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DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1951, 1962, and 1965

Processing of Loan Assumptions

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations regarding the internal processing of loan assumptions and other changes in loan terms. Form FmHA 1965–22, Information on Assumption on New Terms or Other Change of Terms, and Form FmHA 1965–23, Supplemental Information on Assumption and/or Change of Terms, are being eliminated and the transactions will be entered into the FmHA field office terminal system directly from the legal documents. The intended outcome of this action is to improve productivity and reduce paperwork in field offices.

EFFECTIVE DATE: January 30, 1991.

FOR FURTHER INFORMATION CONTACT: Tony Bainbridge, Accountant, Accounting Policy and Procedures Section II, FmHA, USDA, Finance Office, 1520 Market Street, St. Louis, Missouri 63103, telephone FTS 262–6026 or commercial (314) 539–6026.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291, and since this action has no impact on FmHA borrowers or other members of the public, it has been determined to be exempt from those requirements because it involves only internal Agency management. It is the policy of this Department to publish for comment rules relating to public property, loans, grants, benefits, or contracts, notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since it involves only internal Agency management and publication for comment is unnecessary. Specifically, the procedures are revised to eliminate the use of unnecessary forms and allow the FmHA field office to enter the assumption transactions directly from the legal documents. The following legal documents will be used in place of Form FmHA 1965–22 and Form FmHA 1965–23: Form FmHA 452–2, Reamortization and Deferral Agreement, 1940–17, Promisory Note, 1940–18, Promisory Note for Softwood Timber Loans, 1965–11, Accelerated Repayment Agreement, 1965–13, Assumption Agreement (Farmer Program Loans) and 1965–15, Assumption Agreement (Single Family Housing Loans). Also references to Form FmHA 451–31, Borrower Transaction Record, and Form FmHA 451–25, Status of Account, are being deleted due to obsolescence of these forms.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." FmHA has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an environmental impact statement is not required.

Programs Affected

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

10.404 Emergency Loans
10.406 Farm Operating Loans
10.407 Farm Ownership Loans
10.410 Low Income Housing Loans
10.416 Soil and Water Loans
10.417 Very Low-Income Housing Repair Loans and Grants

Intergovernmental Consultation

For the reasons set forth in the final rule related to notice 7 CFR part 3015, subpart V, (48 FR 29115, June 24, 1983) this program/activity is excluded from the scope of Executive Orer 12372 which requires intergovernmental consultation with State and local officials. This action does not directly affect any FmHA programs and projects which are subject to intergovernmental consultation.

List of subjects

7 CFR part 1951

Accounting servicing, Debt restructuring, Credit, Loan programs—Agriculture, Loan programs—Housing and community development, Low and moderate income housing loans—Servicing.

7 CFR part 1962

Crops, Government property, Livestock, Loan programs—Agriculture, Rural areas.

7 CFR part 1965

Administrative practice and procedure, Foreclosure, Loan programs—Agriculture, Loan programs—Housing and community development, Low and moderate income housing—Rental, Mortgages, Rural areas.

Accordingly, chapter XVIII, title 7, of the Code of Federal Regulations is amended as follows:

PART 1951—SERVICING AND COLLECTIONS

1. The authority citation for part 1951 continues to read as follows:

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

Subpart A—Account Servicing Policies

2. Section 1951.25 is amended by revising the introductory text of paragraph (c)(2) to read as follows:

§ 1951.25 Review of limited resource FO and OL loans.

* * * * *

(c) * * *

(2) When the interest rate is increased to the current rate, the loan will be recorded as a regular loan and will no longer be considered a limited resource loan. The borrower must be notified in writing at least 30 days prior to the date of the change. Exhibit B of this subpart may be used as a guide. The effective date of the change in interest rate will be the effective date on Exhibit B. The borrower must be informed of the following for each loan:

* * * * *

3. Exhibit B to subpart A is revised to read as follows:

Exhibit B—Notice of Change in Interest Rate

(insert date)
Notice of Change in Interest Rate

(insert borrower's address)
Re: ☐☐
Fund code
☐☐
Loan number
☐☐
Kind code

Dear (*insert borrower's name and case number*): Your promissory note dated ———, for the original amount of ——— dollars ($———) provides for a change in interest rate for a limited resource loan in accordance with the Farmers Home Administration regulations.

Effective (insert date) the interest rate on this loan will be —— percent (%) on the unpaid principal balance. Your installment due January 1, 19 , will be ——— dollars ($———). This change in interest rate is for the reason indicated below.

☐ Increase in repayment ability as per Farm and Home Plan dated ———.
☐ *(insert reason if other than above for increase in interest rate).*

You may appeal this action by writing to (*hearing officer*), (*address*), within 30 calendar days of the date of this letter, giving the reason why you believe this matter should be decided differently. This time may be extended if you cannot notify the hearing officer within 30 days for reasons beyond your control.

Subpart G—Borrower Supervision, Servicing and Collection of Single Family Housing Loan Accounts

4. Section 1951.314 is amended by revising paragraph (b)(1) to read as follows:

§ 1951.314 Reamortizations.

* * * * *

(b) * * *

(1) Form FmHA 452–2, "Reamortization and/or Deferral Agreement," will be completed in accordance with the FMI and processed via the FmHA field office terminal system.

* * * * *

Subpart S—Farmer Programs Account Servicing Policies

5. Section 1951.909 is amended by revising paragraph (e)(3)(vii)(B), the fourth sentence of paragraph (e)(4)(iv)(B) and paragraph (j)(5) to read as follows:

§ 1951.909 Processing primary loan service programs requests.

* * * * *

(e) * * *
(3) * * *
(vii) * * *

(B) The FmHA field office will process the reamortization, reschedule, or consolidation via the FmHA field office terminal system in accordance wtih Form FmHA 1940–17. The FmHA Finance Office will remove the borrower's name from the delinquency report.

* * * * *

(4) * * *
(iv) * * *

(B) * * * The County Office will forward to the Finance Office Exhibit B of subpart A of part 1951, any time the interest rate is changed on a note during the set-aside period. * * *

* * * * *

(j) * * *

(5) The FmHA field office will process the reamortization or consolidation via the FmHA field office terminal system in accordance with Form FmHA 1940–17, and complete Exhibit D of this subpart.

* * * * *

6. Exhibit G to subpart S is amended by revising the last sentence of paragraph VI and the sixth sentence of paragraph VIII(D) to read as follows:

Exhibit G of Subpart S Deferral Reamortization and Reclassification of Distressed Farmer Program (FP) Loans for Softwood Timber Production (ST) Loans.

* * * * *

VI. *Distressed reamortized loan approval or disapproval.*

* * * The FmHA field office will process the reamortization via the FmHA field office terminal system in accordance with Form FmHA 1940–18.

* * * * *

VIII. *Processing of ST Loans.*

* * * * *

(D) * * * The FMI for Form FmHA 1940–17 has examples (IV and V) which explain this procedure. * * *

* * * * *

PART 1962—PERSONAL PROPERTY

7. The authority citation for part 1962 continues to read as follows:

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

Subpart A—Servicing and Liquidation of Chattel Security

8. Section 1962.34 is amended by removing paragraphs (f)(12) and (f)(13) and revising the first sentence in paragraph (g)(3)(i) to read as follows:

§ 1962.34 Transfer of chattel security and EO property and assumption of debts.

* * * * *

(g) * * *
(3) * * *

(i) During the period that a transfer is pending in the County Office, payments received by the Finance Office will continue to be applied to the transferor's account, and Form FmHA 451–26, "Transaction Record," will be forwarded to the County Office. * * *

* * * * *

PART 165—REAL PROPERTY

9. The authority citation for part 1965 continues to read as follows:

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

Subpart A—Servicing of Real Estate Security for Farmer Program Loans and Certain Note-Only Cases

10. Section 1965.27 is amended by removing the last sentence in paragraph (e), adding a new fourth sentence between existing third and fourth sentences in paragraph (b)(5) and revising the fifth sentence in paragraph (c)(2), the fourth sentence in the introductory text of paragraph (d) and paragraph (g)(9) to read as follows:

§ 1965.27 Transfer of real estate security.

