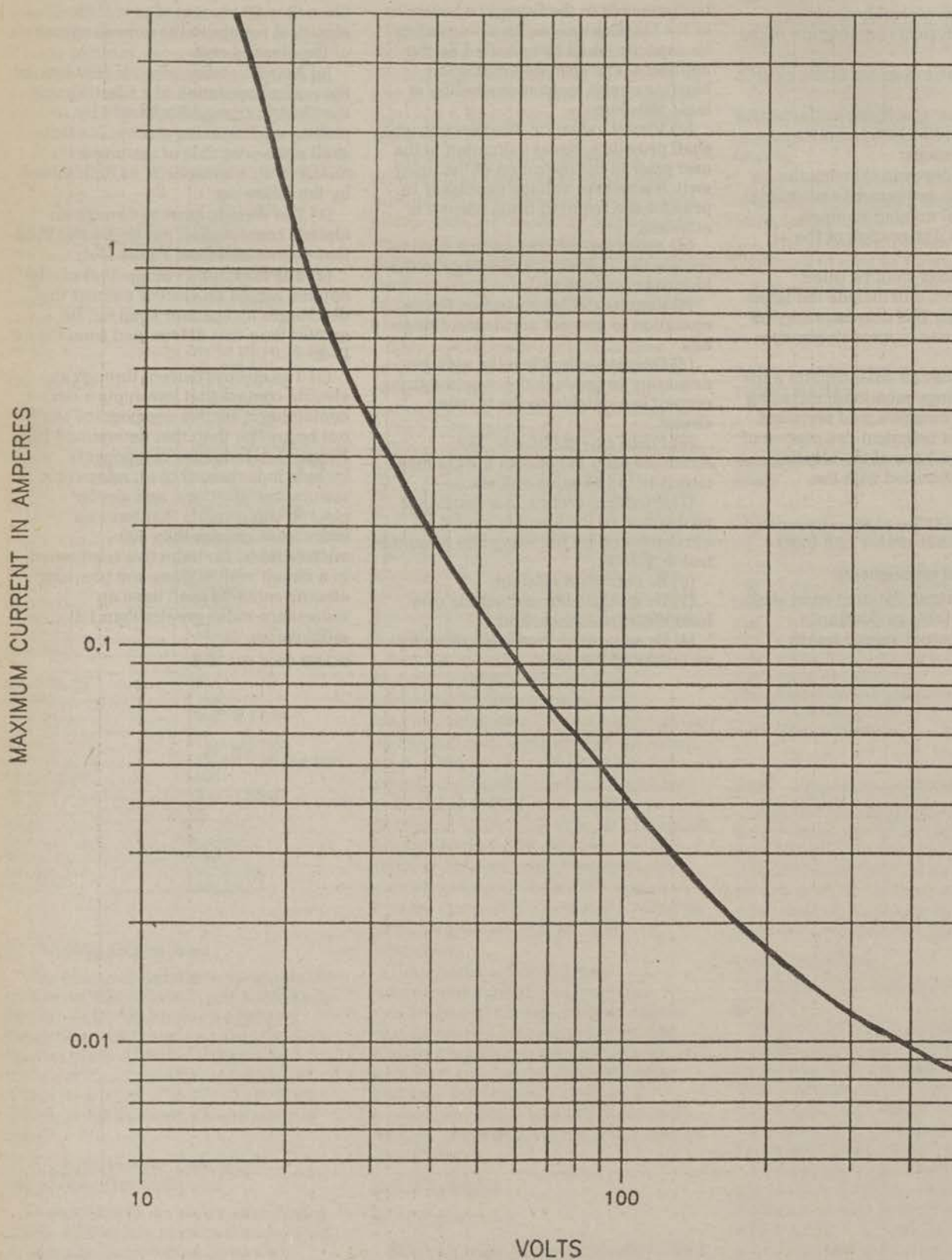


FIGURE D-2

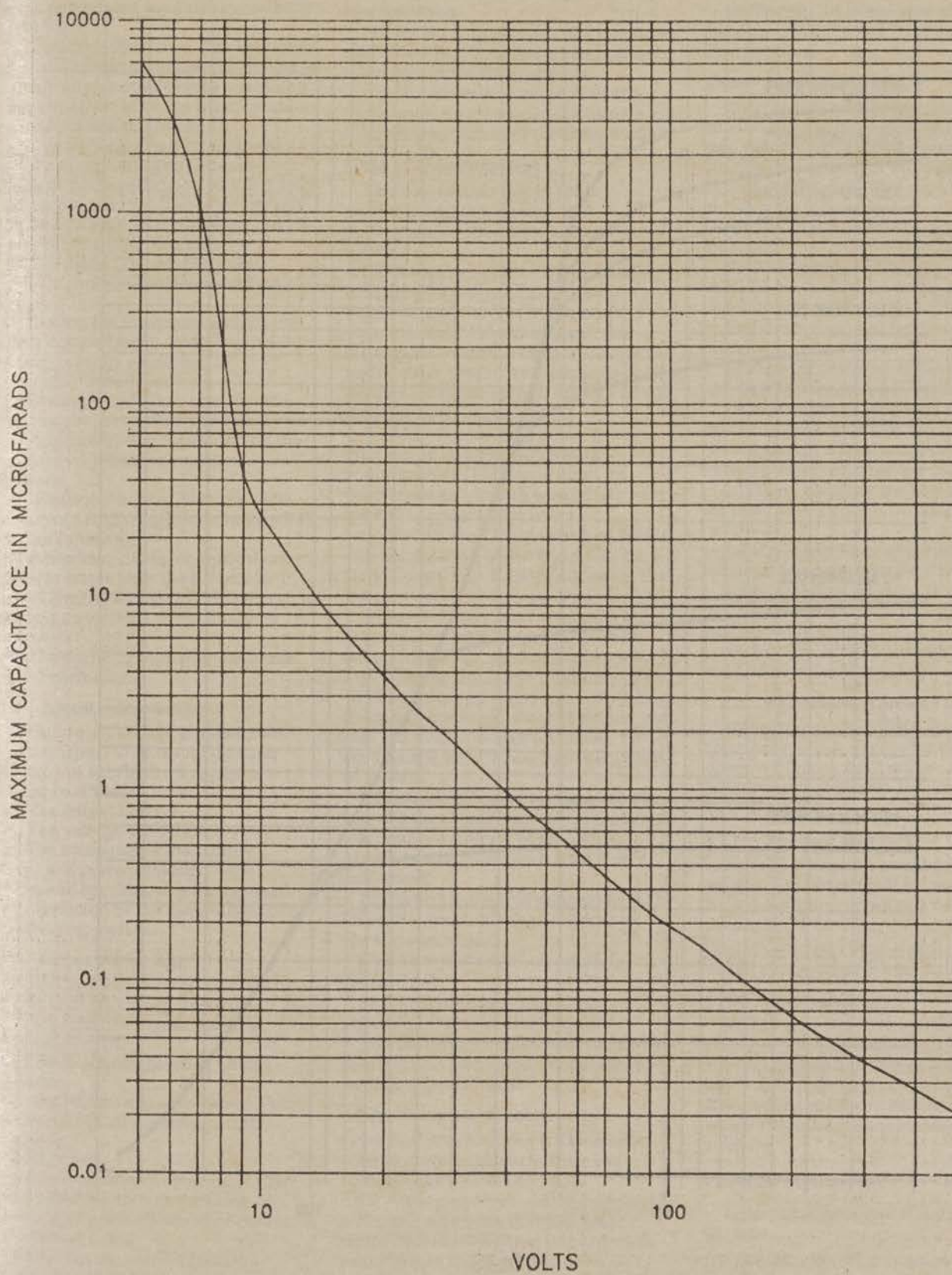
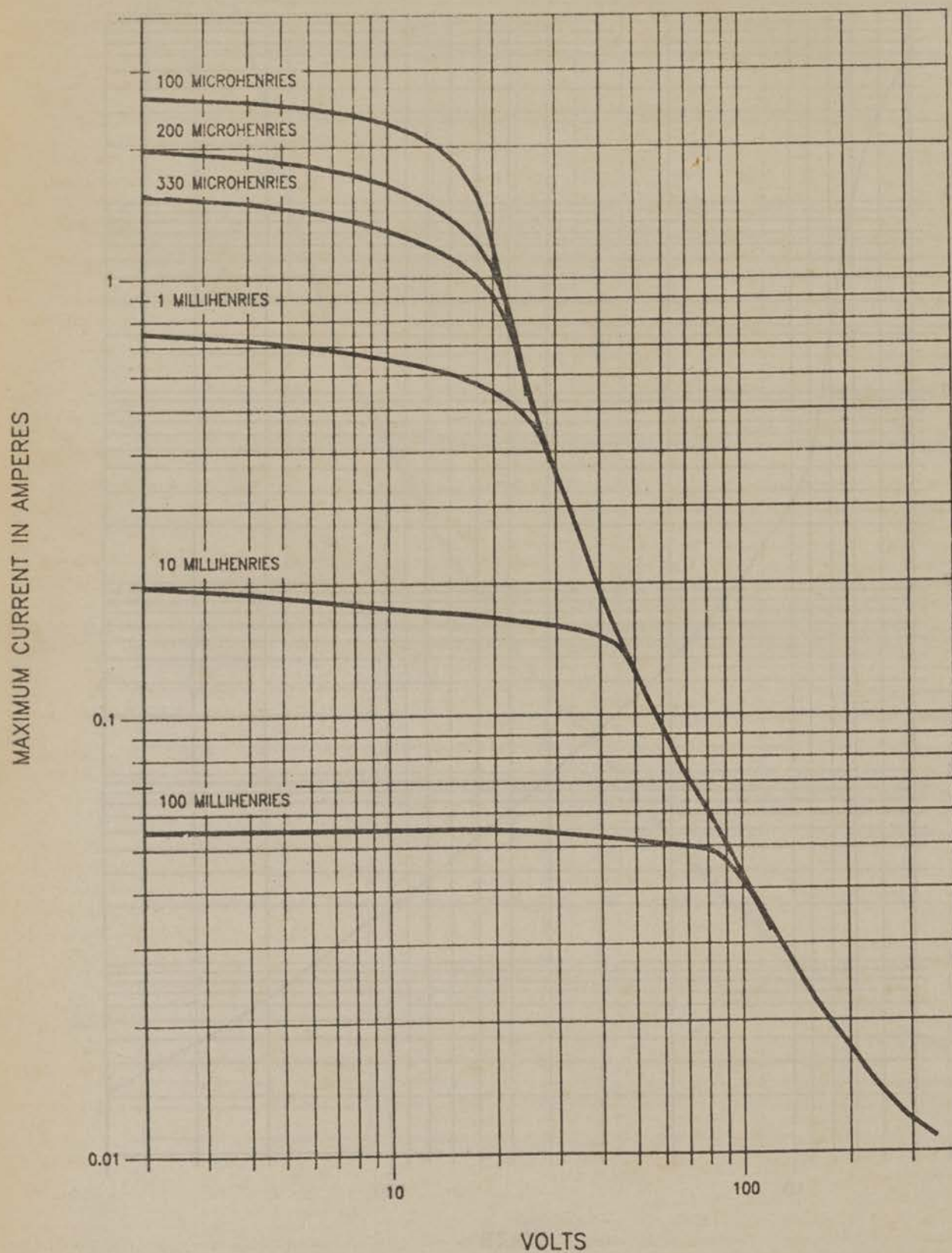


FIGURE D-3



(h) *Maximum temperature.* In the normal operation of the blasting unit, the maximum temperature of any electric component shall not exceed 302 °F (150 °C).

(i) *Capacitor discharge.* The blasting unit shall include an automatic means to dissipate any electric charge remaining in any capacitor after the blasting unit is deenergized and not in use.

(j) *Construction.* Blasting units shall meet the acceptable performance criteria of the construction test of § 7.67.

(k) *Locking device.* The blasting unit shall be equipped with a locking device to prevent unauthorized use.

(l) *Enclosure.* The blasting unit enclosure shall be protected against tampering by—

(1) Sealing the enclosure, except the battery compartment, using continuous welding, brazing, soldering, or equivalent methods; or

(2) Sealing the electric components, other than batteries, in a solidified insulating material and assembling the enclosure with tamper-resistant hardware.

(m) *Battery charging.* Blasting units that contain rechargeable batteries shall have the following:

(1) A blocking diode, or equivalent device, in series with the battery to prevent electric energy in the battery from being available at the charging connector.