* * * * *

(b) * * *

(5) * * * Form FmHA 1965–13 will be processed via the FmHA field office terminal system. * * *

* * * * *

(c) * * *

(2) * * * The FmHA field office will process the assumption via the FmHA field office terminal system in accordance with Form FmHA 1965–13 or 1965–15 as appropriate. * * *

* * * * *

(d) * * * The FmHA field office will process the assumption via the FmHA field office terminal system in accordance with Form FmHA 1965–13 or 1965–15 as appropriate. * * *

* * * * *

(g) * * *

(9) *Assumption agreements, releases from personal liability, receipts.* When the full amount of the debt is assumed or a release from personal liability is otherwise approved under this subpart and all of the security is being transferred, Forms FmHA 1965–13; 460–9 (as applicable); 451–1, "Acknowledgment of Cash Payment;" and 1965–8, will be prepared and distributed according to the FMI.

* * * * *

Subpart C—Security Servicing for Single Family Rural Housing Loans

11. Section 1965.125 is amended by revising the third sentence in paragraph (a)(3) to read as follows:

§ 1965.125 Liquidation.

* * * * *

(a) * * *

(3) * * * The FmHA field offices will process the accelerated repayment agreement via the FmHA field office terminal system in accordance with Form FmHA 1965–11. * * *

* * * * *

(12) Section 1965.127 is amended by revising paragraph (b)(1)(ii) to read as follows:

§ 1965.127 Release from liability.

* * * * *

(b) * * *

(1) * * *

(ii) Form FmHA 1965–15, or other legal documents are processed via the field office terminal system indicating the transferor is released from liability.

* * * * *

Dated: January 4, 1991.

La Verne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 91–2111 Filed 1–29–91; 8:45 am]

BILLING CODE 3410–07

FARM CREDIT ADMINISTRATION

12 CFR Part 611

RIN 3052–AB12

Organization; Reorganization Authorities for System Institutions

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA), by the Farm Credit Administration Board (Board), adopts final regulations that amend 12 CFR part 611, that were published as proposed regulations on July 12, 1990, 55 FR 28639. These final regulations reflect amendments to the Farm Credit Act of 1971, as amended (Act) by the Agricultural Credit Act of 1987, Public Law 100–233 (1987 Act). The amendments made by the 1987 Act established a procedure under which a Farm Credit institution may terminate its Farm Credit charter by becoming chartered as a financial institution under other Federal or State authority. The Act imposes certain requirements on an institution that wishes to terminate its status as a Farm Credit institution and authorizes the FCA to impose by regulation such other conditions as the FCA considers appropriate. These regulations which are adopted as final are applicable to associations whose direct loan from the Farm Credit Bank from which it is a borrower does not constitute a significant proportion of the bank's total loans, or whose investment in the bank does not constitute a significant proportion of the bank's capital. On August 15, 1990, the Board extended the original 30-day comment period for the proposed regulations to October 1, 1990 (55 FR 34024). As noted in the summary to the proposed regulations, proposed regulations governing the termination of Farm Credit status of other institutions will be published at a later date.

The effect of the final regulations is to provide procedures to implement new § 7.10 of the Act, which provides that a Farm Credit institution may terminate its Farm Credit status if it satisfies certain enumerated statutory requirements. The final regulations also implement §§ 7.11 and 7.9 of the Act as they apply to terminations. Section 7.11 provides for FCA Board approval of the plan of termination for submission to stockholders, and § 7.9 provides stockholders the opportunity to petition for a reconsideration vote following a stockholder vote in favor of termination.

DATES: These regulations shall become effective on the expiration of 30 days after this publication during which either or both Houses of Congress are in session. Notice of the effective date will be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT:

Robert S. Child, Senior Credit Specialist, Office of Examination, Farm Credit Administration, McLean, Virginia 22101–5090, (703) 883–4402, TDD (703) 883–4444;

or

Rebecca S. Orlich, Attorney, Office of General Counsel, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: On December 18, 1989, the FCA published an Advance Notice of Proposed Rulemaking (ANPRM) (54 FR 51763) requesting comments on the manner and process for implementing the new procedures under the Act. Based on the comments received in response to the ANPRM and all other relevant factors, the FCA determined to promulgate separate regulations for banks, associations whose capital or assets constitute a significant proportion of the capital or assets of the bank of which they are borrowers, and other associations. On July 12, 1990, the FCA published for public comment (55 FR 28639) proposed amendments to 12 CFR part 611 relating to the termination of Farm Credit status of small Farm Credit associations. The proposed amendments implement § 7.10 of the Act, which was added by the 1987 Act and which provides that a Farm Credit institution may terminate its status as a Farm Credit institution if it satisfies certain enumerated requirements. The FCA noted in the preamble to the proposed regulations that it had determined to promulgate separate regulations for the termination of associations whose assets or capital constitutes a significant proportion of the assets or capital of the bank from which it is a borrower. The proposed regulations published in the **Federal Register** on July 12, 1990 pertain to the termination of associations whose assets or capital constitutes less than 25 percent of the assets or capital of the bank from which it is a borrower. The comment period, which originally expired on August 13, 1990, was extended to October 1, 1990 by action of the Board on August 15, 1990 (55 FR 34024).

The FCA received comments from two members of the U.S. Senate, three members of the U.S. House of Representatives, the Farm Credit Council (FCC) on behalf of its member institutions, two Farm Credit Banks (FCBs), four Farm Credit associations, one law firm on behalf of seven Farm Credit associations, and a trade association primarily representing community banks. The comments were reviewed and considered in the development of these final regulations.

The following discussion summarizes the comments received on proposed regulations adopted as final regulations and the FCA's response to the comments. The discussion is presented in the numerical order of the sections of the regulation with explanations of the proposed regulations, followed by an explanation of the revisions made in the final regulations. In addition to the revisions to the proposed regulations in response to the comments that are discussed below, technical and clarifying changes to language of the proposed regulations have been made in the final regulations.

Part 611—Organization

Subpart P—Termination of Farm Credit Status—Associations

Section 611.1200—General—Applicability

Section 611.1200 of the proposed regulations provides that these regulations set forth the requirements applicable to the termination of Farm Credit status of an association that seeks a new charter as a national or State bank, savings and loan association, or other type of financial institution. Paragraph (c) of this section further provides that these regulations do not apply to those associations whose capital or assets constitute 25

percent or more of the capital or assets of the bank from which it is a borrower. The FCC commented that the 25 percent test should be clarified to indicate the date of the calculation and the type of capital and assets to be measured. In the final regulation, the 25 percent test has been retained, but the measurement has been changed to a measurement of either the terminating association's investment in the bank as a proportion of the bank's capital, or the terminating association's direct loan from the bank as a proportion of the total loans of the bank. The change was made to provide a simpler means test to determine whether an association is subject to these regulations.

In the final regulation, the FCA has added a provision in paragraph (a) to permit the FCA Board to waive any requirement of the subpart for good cause shown. This waiver provision was added to respond to concerns expressed by some commenters that the proposed regulations do not contemplate or provide for all the possible corporate forms which the successor institution could take and all the possible methods of capitalization which could be utilized. This waiver provision will permit the FCA to waive requirements, especially with respect to information required to be disclosed in the information statement, which are duplicative or which are not relevant to a particular transaction and for which the terminating association can show good cause that the requirement should be waived. The FCA expects that such waivers limited primarily to procedural matters; any waivers of substantive requirements would be considered only in rare circumstances where there is a clear showing by the terminating association that compliance with a requirement would be unduly burdensome to the association or of no material value to the agency or any concerned parties. Of course, statutory requirements that are reiterated in these regulations would not be permitted to be waived under any circumstances.

Section 611.1205—Definitions

Section 611.1205 of the proposed regulations defines terms that are used throughout this subpart. The FCC noted that there are also definitions in § 611.1240(a) and commented that any of those terms that are also used outside of § 611.1240 should be defined in § 611.1205. It was the FCA's intention to provide definitions in § 611.1240(a) that are applicable only in § 611.1240. This has been clarified by revising the language of § 611.1240(a) to indicate that such definitions apply for purposes of that section only.