(2) The charging connector recessed into the enclosure.

§ 7.65 Critical characteristics.

The following critical characteristics shall be inspected or tested on each blasting unit to which an approval marking is affixed:

- (a) The output current.
- (b) The voltage cut-off time.
- (c) The components that control voltage and current through each making and breaking electric contact.
- (d) Operation of the visual indicator and the firing switch.

§ 7.66 Output energy test.

(a) *Test procedures.* The blasting unit shall be tested by firing into each of the following resistive loads, within a tolerance of $\pm 1\%$:

(1) The maximum blasting circuit resistance.

(2) Any resistive load between 3 ohms and the maximum blasting circuit resistance.

(3) One ohm.

(b) *Acceptable performance.* (1) The voltage shall be zero at the firing line terminals 10 milliseconds after operation of the firing switch.

(2) The electric current from the blasting unit shall be:

(i) Less than 50 milliamperes except during firing of the blasting unit.

(ii) Available only through the firing line terminals.

(iii) At least an average of 2 amperes during the first 5 milliseconds following operation of the firing switch.

(iv) Not exceed an average of 100 amperes during the first 10 milliseconds following operation of the firing switch.

§ 7.67 Construction test.

The construction test is to be performed on the blasting unit subsequent to the output energy test of § 7.66.

(a) *Test procedures.* (1) The blasting unit shall be dropped 20 times from a height of 3 feet onto a horizontal concrete floor. When dropped, the orientation of the blasting unit shall be varied each time in an attempt to have a different surface, corner, or edge strike the floor first for each drop.

(2) After the blasting unit has been drop tested in accordance with paragraph (a)(1) above, it shall be submerged in 1 foot of water for 1 hour in each of 3 tests. The water temperature shall be maintained within ± 5 °F (± 2.8 °C) of 40 °F (4.4 °C), 70 °F (21.1 °C) and 100 °F (37.8 °C) during the tests.

(3) Immediately after removing the blasting unit from the water at each temperature, the unit shall be operated first with the firing line terminals open circuited, then operated again with the firing line terminals short circuited, and last, the output energy tested in accordance with the output energy test of § 7.66.

(b) *Acceptable performance.* (1) The blasting unit shall meet the acceptable performance criteria of the output energy test in § 7.66 each time it is performed.

(2) There shall be no damage to the firing line terminals that exposes an electric conductor.

(3) The visual indicator shall be operational.

(4) The batteries shall not be separated from the blasting unit.

(5) There shall be no water inside the blasting unit enclosure, except for the battery compartment.

§ 7.68 Firing line terminals test.

(a) *Test procedures.* (1) The contact resistance through each firing line terminal shall be determined.

(2) A 10-pound pull shall be applied to a No. 18 gauge wire that has been connected to each firing line terminal according to the manufacturer's instructions.

(b) *Acceptable performance.* (1) The contact resistance shall not be greater than 1 ohm.

(2) The No. 18 gauge wire shall not become disconnected from either firing line terminal.

§ 7.69 Approval marking.

Each approved blasting unit shall be identified as permissible by a legible and permanent marking securely attached, stamped, or molded to the outside of the unit. This marking shall include the following:

(a) The assigned MSHA approval number.

(b) The maximum blasting circuit resistance.

(c) A warning that the unit's components must not be disassembled or removed.

(d) The replacement battery types if the unit has replaceable batteries.

(e) A warning placed next to the charging connector that the battery only be charged in a fresh air location if rechargeable batteries are used.

(f) A warning that the unit is compatible only with detonators that will—

(1) Fire when an average of 1.5 amperes is applied for 5 milliseconds;

(2) Not misfire when up to an average 100 amperes is applied for 10 milliseconds; and

(3) Not fire when a current of 250 milliamperes or less is applied.

§ 7.70 Post-approval product audit.

Upon request by MSHA, but not more than once a year except for cause, the approval holder shall make an approved blasting unit available for audit at no cost to MSHA.

§ 7.71 Approval checklist.

Each blasting unit bearing an MSHA approval marking shall be accompanied by a description of what is necessary to maintain the blasting unit as approved.

(Approved by the Office of Management and Budget under control number 1219-0100)

§ 7.72 New technology.

MSHA may approve a blasting unit that incorporates technology for which the requirements of this subpart are not applicable if the Agency determines that the blasting unit is as safe as those which meet the requirements of this subpart.

PART 25—[Removed]

1. Part 25 is removed effective January 22, 1991.

[FR Doc. 89-27201 Filed 11-20-89; 8:45 am]

BILLING CODE 4510-43-M

Federal Register

Tuesday
November 21, 1989

Part IV

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 800

**Medical Devices; Patient Examination and
Surgeons' Gloves; Adulteration; Proposed
Rule**

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 800

[Docket No. 88N-0443]

Medical Devices; Patient Examination and Surgeons' Gloves; Adulteration

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a proposed rule to: (1) Define adulteration for patient examination and surgeons' gloves, and (2) establish the sample plans and test method the agency will use to determine if these gloves are adulterated as defined by the rule.

DATES: Written comments by December 21, 1989. The agency is proposing that any final rule based on the proposal become effective 30 days after the final rule is published in the *Federal Register*.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Comments received will be available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Joseph M. Sheehan, Center for Devices and Radiological Health (HFZ-84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4874.

SUPPLEMENTARY INFORMATION: In recent times, surgeons' gloves and patient examination gloves have been increasingly relied upon by health care workers as a barrier to the transmission of human immunodeficiency virus (HIV), which causes the fatal acquired immune deficiency syndrome (AIDS), and other blood- and fluid-borne infectious agents. As a result, FDA has looked more closely at the quality control procedures that manufacturers use in making these gloves. As a result of its inquiry, FDA is proposing to establish the sample plans and test method the agency will use to determine if a medical glove is adulterated within the meaning of section 501(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351(c)) (the act), because "its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess."

The proposed rule would not establish current good manufacturing practice (CGMP) requirements. The manufacturer

may follow any appropriate CGMP's in accordance with section 520(g) of the act (21 U.S.C. 360j(g)) and the regulations in 21 CFR part 820. The final products, however, must not exceed the adulteration levels in the proposed rule; if they do, the gloves would be adulterated under section 501(c) of the act.