The FCC objected to the final sentence of the definition of "generally accepted accounting principles (GAAP)" in § 611.1205(b) as permitting the FCA to dictate and define generally accepted accounting principles. This provision in the proposed regulation was intended to allow the FCA to determine, for the purpose of these regulations, which interpretation of GAAP would apply in situations where more than one interpretation of an event is possible under GAAP. GAAP financial statements are required unless otherwise prescribed by the regulation. In situations where the FCA believes it is necessary to deal with a specific accounting issue not fully covered by GAAP, or in order to ensure that consistent practices are being followed by Farm Credit institutions, the FCA reserves the right to specify which interpretation of GAAP shall apply. The last sentence in the definition has been revised in the final regulation to clarify this position. No other revisions have been made to this section in the final regulation.

Section 611.1210—Advance Notification

Section 611.1210 of the proposed regulations provides that the board of directors of an association that seeks to terminate its status must commence the termination process by passing a board resolution and submitting a certified copy of the resolution to the FCA. Following the passage of the resolution, the association must provide appropriate disclosure of the proposed transaction to prospective borrowers, current equity holders and any persons who may purchase or retire association equity. During the time period between the commencement resolution and the effective date of termination, the association would be permitted to sell special classes of common stock and participation certificates that are identical to the classes of common stock (including voting stock) and participation certificates currently being issued, except that they would not entitle the holder to share in the excess of the adjusted book value of such equities over par in the event of termination. However, such stock and participation certificates could be sold only if the association's stockholders had previously approved, prior to the passage of the commencement resolution, a bylaw providing for the issuance of such equities. In addition, the proposed regulations provide that the association must compute and submit an estimated exit fee to the FCA within 15 days of the date upon which the commencement resolution is submitted. Under the proposed regulation, the FCA would have 45 days following receipt of the estimated exit fee to notify the association of its agreement or disagreement with the association's estimated exit fee and, should there be a disagreement, of any revisions which the association must make to the computation. The association would have the opportunity to request the FCA to reconsider its decision, in which case the FCA would then have 15 days to confirm or revise its computation.

The FCA received a variety of comments on this section. Some commenters objected to what they described as a "slowing down" of the termination process by requiring that the estimated exit fee be submitted to the FCA prior to the time the termination plan is submitted to the FCA for preliminary approval. One commenter further objected to the requirement that the commencement resolution, the announcement to present and prospective stockholders, and the estimated exit fee be submitted to the FCA prior to the time the termination plan and disclosure materials are submitted to the FCA for approval. Another commenter suggested that the 45-day period during which the FCA would determine whether to require any revisions to the terminating association's estimate of its exit fee be reduced to 30 days.

In response to these comments, the FCA has revised proposed § 611.1212, which pertains to the filing date, to eliminate the provision that a termination application could not be accepted for filing until the FCA and the terminating association reach agreement on the amount of the exit fee. Failure to reach agreement with the FCA on the exit fee could then become a basis for the FCA's disapproval of the application. With the elimination of that provision, the FCA believes that the requirements in this section pertaining to the advance notification and the estimated exit fee will not appreciably delay the termination process, if indeed there is any delay at all; furthermore, any delay that may occur is considered reasonable and necessary in light of the interests protected.

First, stockholders must be informed of association actions that may affect their investment or borrowing decisions. As soon as the association begins the termination process, the nature of an equity holder's investment in the association changes because there is a real possibility that the holder's equity interest could become an interest in another equity of a type wholly unanticipated by the holder. Moreover,

common stockholders and participation certificate holders who continue to hold an interest in the terminating association could be in a position to share in any excess of the adjusted book value over par of the terminating association, an opportunity provided only in the event of termination or liquidation. One of the primary reasons for requiring advance notification is to ensure that these current and prospective equity holders are provided with adequate information regarding the future prospects of the association, so that they will be able to make informed decisions with respect to their investments in the association. If notice of the transaction were not given to stockholders until the association submitted its application to the FCA, the current and prospective stockholders would be making investment and borrowing decisions with incomplete information, and this could expose the association to a suit by stockholders who bought or sold stock during this period.

Secondly, there are several reasons why the FCA needs to be notified of the association's intention to terminate at an early stage. The FCA will commence a search for a replacement association during this period to take over the service territory of the terminating association. The FCA believes the continuation of Farm Credit service to the territory to be of prime importance in fulfilling the objective of the Act to provide an adequate and flexible flow of credit to farmers and farm-related businesses. In addition, because the successor institution will likely be in direct competition with other Farm Credit associations, the FCA may wish to monitor carefully the activities of the terminating association to ensure that it does not take actions adverse to the interests of other Farm Credit institutions, including any institution that may replace the terminating association, and to ensure that the interests of borrowers and other stockholders are adequately protected. Also, the terminating association may not have been examined on-site by FCA examiners for 6 months or more, and the FCA may deem it prudent to perform an examination or other investigation prior to the time an exit fee is agreed upon. Consequently, because of this and numerous other matters that must be considered in the calculation of the exit fee, the FCA does not see any merit in reducing the 45-day period allowed for reviewing the terminating association's estimate of the exit fee, particularly since the FCA does not believe any delay in the submission of the termination application will result.

Thirdly, it is in the terminating association's best interest to know at the earliest possible date the estimated amount of the exit fee, not only for the purpose of preparing the information statement, but also to enable the association to engage in future planning with a relatively accurate count of the capital that will transfer to the successor institution. The Act does not ensure that an association can retain whatever amount of capital is required by the new chartering authority to capitalize the successor institution; the Act merely states that the total capital in excess of 6 percent of "assets" is to be paid to the Farm Credit Assistance Fund or the Farm Credit Insurance Fund. Adjustments to the "assets" required by § 611.1240, whether they are additions (including any earnings of the association subsequent to the computation date) or subtractions, could result in an increase or decrease in the dollar amount of the capital that will transfer to the successor institution. Consequently, the association may find it necessary to raise additional capital by means of a stock offering or other financial arrangement, and knowledge of the estimated exit fee at an early state in the process would eliminate much of the guesswork and allow the association to fix the amount of additional capital needed.

Finally, FCA's experience with other corporate applications suggests that the lapse of time between the point at which the association begins to take action to terminate its Farm Credit status and the point at which the termination application is actually submitted to the FCA will be considerably longer than the 60 days provided in this regulation. For example, an FCA staff survey of five district banks has revealed that, on average, a minimum of 4.2 months lapsed between an association's decision to pursue reorganization and the actual submission of the reorganization application to the FCA. A termination process is likely to require an even longer preparation period because of the variety of actions that need to be taken and matters that need to be resolved. Matters such as arranging financing for the successor institution, which may include a public stock offering, arranging with other Farm Credit institutions for the payment of debt obligations and retirement of equities, and obtaining a charter from the new chartering authority are likely to require more than 60 days.

Several commenters suggested that the requirement contained in § 611.1210(e) to permit stockholders to amend the capital-related bylaws to permit the institution to issue special classes of common stock and participation certificates in the event of termination was unnecessary because the board of directors could amend the bylaws without having to consult the stockholders on matters that would not materially affect their interest. While these commenters are stating positions which are in accord with general corporate law principles, they do not correctly construe section 4.3A(b) of the Act, which mandates that capital bylaws authorizing the issuance of equities be approved by the stockholders. *See also* 12 CFR 615.5220. Accordingly, this requirement is unchanged in the final regulation.

One commenter suggested that § 611.1210(d)(2) and (e), which pertain to an equity holder's rights to obtain stock in the successor institution, be eliminated or modified to allow for the possibility of capitalization methods other than an exchange of stock for stock in the successor institution. The FCA does not believe these sections should be eliminated because, no matter what method is used to capitalize the successor institution, the equity holders will have a right to receive something in exchange for their ownership interests in the terminating association. Therefore, the FCA has determined to retain these provisions in the final regulation. However, it has revised the references to "stock" in the successor institution by substituting the broader term "interest" in the successor institution. The FCA has also changed the references to "voting stock" in § 611.1210(e) to read "common stock" to include holders of non-voting common stock, who would—along with voting common stockholders—otherwise be entitled to an amount equal to the adjusted book value of the holder's equity in the terminating association. In addition, the FCA has revised paragraph (e)(1) to indicate that holders of these special classes of stock or participation certificates would, in the event of termination, receive an interest in the successor institution equal to the lesser of either the price paid for the stock or participation certificate or the adjusted book value of such interest. This means that the holders of the special stock or certificates could receive less for their interests than they paid in the event that holders of regular common stock or participation certificates also receive less than the par or face value of their interest.