The agency's active regulation of patient examination and surgeons' gloves is not new. In the *Federal Register* of October 21, 1980 (45 FR 69678 at 69723), FDA published a final rule classifying into class I (general controls) the patient examination glove (21 CFR 880.6250) using procedures in section 513 of the act (21 U.S.C. 360c). In that regulation, FDA identified the patient examination glove as an disposable device intended for medical purposes, worn on the examiners hand or finger to prevent contamination between the patient and examiner. As classified, the patient examination glove was exempt from premarket notification procedures and from CGMP requirements; however, FDA revoked these examinations in a final rule published on January 13, 1989 (54 FR 1602). In the *Federal Register* of June 24, 1988 (53 FR 23856 at 23875), FDA published a final rule classifying surgeons' gloves into class I (21 CFR 878.4460). In that regulation, FDA identified the surgeons' gloves as a device made of natural or synthetic rubber, intended to protect surgical wounds from contamination.

It is estimated that between 1 and 1.5 million persons in the United States are infected with HIV (Ref. 1). HIV is transmitted primarily through sexual contact; however, nonsexual transmission has occurred in health care settings as a result of contact with infected blood. Additionally, HIV has been isolated from other body fluids in addition to blood. With the above-mentioned prevalence of HIV infection and the risk of clinical transmission of other infections, the importance of the quality of an effective barrier to the transmission of infection in health care settings is crucial.

The expectation of health care workers, as expressed by the Surgeon General, the Centers for Disease Control (CDC), and health professional organizations such as the American Medical Association (AMA), is that patient examination and surgeons' gloves, collectively referred to as medical gloves, will provide effective protection against exposure to the microorganisms in blood and other body fluids. Such reasonable expectations of barrier protection cannot be met if medical gloves contain rips, tears, small holes, or other defects, which allow the

passage of fluids and fluid-borne microorganisms, and which ultimately permit exposure to health care workers and patients to pathogens that wearing of the gloves is intended to avoid. Although a large flaw in a glove may be visible and obvious to the user, the presence of small leakage defects can be determined only through testing. Testing is necessary to assure that gloves of appropriate quality are available for use by health care workers to lower the risk of transmission of HIV or other blood- and fluid-borne infectious agents for both health care workers and patients.

On August 21, 1987, CDC published a report that emphasized the need for all health care workers to routinely use appropriate precautions when contact with blood or other body fluids of any patient is anticipated (Ref. 2). The CDC report recommends that health care workers wear medical gloves (1) when touching blood or other body fluids, mucous membranes, or nonintact skin of all patients, (2) in handling items or surfaces soiled with blood or other bodily fluids, and (3) in performing venipuncture and other vascular access procedures (Ref. 2).

Data are inconclusive regarding the relationship between leakage defects in medical gloves and transmission of HIV infection; however, the CDC recommendations clearly show that leakage defects in medical gloves have the potential for transmission of HIV between patients and health care workers.

The issuance of the CDC recommendations and the heightened concern among health care workers about HIV have created a burgeoning demand for medical gloves. Estimates of the number of medical gloves being manufactured for use by U.S. health care practitioners range in the billions per year. Preliminary FDA field testing of more than 300 samples of medical gloves collected from over 160 different foreign and domestic manufacturers revealed the inadequate quality of medical gloves on the market between September 1988 and February 1989. For manufacturers of patient examination gloves, the average defect rates ranged from 14 to 18 percent. For manufacturers of surgeons' gloves, the average defect rates ranged from 3 to 16 percent. For some manufacturers, more than half of the gloves examined were consistently found to be defective.

Because of the emphasis in the CDC recommendations on medical gloves as a barrier to HIV, as well as to Hepatitis B virus and other blood-borne and body fluid-borne infectious agents, and the general need for greater assurance

against transmission of pathogens between patients and health care workers, FDA believes it is imperative that the gloves worn by health care workers, including operating room personnel, provide an effective barrier to the transmission of infectious agents. Because medical gloves are intended as an effective barrier against the transmission of disease and because gloves labeled as medical gloves communicate that intended use to users, manufacturers should strive to produce medical gloves which are free from defects.

FDA has determined that glove defects, such as holes, which may not be readily detectable by the users of the gloves, can compromise the effectiveness of the glove barrier and result in patients and health care workers being exposed to infection. Articles written by health professionals who have studied the quality of gloves and their role as a barrier to infectious agents note that, although clinicians expect gloves to protect them, and routine appropriate use of gloves can reduce the risk of infections by blood or other body fluid-borne agents, this protection may not be provided by gloves with defects (Refs. 3 through 7).

FDA has taken regulatory actions, such as seizures and detentions, against medical gloves, when the agency determined that the gloves were adulterated under section 501(c) of the act (21 U.S.C. 315(c)), in that they contained defects, and thus were below the quality that they were purported or represented to possess. Although the agency has used its existing authority to seize and detain adulterated gloves on a case-by-case basis, these actions against specific lots of gloves from individual manufacturers are not an efficient use for agency resources, especially taking into account the rapid increase in both domestic production and importation of gloves to meet sharply increased demand due to concern about HIV. Although individual enforcement actions remove some of the adulterated products from the market, they do not communicate the clear information concerning test methodology and defect levels that allows manufacturers voluntarily to improve manufacturing processes and to produce unadulterated medical gloves and that enables purchasers to establish specifications to ensure that the gloves provide effective barriers to blood- and fluid-borne infectious agents. Any final rule based on this proposed rule will ensure that all such persons have sufficient information to manufacture

and purchase gloves that are not adulterated.

For the reasons discussed above, FDA now believes it is necessary to promulgate a rule defining adulteration within the meaning of section 501(c) of the act. FDA has reviewed various sample plans and test methods for evaluating the quality of surgeons' gloves and patient examination gloves. Based on this review, FDA has selected a method that the agency will use on all material types of surgeons' and patient examination gloves. This method includes a visual examination for defects (such as tears, metal fragments, mold, embedded foreign objects, missing or fused components, etc.) plus a water-fill method to test for less obvious defects, expressed as leaks.

The water-fill method involves adding 1,000 milliliters of water to a glove that is attached to a plastic tube. Using this test method, FDA will consider any passage of water from the inside of the glove to its outside area to be a leak.