Section 611.1210(e)(1) has also been revised to require that a holder of a

special class of voting stock who is eligible to vote must vote against the termination in order to qualify to receive dissenters' rights—*i.e.*, the right to receive cash instead of an interest in the successor institution. This revision was made to make this paragraph consistent with requirements for eligible voting stockholders in the final regulations which differ from those in the proposed regulations (as explained more fully below). Holders of a special class of stock or participation certificates who are not eligible to vote may exercise dissenters' rights pursuant to the procedures set forth in § 611.1260.

Finally, in a general comment on this section, one respondent stated an opinion that the FCA's role in the termination process was limited solely to the assurance of full and fair disclosure of information to the stockholders. The respondent offered no support for this assertion in the language of the statute, in the legislative history, or otherwise, and the FCA has found none. On the contrary, at least three provisions of the Act indicate a much broader role. Section 7.10(a)(2) states that "the termination is [to be] approved by the [FCA] Board." The meaning of the word "termination" in this clause could not reasonably be interpreted to be limited to "adequacy of the disclosure materials submitted to stockholders." In addition, section 7.10(a)(7) broadly permits the FCA Board to add conditions to the termination as it "by regulation considers appropriate" in addition to those conditions specified in the statute. Since full and fair disclosure of the plan of termination is already implicitly required by section 7.11(a) of the statute, one can only conclude that the conditions which may be added by the FCA were intended to extend to matters beyond the adequacy of the disclosure materials. With such broad discretion to add other conditions of termination, it is unreasonable to assume that the scope of the FCA's review of the transaction is any less broad. Moreover, just as with any other action it takes, the FCA must be mindful of its responsibilities as the safety and soundness regulator of individual Farm Credit institutions and the Farm Credit System as a whole, and as the protector of the public interest as it relates to the System.

Section 611.1211—Filing of Termination Application

Section 611.1211 of the proposed regulations sets forth a list of the required contents of the termination application. The FCA received two comments on this section. The first comment was a suggestion that there be a provision that updated information not available at the time of filing may be submitted to stockholders. The FCA believes that applicants are already under an obligation to provide updated information that becomes available during the pendency of the termination application, particularly when it involves a material change to the information provided in the plan of termination. Otherwise, the stockholder and regulatory approvals of the termination may not be valid if the information disclosed to the stockholders and the FCA no longer accurately states the material facts concerning the transaction. However, to clarify this for applicants, the FCA has added paragraph (c) to the final regulations, which requires the submission to the FCA of any such updated material which becomes available between the time the application is submitted for filing and the time the termination becomes final.

A second comment was a suggestion that any additional information the FCA requests from the terminating association be required to be requested prior to the expiration of the 45-day period during which the FCA will review the association's estimated exit fee. The reason posited by the respondent for such a provision is that, if the association is not informed of the FCA's request prior to the time it submits the termination application, the application might be deemed incomplete when it is submitted. The FCA has considered this comment and determined not to make the suggested change. Since the FCA will not know what information is in the termination application until such time as it receives the application, it cannot determine what other information it may request until it has reviewed the application.

Section 611.1212—Filing Date of Termination Application

Section 611.1212(a) of the proposed regulations required that, upon receipt of the application, the FCA would have examined the contents to determine whether any of the required information had been omitted which would prevent the FCA from proceeding with a thorough review of the application. The FCA would have notified the applicant within 10 business days of the receipt of an application as to whether the application was substantially complete and therefore accepted for filing. If the application were not accepted for filing at that time, the applicant would have been notified of any deficiencies that had been identified, and the application would not have received a filing date until all deficiencies were addressed. During the time the FCA was awaiting a response to its notice of deficiencies from the terminating association, the FCA would have continued to review the application for other deficiencies and would have notified the association of any deficiencies found. Once the deficiencies were corrected and the application received a filing date, the statutory 30-day review period would have begun.

Paragraph (b) of the proposed regulation provided that a "substantially complete application" would consist of the information required to be submitted under § 611.1211.

Paragraph (c) of proposed regulation § 611.1212 provided that, in the case of an association which is the exclusive provider of the type of Farm Credit services it offers to all or a part of its service territory, there would be a period of at least 60 days between the date of receipt by the FCA of the commencement resolution and the filing date. Paragraph (d) of the proposed regulation provided that a termination application would not be accepted for filing until the FCA and the terminating association have agreed upon the amount of the exit fee.

The FCA received a number of comments regarding this proposed regulation. Several respondents objected to the 10-day review period for substantial completeness set forth in paragraph (a); one respondent asserted that the review for substantial completeness would add 10 days to the 30-day statutory review period provided in section 7.11(a)(2), while another respondent asserted that the FCA's continuing to review for completeness so long as there are deficiencies that have not been corrected could delay the statutory review period for an indefinite time.

The FCA believes that a short review period to determine whether an application is complete is warranted and appropriate because it is important for the FCA Board to have a complete record on which to make a decision. The FCA has found no support either in the language of section 7.11 of the Act or in that section's legislative history that would bar the provision of a period of 10 or more days to ensure that the application is complete before a substantive review of the application is performed. The FCA further believes that a prompt response regarding deficiencies within the first 10 business days of receipt of the termination application would expedite, rather than delay, the review process. However, in order to respond to commenters' concerns about what they perceive to be

a limitless review period by the agency, the FCA has revised the proposed regulation.

In the final regulation, the review for substantial completeness and the procedure for requesting additional information have been deleted. Instead, upon receipt of the application the FCA will have 10 business days to perform a preliminary review for technical completeness. The purpose of this review is to determine whether the application contains information pertaining to all items that are required to be submitted under § 611.1211. This review is not to determine whether the information submitted is substantively sufficient; rather, it is merely to determine facial compliance with the requirements of the regulation. If the FCA determines within the 10-day period that the application is technically complete, it will assign a filing date to the application and proceed with the 30-day substantive review as required by the statute. If the FCA determines that the application lacks information required to be submitted, the FCA will return the application to the terminating association as incomplete. If the application is returned for technical incompleteness, any resubmission of the application will re-commence the review process from the beginning of the review period. Thus, the FCA would again have 10 business days to review for technical completeness. If the FCA fails either to give the application a filing date or to return the application before the end of the 10-day period, the application will automatically be deemed to be technically complete, the filing date will be deemed to be the last day of the 10-day period, and the statutory review period will commence.

Once an application has received a filing date, the FCA Board will have 30 days to act on the application, and such action could include, but is not limited to, a disapproval on the ground of substantive insufficiency of the information submitted or a failure of the terminating association to agree with the FCA on the amount of the exit fee. Once an application is disapproved, any re-submission by the terminating association would be treated as an entirely new submission and would re-commence the review periods, beginning with the 10-day review period for technical completeness and, if the application receives a filing date, 30 days for a substantive review by the FCA.

The FCA believes that the revisions in the final regulations will respond to commenter's concerns regarding an indefinite delay in the review period and will provide more certainty as to the time during which the FCA will have the application under review. The time period for the entire termination process will depend upon when the terminating association submits an application that contains all of the information that is necessary for the FCA Board to make a decision to approve or disapprove the application.

The revisions that are adopted in the final regulations are similar to regulations adopted in 1984 by the Federal Reserve Board (FRB) which set forth the procedures to apply for approval of acquisitions of bank securities and assets. *See* 49 FR 805 (January 5, 1984). As noted in the Supplementary Information to those regulations, the FRB's intent was to prevent unjustifiable delay in processing time for review of the application, while at the same time assuring that the FRB have a complete record on which to make its decision. The FCA believes that its final regulations will serve the same purposes and will result in a significant benefit to associations.

Several respondents commented on the 60-day period provided in paragraph (c) of the proposed regulation for the FCA to seek a replacement association for the territory of the terminating association. The FCC registered its strong support for finding another association to serve that territory, while several other respondents commented that the FCA was attempting to expand the 30-day statutory review period to a 90-day period. Yet another respondent commented that there is no reason to delay the commencement of the statutory review period if a replacement association is located prior to the expiration of the 60 days provided in proposed § 611.1212(c). The FCA has considered all these comments and has determined not to eliminate the 60-day period because the location of a replacement institution is of prime importance in achieving the Act's purpose of ensuring the availability of an adequate and flexible flow of money into rural areas. However, the FCA agrees that, if a replacement association is found before the expiration of 60 days from the FCA's receipt of the commencement resolution, the filing date for the application need not be further delayed. Accordingly, paragraph (c) of the proposed regulation has been redesignated as paragraph (b) in the final regulation and has been amended to provide that the FCA may in its discretion waive any or all of the 60-day period. This will allow the FCA to set a filing date before the end of such period if an agreement acceptable to the FCA for a new service provider has been reached before that time.

Section 611.1215—Farm Credit Administration Review and Approval

Section 611.1215 of the proposed regulations set forth the statutory time constraints for FCA Board review and enumerated the conditions that must be fulfilled in order to obtain final approval of the termination and revocation of the Farm Credit charter.

Several respondents commented on the use of the term "preliminary approval" in paragraphs (a) and (b), noting that the term is not found in the statute. One respondent further asserted that the approvals required by sections 7.10(a)(2) and 7.11(a)(2) were one and the same. The FCA Board believes that it is clear from the face of the statute that two separate approvals are referred to in the two sections of the statute and that the approval in section 7.10 is a necessary condition of termination, whereas the section 7.11 approval is not required if the Board takes no action before the end of the 30-day review period. The FCA Board chose the term "preliminary approval" to refer to the approval that is provided in section 7.11(a)(1) of the Act, which is the approval of the plan of termination for submission to the stockholders, in order to distinguish this approval from the approval of the termination itself which is required by section 7.10(a)(2) of the Act. Receipt of preliminary approval means only that the plan may be submitted to the stockholders, and if the FCA Board fails to act within 30 days after the filing date, the vote may take place without preliminary approval. Following a stockholder vote in favor of the termination, the section 7.10(a)(2) approval must still be obtained from the FCA Board. This final approval will be granted only after the occurrence of the events listed in paragraph (e) of this regulation. In order to distinguish the two separate approvals provided for in the Act, paragraphs (a), (b), and (e) of the final regulation have been revised to indicate that preliminary approval is the approval required by section 7.11(a)(2) of the Act, and final approval is the approval required by section 7.10(a)(2) of the Act.

Several comments were received regarding the conditions for final approval listed in paragraph (e). One respondent suggested that the submission of satisfactory evidence of the terminating association's adequate provision for payment of debts and retirement of equities, which is required by paragraph (e)(3), would be more appropriately dealt with in the

application process. The FCA Board believes that this respondent has misconstrued the intent of this provision. A plan for the payment of debts and retirement of equities must be included in the termination application. As a condition of final approval, the terminating association must provide evidence that the plan has actually been, or is actually being, carried out. Such evidence could include, for example, a signed and executed agreement to pay off the direct loan to the FCB over a 3-year period, or a copy of a proposed notice to be sent to all creditors stating that the obligations of the association will be assumed by the successor institution.

Some commenters objected to paragraph (e)(6) of the proposed regulations, which conditions final approval upon the "fulfillment of any other condition of termination imposed by the [FCA] Board." The substance of the comments was that this provision would give the Board "unbridled authority" to impose "additional, ad hoc" conditions on the termination.

The FCA Board disagrees with the implication in these comments that this provision would authorize it to impose conditions in an arbitrary, improper manner. The import of this provision is rather that the FCA Board would have the flexibility to adapt its condition of termination to the particular circumstances of each individual case. The Board has tried to address in these regulations all of the concerns that may arise in connection with a termination but recognizes that it cannot foresee and provide for every eventuality, especially in light of the diverse ways in which a termination could be structured and the variety of possible entities that could result. The FCA is particularly concerned that the application of these regulations should not have the unintended effect of treating parties to the transaction inequitably. For this reason, as noted above § 611.1200(a) of the final regulations provides that the FCA Board may in its sole discretion waive any regulatory requirement of this subpart for good cause shown; it is believed that a corresponding provision allowing the Board to require the fulfillment of other conditions is appropriate. Therefore, the FCA Board has decided to retain the provision in the final regulations. However, in response to the concerns of the commenters, the language has been revised to state more clearly the FCA's intention in proposing the provision. The final regulations allow the FCA to impose any additional conditions as necessary or appropriate to provide for the equitable treatment of the parties affected by the termination.

One respondent objected to the 90-day notice referred to in paragraph (f)(2) as an unjustifiable delay in the termination process. The FCA Board notes that the 90-day notice is a requirement of section 7.10(a)(1) of the Act and therefore cannot be eliminated in the regulation.

Finally, one commenter stated that the FCA has only "limited authority" to disapprove a plan for submission to a vote of the stockholders. The FCA Board believes that there is no support for this position, either on the face of the statute or in the legislative history. On the contrary, section 7.10(a)(7) of the statute empowers the FCA Board to place additional conditions on the termination as the Board by regulation deems appropriate. Such a broad grant of authority is entirely inconsistent with the commenter's assertion that the Board has only limited approval authority.

Section 611.1220—Voting Record Date and Stockholder Approval

Section 611.1220 establishes the procedures by which the stockholders of the terminating association shall vote on and approve the proposal to terminate Farm Credit status. The FCA received one comment from the FCC suggesting that paragraph (e), which pertains to notification to stockholders of the results of the stockholder vote, contain a cross-reference to § 611.1260(f), which describes what information must be provided to the stockholders in such notification. The FCA has incorporated this suggestion in the final regulations. Otherwise, the regulation is adopted as proposed.

Section 611.1225—Requirements for Information Statement

Section 611.1225 of the proposed regulations specifies the types of disclosures that must be provided in an information statement prior to a stockholder vote on the termination.

The language of paragraph (f) has been revised to clarify that the summary of organizational documents should indicate both whether a borrower must hold stock in the successor institution as a condition of receiving a loan and whether a stockholder must be a borrower as a condition for purchasing stock.

The FCC recommended additions to paragraph (h), which requires the terminating association to include information pertaining to whether borrower rights would be continued and how a borrower may proceed to seek to have a loan transferred to the new service provider. The FCC suggested that the information statement also give the telephone number of the new service provider, together with a statement that the new service provider has the option to accept or reject any loan which a borrower may request to transfer. The FCA believes that the suggested additions provide useful information to the stockholders and has incorporated them in the final regulations. The language of this paragraph has also been revised to clarify that a "transfer" of the borrower's loan to another Farm Credit institution authorized to make or purchase such loan would involve a sale to or refinancing of the loan by that institution, and further that a borrower is free to seek refinancing with lending institutions that are not Farm Credit institutions.

The references to "stock" in paragraph (i) have been revised to include other types of equity or consideration which equity holders may receive in exchange for their interests at termination. This change is in accord with the changes made in the final regulations to proposed § 611.1210 (d)(2) and (e).

Paragraph (s) of the proposed regulation has been revised in the final regulation to reflect the changes made to the dissenters' rights provisions in § 611.1260 in the final regulations.

Another recommendation of the FCC was that the statement signed by the chief executive officer and all directors required in paragraph (t)(3)(i) be a statement made to the best of the knowledge of management of the association as well as to the best of the knowledge of the board of directors. The FCA concurs that the chief executive officer, who is not a member of the board of directors, should make a representation as to the best of his knowledge, not that of the board. Therefore, the language has been revised in the final regulation to state that each person signing is representing that the information is fairly and accurately presented to the best of his or her own knowledge.

An association observed that some terminations may be structured so that stockholders of the terminating association who do not dissent from the termination would receive consideration other than stock in the successor institution in exchange for their shares. The FCA has made minor changes to the language of paragraphs (g) and (i) in order to provide for such circumstances.

The final regulation contains no other revisions from the proposed regulation.

Section 611.1226—Prohibited Acts

Section 611.1226 prohibits the making of untrue or misleading statements of fact, omissions of material facts, or representations concerning the proposed termination and FCA approvals of the termination. In the final regulation, the phrase "in order to influence the outcome of the vote on the proposed termination" was deleted from paragraph (a) of the proposed regulations. The FCA believes that the making of any untrue or misleading statement of a material fact, or the failure to disclose any material fact, should be prohibited under all circumstances, irrespective of the purpose of such statement or omission. The FCA received no comments on this section of the proposed regulations and adopts it as a final regulation with no other changes.

Section 611.1230—Plan of Termination

The FCA received no comments on this section of the proposed regulations and adopts it as a final regulation without change.