FDA proposed adulteration levels are based on the acceptable quality levels (AQL's) defined in the MIL-STD-105D (the military sampling standard, "Sampling Procedures and Tables for Inspection by Attributes," April 29, 1963), using general inspection level II. Based on the AQL's found in this standard, FDA's proposed adulteration levels have been set at 2.5 percent for surgeons' gloves and 4.0 percent for patient examination gloves. A single normal sampling plan will be used for lots of 1,200 gloves or less while a multiple normal sampling plan will be used for all larger lots.

Lots of gloves that are rejected based on FDA's sample plans and testing using the method in proposed § 800.20 would be adulterated within the meaning of section 501(c) of the act, and would be subject to regulatory action, such as detention of imported products, administrative detention of imported products held domestically, or seizure. FDA would also seek injunction or criminal prosecution of manufacturers and individuals responsible for such adulterated products.

Standards established by the American Society for Testing and Materials (ASTM), military specifications, and FDA regulations differentiate between performance levels for surgeons' gloves and those for patient examination gloves. The difference is based upon factors inherent in the intended use of these products. For purposes of sampling and testing, FDA has accepted this difference in defining adulteration in the proposed rule. Thus, surgeons' gloves

have a lower per glove defect rate (2.5 percent) defining adulteration than patient examination gloves (4.0 percent). The primary reason for this difference relates to the greater exposure of surgeons and their gloves to blood and internal areas of the body and the longer periods of exposure to these conditions.

If FDA decides to substantively modify the sample plans or test method in the future, the agency will do so by amending 21 CFR 800.20. If interpretive statements regarding the sample plans or test method are necessary, the agency will issue guidance in accordance with 21 CFR 10.90(b).

The agency believes it must proceed expeditiously to promulgate this rule because delay in its implementation will increase the risk that gloves of inadequate quality will be relied upon by unsuspecting health care providers. As a result, such providers and their patients will be at an increased risk of infection.

FDA is providing 30 days for public comment on the proposed rule. The agency believes that the compelling public health advantages to be gained from issuing a final rule as quickly as possible constitute good cause under section 520(d) of the act and 21 CFR 10.40(b)(2) for providing less than the normal 60-day comment period. FDA is proposing that any final rule based on this proposal will apply to any patient examination or surgeons' glove initially introduced into interstate commerce 30 days after the date of the final rule's publication in the *Federal Register*. FDA invites comments on what effect, if any, an effective date 30 days after date of publication of the final rule would have on the manufacture and distribution of gloves and the availability of gloves on the market.

Environmental Impact

The agency has determined under 21 CFR 25.24(e)(2) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Economic Impact

The agency has analyzed the economic effects of the proposed rule in accordance with section (g)(1) of Executive Order 12291 and has determined that the proposed rule does not constitute a major rule as defined in section 1(b) of the Executive Order. Also, the proposed rule will not have a significant impact on a substantial number of small entities as defined by

the Regulatory Flexibility Act. Surgeons' gloves and patient examination gloves that contain holes are adulterated under section 501(c) of the act; the proposed rule merely sets forth the criteria by which FDA will judge whether a lot of gloves is actionable.

The agency believes that the impact of the proposed rule will be transitory in nature. While a high proportion of gloves currently offered for sale might be adulterated, using the adulteration levels specified in the proposed rule, the agency does not expect that high levels of defective gloves will continue to be the production norm. Most of the domestic manufacturers of medical gloves are currently producing gloves of a quality that would be accepted under the adulteration levels defined in this proposed rule. Thus, the technology and ability to produce gloves of acceptable quality clearly exist. However, many foreign glove manufacturers will have to make changes in their production process to avoid exceeding the adulteration levels defined in the proposed rule. The agency believes that competitive pressures will lead responsible manufacturers into making the changes necessary to improve the quality of their gloves.

The analysis upon which this economic impact statement is based can be found in the threshold assessment on file with the Dockets Management Branch (address above).

References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. CDC, "AIDS and Human Immunodeficiency Virus Infection in the United States: 1988 Update." Morbidity and Mortality Weekly Report Supplement, Vol. 38, No. S-4, May 12, 1989.
2. CDC, "Recommendations for Prevention of HIV Transmission in Health-Care Settings," Morbidity and Mortality Weekly Report, Vol. 36, No. 25, August 21, 1987, and "Update: Universal Precautions for Prevention of Transmissions of Human Immunodeficiency Virus, Hepatitis B Virus and Other Blood-Borne Pathogens in Health-Care Settings," Morbidity and Mortality Weekly Report, Vol. 37, No. 24, June 24, 1988.
3. Paulsen, J., T. Eiden, and R. Kristiansen, "Perforations in Surgeon's Gloves," The Journal of Hospital Infections, 11:82-85, January 1988.
4. Matta, H., A.M. Thompson and J.B. Rainey, "Does Wearing Two Pairs of Gloves Protect Operating Theater Staff from Skin Contamination?" British Medical Journal, 297:597-598, September 3, 1988.
5. Gonzalez, E., and C. Naleway, "Assessment of the Effectiveness of Glove

Use as a Barrier Technique in the Dental Operatory," Journal of the American Dental Association, 117:407-469, September 1988.

6. Dalglish, A.G., and M. Malkovsky, "Surgical Gloves as a Mechanical Barrier against Human Immunodeficiency Viruses," British Journal of Surgery, 75:171-172, February 1988.

7. Dascshner, D., and H. Habel, Letter to the Editor, Infection Control and Hospital Epidemiology, 9:184, 186, May 1988.

Interested persons may, on or before December 21, 1989, submit to the Dockets Management Branch written comments regarding the proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 800

Administrative practice and procedure, Medical devices, Ophthalmic goods and services, Packaging and containers, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 800 be amended as follows:

PART 800—GENERAL

1. The authority citation for 21 CFR part 800 continues to read as follows:

Authority: Secs. 201, 304, 501, 502, 505, 506, 507, 515, 519, 521, 601, 602, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 334, 351, 352, 355, 356, 357, 360e, 360i, 360k, 361, 362, 371).

2. New § 800.20 is added to subpart B to read as follows:

§ 800.20 Patient examination gloves and surgeons' gloves; sample plans and test method for leakage defects; adulteration.

(a) *Purpose.* The prevalence of human immunodeficiency virus (HIV), which causes acquired immune deficiency syndrome (AIDS), and its risk of transmission in the health care context, has caused the Food and Drug Administration (FDA) to look more closely at the quality control of barrier devices, such as surgeons' gloves and patient examination gloves (collectively known as medical gloves) to reduce the risk of transmission of HIV and other blood-borne infectious diseases. The Centers for Disease Control (CDC) recommend that health care workers wear medical gloves to reduce the risk of transmission of HIV and other blood-borne infectious diseases. The CDC

recommends that health care workers wear medical gloves when touching blood or other body fluids, mucous membranes, or nonintact skin of all patients; when handling items or surfaces soiled with blood or other body fluids; and when performing venipuncture and other vascular access procedures. Among other things, CDC's recommendation that health care providers wear medical gloves demonstrates the proposition that devices labeled as medical gloves purport to be and are represented to be effective barriers against the transmission of blood- and fluid-borne pathogens. Therefore, FDA, through this regulation, is defining adulteration for patient examination and surgeons' gloves as a means of assuring safe and effective devices.

(1) For a description of a patient examination glove, see § 880.6250 of this chapter. Finger cots, however, are excluded from the test method and sample plans in paragraphs (b) and (c) of this section.

(2) For a description of a surgeons' glove, see § 878.4460 of this chapter.

(b) *Test method.* For the purposes of this regulation, FDA's analysis of gloves for leaks will be conducted by a water leak method, using 1,000 milliliters (mL) of water. Each medical glove will be analyzed independently. When packed as pairs, each glove is considering separately, and both gloves will be analyzed. A defect in one of the gloves is counted as one defect; a defect in both gloves is counted as two defects. Defects are defined as leaks, tears, mold, embedded foreign objects, etc. A leak is defined as the appearance of water on the outside of the glove. This emergence of water from the glove constitutes a watertight barrier failure. Leaks within 1 and ½ inches of the cuff are to be disregarded.

(1) The following materials are required for testing: A 2 and ¾-inch by 15-inch (clear) plastic cylinder with a hook on one end and a mark scored 1 and ½ inches from the other end; elastic strapping with velcro or other fastening material; automatic water-dispensing apparatus or manual device capable of delivering 1,000 mL of water; a stand with horizontal rod for hanging the hook end of the plastic tube. The support rod must be capable of holding the weight of the total number of gloves that will be suspended at any one time, e.g., five gloves suspended will weigh about 11 pounds.

(2) The following methodology is used: Examine the sample and identify code/lot number, size, and brand as appropriate. Examine gloves for defects

as follows: carefully remove the glove from the wrapper, box, etc., visually examining each glove for defects. Visually defective gloves do not require further testing but are to be included in the total number of defective gloves counted for the sample. Attach the glove to the plastic fill tube by bringing the cuff end to the 1 and 1/2-inch mark and fastening with elastic strapping to make a watertight seal. Add 1,000 mL of room temperature water (i.e., 20 °C to 30 °C) into the open end of the fill tube. The water shall pass freely into the glove. (With some larger sizes of long-cuffed surgeons' gloves, the water level may reach only the base of the thumb. With some smaller gloves, the water level may extend several inches up the fill tube.)

(3) Immediately after adding the water, examine the glove for water leaks. Do not squeeze the glove; use only minimal manipulation to spread the fingers to check for leaks. Water drops may be blotted to confirm leaking. If the glove does not leak immediately, keep the glove/filling tube assembly upright hand hang the assembly vertically from the horizontal rod, using the wire hook on the open end of the fill tube (do not support the filled glove while transferring). Make a second observation for leaks 2 minutes after the addition of the water to the glove. Use only minimal manipulation of the fingers to check for leaks. Record the number of defective gloves.

(c) *Sample plans.* FDA will collect samples from lots of gloves to perform

the test for defects described in paragraph (b) of this section in accordance with FDA's sampling inspection plans which are based on the tables of MIL-STD-105D (the military sampling standard, "Sampling Procedures and Tables for Inspection by Attributes," April 29, 1963). Based on the acceptable quality levels found in this standard, FDA has defined adulteration as follows: 2.5 or higher for surgeons' gloves and 4.0 or higher for patient examination gloves at a general inspection level II. FDA will use single normal sampling for lots of 1,200 gloves or less and multiple normal sampling for all larger lots. For convenience, the sample plans (sample size and accept/reject numbers) are shown in the following table:

Adulteration level at 2.5 for surgeons' gloves

Lot size	Sample	Sample size	Number examined	Number defective	
				Accept	Reject
35,001 and above	First	125	125	2	9
	Second	125	250	7	14
	Third	125	375	13	19
	Fourth	125	500	19	25
	Fifth	125	625	25	29
	Sixth	125	750	31	33
	Seventh	125	875	37	38
35,000 to 10,001	First	80	80	1	7
	Second	80	160	4	10
	Third	80	240	8	13
	Fourth	80	320	12	17
	Fifth	80	400	17	20
	Sixth	80	480	21	23
	Seventh	80	560	25	26
10,000 to 3,201	First	50	50	0	5
	Second	50	100	3	8
	Third	50	150	6	10
	Fourth	50	200	8	13
	Fifth	50	250	11	15
	Sixth	50	300	14	17
	Seventh	50	350	18	19
3,200 to 1,201	First	32	32	0	4
	Second	32	64	1	6
	Third	32	96	3	8
	Fourth	32	128	5	10
	Fifth	32	160	7	11
	Sixth	32	192	10	12
	Seventh	32	224	13	14
1,200 to 501	Single Sample		80	5	6
500 to 281	Single Sample		50	3	4
280 to 151	Single Sample		32	2	3
150 to 51	Single Sample		20	1	2
50 to 0	Single Sample		5	0	1

Adulteration level at 4.0 for patient examination gloves

Lot size	Sample	Sample size	Number examined	Number defective	
				Accept	Reject
10,001 and above	First	80	80	2	9
	Second	80	160	7	14
	Third	80	240	13	19
	Fourth	80	320	19	25
	Fifth	80	400	25	29
	Sixth	80	480	31	33
	Seventh	80	560	37	38
10,000 to 3,201	First	50	50	1	7
	Second	50	100	4	10
	Third	50	150	8	13

Adulteration level at 4.0 for patient examination gloves

Lot size	Sample	Sample size	Number examined	Number defective	
				Accept	Reject
3,200 to 1,201	Fourth	50	200	12	17
	Fifth	50	250	17	20
	Sixth	50	300	21	23
	Seventh	50	350	25	26
	First	32	32	0	5
	Second	32	64	3	8
	Third	32	96	6	10
	Fourth	32	128	8	13
	Fifth	32	160	11	15
	Sixth	32	192	14	17
1,200 to 501	Seventh	32	224	18	19
500 to 281	Single Sample		80	7	8
280 to 151	Single Sample		50	5	6
150 to 91	Single Sample		32	3	4
90 to 26	Single Sample		20	2	3
25 to 0	Single Sample		13	1	2
	Single Sample		3	0	1

(d) Lots of gloves which are tested and rejected using the test method according to paragraph (b) of this section, are adulterated within the meaning of section 501(c) of the act, and are subject to regulatory action, such as detention of imported products and seizure of domestic products.