Section 611.1235—Stockholder Reconsideration

Section 611.1235 provides stockholders with the right to reconsider their approval of the termination in accordance with section 7.9 of the Act. In the final regulation, the word "immediately" was added to the first sentence of paragraph (f) to indicate that the terminating association must furnish a list of eligible voting stockholders without delay to any petitioning stockholders. Since the stockholders have a very limited time in which to petition for such reconsideration, time is of the essence, and the association should not prevent or make more difficult the petitioners' undertaking by its own actions. The FCA received no comments on this section of the proposed regulations and adopts it as a final regulation without any other changes.

Section 611.1240—Exit Fee

Section 611.1240 sets forth the procedure for computing the exit fee.

The proposed regulations provided that the exit fee was to be computed as of the quarter end preceding the filing date (computation date) and that the computation was to be based upon the average daily balance of assets and capital for the 12 months preceding the computation date. The proposed regulations further permitted the FCA to make adjustments to the average daily balance of capital and assets and recompute the exit fee in light of items such as the following: (1) Certain transactions or activities of the association unrelated to its core business such as additions to assets, excessive dividend or patronage distributions, or changes in the capitalization plan; (2) contingent liabilities, such as loss-sharing agreements, that can be reasonably quantified; (3) unrecorded or undervalued assets; (4) capital owned by other Farm Credit institutions or the Financial Assistance Corporation (FAC); and (5) expenses incurred in connection with the termination.

The comments received by the FCA on the exit fee provisions ranged from full support to outright rejection of the proposed computation. The FCA notes that no specific objections were received regarding the use of the average daily balance of assets to correct significant seasonal fluctuations in the level of assets throughout the year. Nor were there objections regarding adjustments made for the purpose of more accurately reflecting the value of an asset, such as requiring an appraisal for undervalued or overvalued assets on the association's books, or adjustments to reverse the impact of transactions that were undertaken to assure or improve the financial health of the association but that have the unintended effect of increasing the exit fee.

The substance of the comments objecting to the calculation was that Congress intended for a terminating association to be able to retain enough capital to be a viable institution upon termination and to meet the minimum bank capital standards. The commenters claimed, therefore, that Congress intended that the terminating association be able, irrespective of any special circumstances, to transfer an amount of capital equal to 6 percent of its assets to the successor institution on the termination date. These commenters contended that the exit fee as proposed by the FCA improperly operates as a penalty and that the adjustments make it impossible to terminate Farm Credit status. In particular, they have asserted that a terminating association would be "penalized" for taking legally permissible actions for which there may be "sound business reasons" but which also result in a lower exit fee.

The FCA disagrees with the commenters' general assertion that Congress intended to give a terminating association the absolute right to capitalize the successor institution with 6 percent of its assets computed on the termination date. The Act does not by its terms ensure that an association can retain 6 percent or whatever amount of capital is required by the new chartering authority; it merely states that the total capital in excess of 6 percent of "assets" is to be paid to the Farm Credit Assistance Fund or the Farm Credit Insurance Fund. Nor do these regulations ensure that an association will transfer exactly 6 percent of its assets to its successor. Rather, the amount transferred could vary according to timing and circumstances. A computation made as of the termination date, a date selected by the terminating association, without using an average daily balance of assets and without adjustments for discretionary actions unrelated to the core business or for capital retirement outside the ordinary course of business could encourage the association to engage in manipulative activities with respect to both the timing of termination and capital of the association that are not in the best long-term interests of either the terminating association or its successor. By the same token, such a computation could also encourage an association to refrain from taking beneficial actions if such actions were to result in a higher exit fee. The FCA does not believe that the Act must or should be interpreted to encourage or permit such outcomes and has, accordingly, framed its regulations to neutralize the effect of timing decisions and discretionary actions that increase, decrease or eliminate the exit fee. In this way, the association will be neither "penalized" for taking actions in its best interest, nor rewarded for engaging in manipulative actions to lower the exit fee.

The respondents asserting a general position that an association have 6 percent of capital on the day it terminates have also raised specific objections to two types of adjustments: expenses incurred in connection with the termination, and adjustments that the respondents assume would increase the exit fee and would result from discretionary actions taken by the terminating association that are unrelated to its core business. These two specific categories of adjustments are discussed separately below.

1. *Termination Expenses.* Termination expenses would include accounting and legal fees, printing and mailing costs, and other expenses to organize the successor institution and prepare for termination of Farm Credit status; they would also include any tax liability incurred as a result of the retirement of the stock which the association holds in the FCB. Tax liability would be incurred on the stock distributed to the association in years past in lieu of the payment of dividends.

After consideration of the comments on these matters, the FCA Board has determined not to make any revisions to the proposed regulation in the final regulation. The FCA believes that the expenses of termination, which should be viewed as organizational expenses of the successor institution and which would not have been incurred but for the termination, are properly the responsibility of the successor institution that will receive the benefits. These expenses are entirely discretionary and within the control of the terminating association. If these expenses were not added back to the association's capital for the purpose of computing the exit fee, they would in effect be paid out of the exit fee and not out of the assets which the association may retain upon termination. Consequently, if the termination expenses did not come out of the successor institution's "pocket," the terminating association would have no incentive whatsoever to keep the expenses within reasonable bounds, to the detriment of the remaining institutions in the Farm Credit System. Therefore, under the final regulation termination expenses will be added back to assets for the purpose of computing the exit fee.

2. *Adjustments for Discretionary Actions of the Terminating Association.* As explained at length in the Supplementary Information to the proposed regulations, there are a number of legally permissible discretionary actions that a terminating association could take outside of its ordinary course of business that would result in a lower exit fee for the association. The association could, for example, inflate its balance sheet by purchasing assets, for the purpose of retaining a greater amount of capital. It could also legally reduce its permanent capital to the 7 percent minimum (or less during the phase-in period) by paying extraordinary dividends or patronage refunds, or by retiring stock. In fact, with this variety of legal means to reduce an association's captial, especially by returning it to stockholders, it is unlikely that any association would ever submit an application to terminate its Farm Credit status with capital any greater than the 7 percent minimum amount of permanent capital unless adjustments to the exit fee were made for discretionary actions. Moreover, the cash distributed to stockholders in patronage refunds or dividends could then be used by the stockholders to purchase stock in the successor institution, effectively transferring money from the terminating association to the successor institution without having to pay the assessment contemplated by the statute.

The FCA notes that the legislative history of the termination provisions in § 7.10 of the Act supports an interpretation that the assessment represented by the exit fee is to deter Farm Credit institutions who may contemplate leaving the System. *See* S. Rep. No. 230, 100th Cong., 1st Sess. 67 (1987) (assessments on institutions leaving the System would be a "further deterrent" to an "exodus" from the System). If a terminating association were permitted to take all legal actions to reduce its capital or to otherwise minimize or eliminate its exit fee, the deterrent effect would be vitiated. Furthermore, if the association ultimately does not terminate its Farm Credit status because of a stockholder vote against the termination, disapproval of the FCA, or for any other reason, the association could be in a much weaker capital position than it was before the extraordinary actions it may have taken to attempt to reduce its fee. For these reasons, the FCA believes that its provisions for adjustments for discretionary actions are necessary in order to ensure that terminating associations are not rewarded for engaging in activities that weaken their capital position in order to diminish or eliminate the exit fee.

It should be emphasized that there will be no adjustments to the exit fee for the ordinary and customary activities of the terminating association that relate to its core business, or for dividends or patronage distributions that are in line with payments traditionally made to the stockholders. These activities should constitute the great bulk, if not all, of the activities of the association. Moreover, the impact of actions taken outside the ordinary course of business for sound business reasons that have the effect of increasing the exit fee may also be reversed. Examples of such actions include an increase in the amount of the stock purchase required to obtain a loan, which would strengthen capital but also increase assets, or a decrease in the liabilities due to the sale of certain assets or the reduction of certain liabilities. Because it is in the best interest of the terminating association as well as the successor institution to take steps to maintain or improve the financial health of the institution, the FCA believes that the regulations should present no impediment to such actions. For the same reasons, the successor institution will be allowed to retain all profits of the terminating association that are earned in the ordinary course of business between the computation date and the date of termination, but if ordinary losses are sustained in that period, the exit fee will not be reduced. The FCA believes that giving the management of the terminating association an incentive to operate the association prudently during this period will be beneficial to the terminating association, the successor institution, and the System.