Dated: October 5, 1989.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 89-27302 Filed 11-20-89; 8:45 am]

BILLING CODE 4160-01-M

1989 Federal Register

**Tuesday
November 21, 1989**

Part V

The President

**Proclamation 6073—Thanksgiving Day,
1989**

THE PRESIDENT

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Title 3—

The President

Proclamation 6073 of November 17, 1989

Thanksgiving Day, 1989

By the President of the United States of America

A Proclamation

On Thanksgiving Day, we Americans pause as a Nation to give thanks for the freedom and prosperity with which we have been blessed by our Creator. Like the pilgrims who first settled in this land, we offer praise to God for His goodness and generosity and rededicate ourselves to lives of service and virtue in His sight.

This annual observance of Thanksgiving was a cherished American tradition even before our first President, George Washington, issued the first Presidential Thanksgiving proclamation in 1789. In his First Inaugural Address, President Washington observed that "No people can be bound to acknowledge and adore the Invisible Hand which conducts the affairs of men more than those of the United States." He noted that the American people—blessed with victory in their fight for Independence and with an abundance of crops in their fields—owed God "some return of pious gratitude." Later, in a confidential note to his close advisor, James Madison, he asked, "should the sense of the Senate be taken on ... a day of Thanksgiving?" George Washington thus led the way to a Joint Resolution of Congress requesting the President to set aside "a day of public Thanksgiving and Prayer, to be observed by acknowledging with grateful hearts the many and signal Favors of Almighty God."

Through the eloquent words of President Washington's initial Thanksgiving proclamation—the first under the Constitution—we are reminded of our dependence upon our Heavenly Father and of the debt of gratitude we owe to Him. "It is the Duty of all Nations," wrote Washington, "to acknowledge the Providence of Almighty God, to obey his Will, to be grateful for his Benefits, and humbly to implore His Protection and Favor."

President Washington asked that on Thanksgiving Day the people of the United States:

unite in rendering unto [God] our sincere and humble Thanks for his kind Care and Protection of the People of this Country previous to their becoming a Nation; for ... the great degree of Tranquility, Union and Plenty which we have since enjoyed; for ... the civil and religious Liberty with which we are blessed, and ... for all the great and various Favors which he hath been pleased to confer upon us.

Two hundred years later, we continue to offer thanks to the Almighty—not only for the material prosperity that our Nation enjoys, but also for the blessings of peace and freedom. Our Nation has no greater treasures than these.

As we pause to acknowledge the kindnesses God has shown to us—and, indeed, His gift of life itself—we do so in a spirit of humility as well as gratitude. When the United States was still a fledgling democracy, President Washington asked the American people to unite in prayer to the "great Lord and Ruler of Nations," in order to:

beseech him to pardon our national and other Transgressions; to enable us all, whether in public or private Stations, to perform our several and relative Duties properly and punctually; to render our national Government a Blessing to all the People, by constantly being a Government of wise, just and constitutional Laws, discreetly and faithfully executed and obeyed; to protect and guide all Sovereigns and Nations ... and to bless them with good Government, Peace and Concord.

Today, we, too, pause on Thanksgiving with humble and contrite hearts, mindful of God's mercy and forgiveness and of our continued need for His protection and guidance. On this day, we also remember that one gives praise to God not only through prayers of Thanksgiving, but also through obedience to His commandments and service to others, especially those less fortunate than ourselves.

While some Presidents followed Washington's precedent, and some State Governors did as well, President Lincoln—despite being faced with the dark specter of civil war—renewed the practice of proclaiming a national day of Thanksgiving. This venerable tradition has been sustained by every President since then, in times of strife as well as times of peace and prosperity.

Today, we continue to offer thanks and praise to our Creator, that "Great Author of every public and private good," for the many blessings He has bestowed upon us. In so doing, we recall the timeless words of the 100th Psalm:

Serve the Lord with gladness: come before His presence with singing.

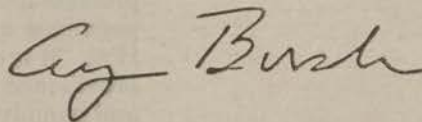
Know ye that the Lord He is God: it is He that hath made us, and not we ourselves; we are His people, and the sheep of His pasture.

Enter into His gates with thanksgiving, and into His courts with praise: be thankful unto Him, and bless His name.

For the Lord is good; His mercy is everlasting; and His truth endureth to all generations.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim Thursday, November 23, 1989, as a National Day of Thanksgiving, and I call upon the American people to gather together in homes and places of worship on that day of thanks to affirm by their prayers and their gratitude the many blessings God has bestowed upon us and our Nation.

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



[FR Doc. 89-27563

Filed 11-20-89; 10:52 am]

Billing code 3195-01-M

Editorial note: For the President's remarks on Nov. 17, on signing Proclamation 6073, see the *Weekly Compilation of Presidential Documents* (vol. 25, no. 46).