Several respondents objected to the inclusion of any type of borrower stock in the definition of "total capital," opining that only surplus and unallocated retained earnings should be included in capital. Another commenter did not object to the inclusion of at-risk stock in total capital but did object to the inclusion of eligible borrower stock—that is, stock protected under § 4.9A of the Act. Eligible borrower stock generally comprises all borrower stock outstanding on January 6, 1988, the date of the enactment of the 1987 amendments to the Act at which time the termination provisions of § 7.10 were also added, and borrower stock issued up to 9 months following that date, unless it has subsequently been converted to at-risk stock.

The FCA disagrees with the interpretation of the statutory term "total capital" to exclude any borrower stock, whether it is at risk or protected. Unallocated retained earnings and surplus are indeed a component of capital, but capital also includes outstanding stock and other equities. The FCA believes that a reasonable interpretation of the term "total capital" in § 7.10(a)(4) of the Act must include more than the components of "permanent capital" which are set forth in § 4.3A(a)(1) of the Act, a provision enacted at the same time as the enactment of § 7.10(a)(4). "Permanent capital" is defined in § 4.3A(a) to include "current year retained earnings, allocated and unallocated earnings, all surplus (less allowances for losses), and stock issued by a System institution, except stock that (A) may be retired by the holder thereof on repayment of the holder's loan, or otherwise at the option or request of the holder; or (B) is protected under § 4.9A or is otherwise not at risk." The FCA interprets "total capital" to be a broader category than "permanent capital" and believes that logic dictates that it would include the eligible borrower stock and stock retirable at the option of the holders, which would be a part of "permanent capital" but for the express statutory exclusion. The appropriateness of the inclusion of eligible borrower stock is clear in light of the fact that, at the time

the termination provisions were enacted and for a period of time thereafter, the only borrower stock outstanding was eligible borrower stock. "Total capital" must therefore be understood to include such stock.

Several respondents concurred with the 3-year "look-back" period set forth in paragraph (e) of the proposed regulations to enable the FCA to review the transactions of the terminating association in order to make adjustments for extraordinary transactions that increase or decrease the exit fee. Other respondents questioned the necessity of providing a 3-year period and opined that a 1-year "look back" would suffice. The FCA Board has carefully considered these comments and has decided to adopt the 3-year time period originally proposed. Each calendar year, Farm Credit institutions are required, pursuant to §§ 615.5200(b) and 618.8440 of FCA's regulations, to adopt an operational and strategic business plan, including a formal written capital adequacy plan, for at least the succeeding 3 years. Consequently, a 3-year plan to strengthen or deplete capital would be properly considered in deciding whether to require adjustments to decrease the exit fee where the association has built up capital or to increase the fee where the association has purposefully reduced the capital. The FCA further believes that a shorter review period, such as 1 year, would not be sufficient to prevent a prospective termination from influencing an association's decisions regarding its capital adequacy program.

The FCA has made several technical and clarifying changes to proposed § 611.1240 in the final regulations. The definition of "assets" in paragraph (a)(1) of the proposed regulations has been revised in the final regulation to clarify that assets must be determined according to GAAP except where other provisions of this section require a different treatment. The reference in paragraph (c) of the proposed regulation has been revised in the final regulation to refer to a "qualified public accountant," a term which is defined in § 621.2(a)(21). A "qualified public accountant includes any public accounting firm or individual that is properly certified, validly licensed, in good standing, and independent of the audited institution. The revision was made to ensure that the terminating association's auditors meet the same qualifications and standards of independence that are generally required for audits of Farm Credit institutions. In addition, the language in paragraph (e) has been revised in the final regulation to reflect more accurately the categories of activities of the association for which the FCA may consider making adjustments to the exit fee.

Section 611.1250—Repayment of Debts

The proposed § 611.1250 required that all of the obligations of the terminating institution be met. Obligations to other Farm Credit institutions could be met through converting to an OFI relationship and continuing the obligations or by paying off the obligations including the direct loan within a 3-year period. The FCC posed questions concerning paragraphs (b), (c) and (d). The FCC asked that paragraph (b) be clarified to indicate that the terminating association must satisfy all OFI eligibility requirements, noting that the proposed language could be interpreted to permit the OFI relationship at the option of the terminating association without satisfaction of the requirements. The final regulation was amended to clarify that the establishment of an OFI relationship is subject to all applicable requirements of part 614, subpart P of the regulations.

With respect to paragraph (c), the FCC asked that the FCA clarify that a terminating association that does not establish an OFI relationship must have the approval of the district FCB in order to pay off the direct loan over a 3-year period. The FCA notes that the successor institution could be a type of institution that is authorized to engage in high-risk activities and/or may not be subject to adequate supervision, and the bank should have the right to refuse to continue to extend funds for that period of time. The final regulation requires the concurrence of the FCB.

With respect to paragraph (d), the FCC asked that the FCA explicitly include all projected financial assistance liabilities and also clarify that all existing interest and principal payments be made. Issues related to the liabilities that have accrued and will accrue due to existing FAC obligations are presently under review by FCA, and the FCA has determined that the changes suggested by the FCC are not appropriate at this time. The termination regulations provide that all obligations must be paid or that provision for payment must be made. Once the obligations are recognized under GAAP, all terminating institutions must address the liability.

Section 611.1255—Retirement of Equities Owned

Section 611.1255 of the proposed regulations sets forth the requirements for the retirement of equities that would normally occur as a result of a termination of an institution. The FCC and a FCB were the only commenters on this section. The FCC suggested that the retirement of equities in a FCB should be subject to the review of the Assistance Board if the FCB has outstanding stock held by the FAC. The FCA believes that any approvals by the Assistance Board should be covered in the agreement between the bank and the Assistance Board rather than in the FCA regulations. Accordingly, it has not added the suggested provisions.

The FCC noted that the regulation permits a FCB to enter into a 3-year agreement with the association to retire the association's investment in the FCB and assumed that the capital obligated to be retired over the 3-year period would not be considered permanent capital for the purpose of § 615.5240, which sets forth the requirements on stock if it is to be counted as permanent capital. The FCA concurs that the condition imposed on the capital to be retired during the period of up to 3 years would not permit the counting of such capital as permanent capital. Accordingly, a new paragraph (f) has been added in the final regulation to clarify that the capital to be retired under the agreement is not permanent capital of the FCB for the purpose of § 615.5240.

Section 611.1260—Dissenters' Rights

Proposed § 611.1260 addresses the rights of equity holders who dissent from the termination and requires that dissenters receive cash or a combination of cash and subordinated debt in the successor institution in exchange for their interests in the terminating association. A dissenting common stockholder or participation certificate holder would be entitled to the adjusted book value of his interest as determined in accordance with the priorities set forth in the liquidation bylaws of the terminating association. The proposed regulation defined a dissenting equity holder as a stockholder who did not vote in favor of the termination, whether or not eligible to vote, or a participation certificate holder.

The FCA received several comments on this section, ranging from full support to objection to offering dissenters' rights

at all. Several respondents argued that no dissenters' rights should be provided because such rights are not provided in any other type of reorganization of a Farm Credit institution and because requiring the association to make a cash payment would "undermine" the association's ability to capitalize itself. Another respondent stated that dissenters should be entitled to no more than the par value of the stock—in other words, the amount originally charged to the holder for the stock—and that anything received in excess of that would be a "windfall" to the holder. Several others responded that dissenting stockholders should be limited to those stockholders that vote against the termination, stating that "mere indifference" to a termination proposal should not, by itself, entitle one to dissenters' rights.

For the reasons set forth in the Supplementary Information to the proposed regulations, the FCA has determined that the circumstances of a termination require that an equity holder be given a choice either to continue as an equity holder in a new institution outside of the Farm Credit System or to withdraw his ownership interest in the terminating association and receive a return in cash of the amount paid for the stock or participation certificate plus an amount of subordinated debt equal to the holder's portion of the adjusted book value in excess of par value for each share of the institution. The FCA believes that, in the context of a termination as with a liquidation, the value of the institution belongs to all the equity holders. A provision that would deprive dissenters of their share in the value of the association would result in a "windfall" to the remaining equity holders and other owners of the successor institution.