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Vol. 54, No. 223

Tuesday, November 21, 1989

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S. 750/Pub. L. 101-155

To extend the deadlines under the Federal Power Act applicable to the construction of a hydroelectric project in the State of Washington. (Nov. 15, 1989; 103 Stat. 935; 1 page) Price: \$1.00

S. 1827/Pub. L. 101-156

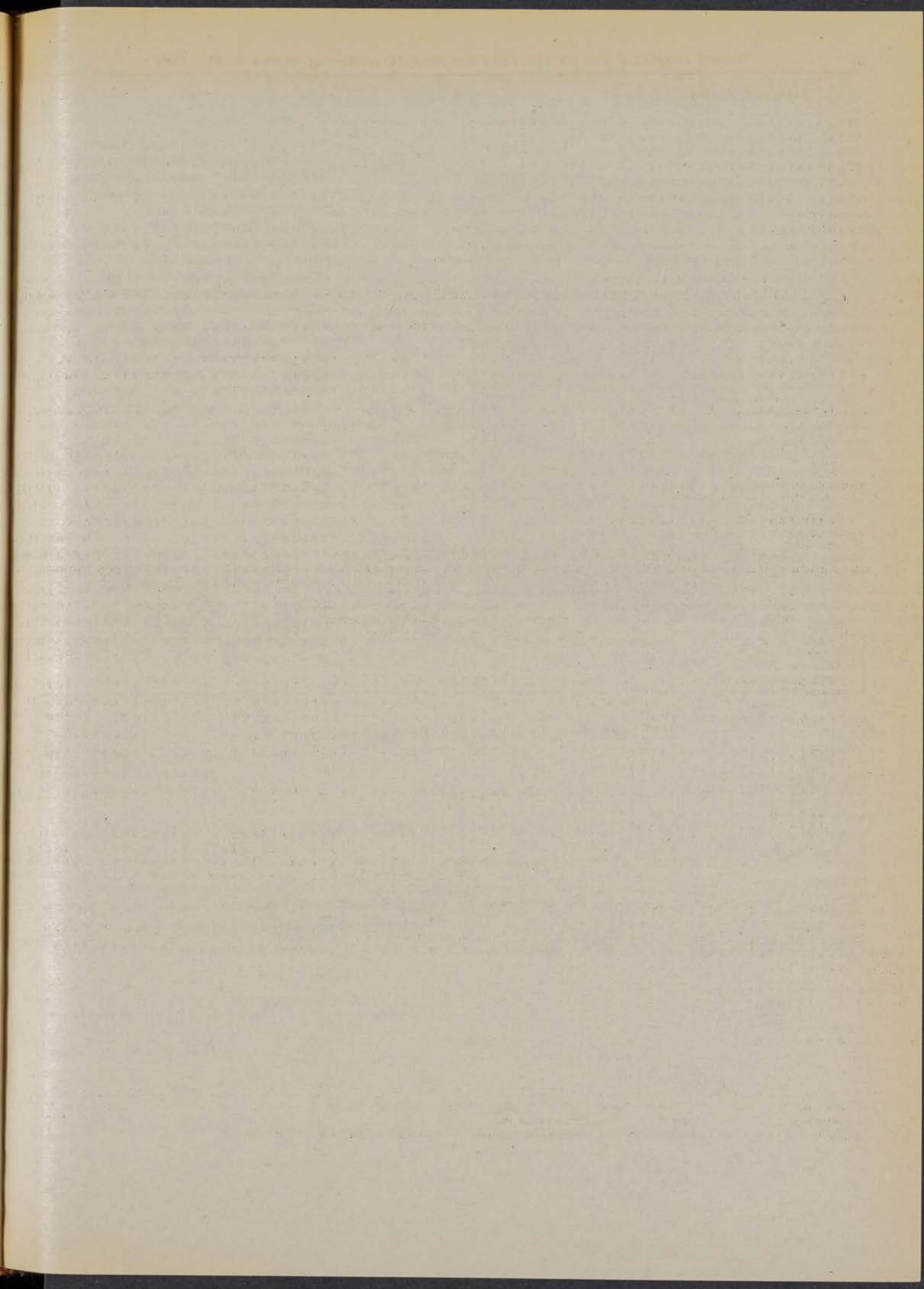
To revise and clarify the authority of the Administrator of General Services relating to the acquisition and management of certain property in the city of New York. Nov. 16, 1989; 103 Stat. 936; 2 pages) Price: \$1.00

In the List of Public Laws printed in the **Federal Register** on November 16, 1989, S.J. Res. 194, Pub. L. 101-150, was incorrectly printed as S.J. Res. 149.

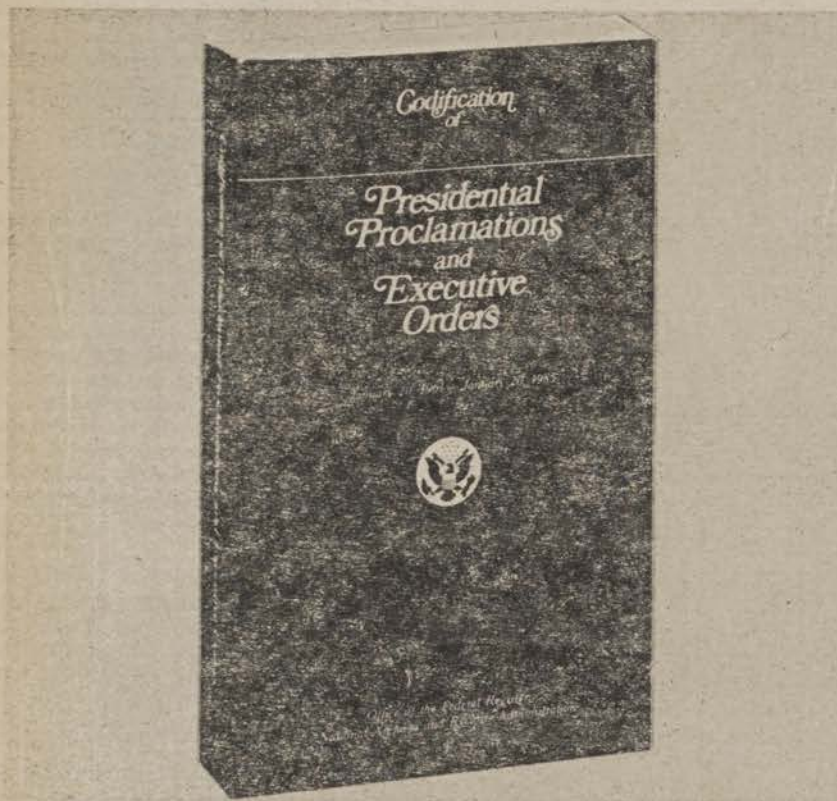
It should read as follows:

S.J. Res. 194/Pub. L. 101-150

Designating November 12, through 18, 1989 as "National Glaucoma Awareness Week". (Nov. 13, 1989; 103 Stat. 930; 1 page) Price \$1.00



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