The final regulations retain the proposed provisions granting rights to dissenting stockholders in the final regulations. However, after consideration of the comments, the FCA has revised the definition of dissenting stockholder in the proposed regulation to limit dissenters' rights to participation certificate holders, nonvoting stockholders, and voting stockholders who voted against the termination in person or by proxy at the stockholders' meeting. In other words, the stockholders eligible to vote must vote against the termination in order to preserve their right to obtain dissenter's rights, and any eligible voting stockholder who does not cast a vote or who votes in favor of the termination would be unable to obtain dissenters' rights. The FCA believes that a voting stockholder, unlike a non-voting equity holder, is alone in a position to help to determine the future course of the terminating association, and as such he should be required to make an affirmative decision between continuing as a stockholder of a terminating association or becoming an owner of a different institution. The FCA further believes that this revision will encourage voting stockholders to participate in the association's important decision whether to leave the Farm Credit System, especially in light of the fact that termination would change not only their status as stockholders but also their rights as borrowers. Consequently, the chances of an institution's fate being decided by a few individuals will be reduced.

The FCA notes that the requirement of an affirmative action on the part of a voting stockholder to preserve dissenters' rights at the time of the stockholder vote would not be inconsistent with provisions of general corporate statutes of many States and the Model Business Corporation Act (MBCA). Although general corporate law and the MBCA permit a voting stockholder who has merely abstained from voting to exercise dissenters' rights, such stockholder must already have taken the affirmative action of notifying the corporation of his intention to dissent prior to the vote. MBCA, 3d Ed., vol. 3 Section 13.21 (1984); *Fletchers Cyc. Corp.*, vol. 12B Section 5906.7. Since these regulations do not require that a voting stockholder notify the terminating association prior to the vote, the FCA believes that an affirmative action at the time of the vote is a reasonable requirement. The final regulations reflect this revision.

The second sentence in paragraph (b) of the proposed regulation required that, in the event the terminating association had no bylaw governing the distribution of assets upon liquidation, the payments to dissenting stockholders would be made according to the association's capitalization bylaws. This sentence has been deleted in the final regulation because all Farm Credit institutions are required to provide for the distribution of assets in their bylaws.

Paragraph (c)(1) of the proposed regulation has been revised in the final regulation to clarify that the payment to the dissenting stockholders is the adjusted book value of their equity interest, which is defined in the regulation as the book value adjusted to reflect any increase or decrease in asset value resulting from the appraisals required in computation of the exit fee and to reflect a deduction for the amount of the exit fee.

Finally, the FCA sought specific comments on the issue of whether to make payments to dissenting stockholders entirely in cash rather than a combination of cash and subordinated debt as proposed. The FCA received no comments on this issue and has adopted this provision as a final regulation without change.

Section 611.1266—Loan Refinancing by Borrowers

Section 611.1266 of the proposed regulations set forth a procedure for borrowers who may seek to have their loans transferred from the terminating association to another Farm Credit institution. The procedure included a requirement that the terminating association identify the new service provider in the information statement mailed to borrowers or would furnish a list of its borrowers to the new Farm Credit service provider if the identity of the new provider was not known at the time of the mailing of the information statement. Several commenters objected to the requirement that a list of borrowers be provided on the ground that the successor institution may be in direct competition with the new service provider and should not be required to furnish such information at no charge. In response to these comments, the FCA has revised this provision to require that if the identity of the new Farm Credit service provider is not known by the terminating association prior to its mailing of the information statement, the statement must provide the name, address, and telephone number of the FCB in the district and must state that borrowers who are interested in continuing a borrowing relationship with another Farm Credit institution may contact the FCB for information on the new service provider. The final regulation continues to require that if the terminating association has been given information on the new service provider before the mailing of the information statement, such information must be included in the statement.

Paragraph (a) of the proposed regulation, which stated that borrowers of the terminating association may seek to have their loans refinanced by another Farm Credit institution, has been restated in the final regulation. The final regulation clarifies that the options of a borrower who does not wish his loan to be transferred to the successor institution are not limited to seeking refinancing by another Farm Credit institution. The borrower is free to pay off his loan or seek refinancing with any

other institution, whether or not such institution is a Farm Credit institution. The FCA notes that this subpart P does not create any obligation on the part of any Farm Credit institution to purchase or refinance the loan of a borrower who does not wish his loan to be transferred to the successor institution. Thus, if a borrower is unable to obtain financing elsewhere, and if the terminating association is unable or unwilling to sell his loan to another institution, the borrower's loan will automatically be transferred to the successor institution.

One commenter noted that participation loans were not addressed in the proposed regulation. The commenter noted that the Farm Credit association chartered or assigned to take over the territory of the terminating association may have lower capital levels. This would limit the borrower's opportunity to refinance his loan with a System institution and may also reduce existing participation arrangements. Further, when associations participate with an association that chooses to terminate, the arrangement may no longer be desirable.

If the new Farm Credit service provider is smaller than the terminating association, the new provider will have the option to participate loans with other Farm Credit institutions, thus providing similar service to borrowers as the former association. The level of capital of any one association should not hinder the participation of larger loans as these can be participated between districts to permit the spreading of risk if need be.

The FCA notes that participation loans would be subject to the terms of the participation agreement. Once these contractual conditions are satisfied, the terminating association could choose to stop participating with Farm Credit institutions or vice versa. The FCA does not believe that imposing conditions by regulation that would alter an existing contract between one Farm Credit institution and another that chooses to terminate would be appropriate. The FCA recommends that participation contracts incorporate whatever language the parties deem appropriate should a participant choose to terminate.

Section 611.1270—Continuation of Borrower Rights

Section 611.1270 of the proposed regulations prohibits a terminating association from requiring that any contractual borrower rights that are a part of the loan agreement between a borrower and the association be waived as a condition of continued financing through the successor institution. Statutory borrower rights under the Act would continue to apply only if they are incorporated into the loan contract or if the successor institution becomes an OFI. One respondent commented that the FCA should not intervene in matters involving the contract between the lender and the borrower, and that the benefits of both stock ownership and borrower rights should be removed when the lender is no longer a Farm Credit institution.

The FCA has considered this comment and disagrees on the ground that a terminating association should not be able to use the circumstance of termination to force the borrower to accept changes to the terms of his loan agreement which are not related to the stock ownership terms. Therefore, the FCA Board has decided to make no change to this section in the final regulations.

Lists of Subjects in 12 CFR Part 611

Agriculture, Banks, banking, Organization and functions (Government agencies), Rural areas.

For the reasons stated in the preamble, part 611 of chapter VI, title 12 of the Code of Federal Regulations is amended to read as follows:

PART 611—ORGANIZATION

1. The authority citation for part 611 continues to read as set forth below and all other authority citations throughout part 611 are removed.

Authority: Secs. 1.3, 1.13, 2.0, 2.10, 3.0, 3.21, 4.12, 4.15, 5.0, 5.9, 5.10, 5.17, 7.0–7.13, 8.5(e); 12 U.S.C. 2011, 2021, 2071, 2096, 2121, 2142, 2183, 2203, 2221, 2243, 2244, 2252, 2279a–2279f–1, 2279aa–5(e); secs. 411 and 412 of Public Law 100–233.

2. Part 611 is amended by adding a new subpart P to read as follows:

Subpart P—Termination of Farm Credit Status—Associations

Sec.

Subpart P—Termination of Farm Credit Status—Associations

§ 611.1200 General—Applicability.

(a) Each association is authorized, in accordance with sections 7.10 and 7.11 of the Act, to terminate the status of the association as a Farm Credit institution. The regulations in this subpart set forth the procedural, disclosure, voting and approval requirements applicable to such termination. The Farm Credit Administration may in its sole discretion grant a waiver in writing from any requirement of this subpart for good cause shown.

(b) Except as provided in paragraph (c) of this section, these regulations are applicable to an association that seeks to terminate its status as a Farm Credit institution and to charter the institution as a bank, savings and loan association, or other type of financial institution. In the event that a receiver or conservator is appointed by the Farm Credit Administration in the case of a voluntary or involuntary liquidation of the association, the provisions of subpart L of part 611 apply, and the provisions of this subpart shall not apply.

(c) These regulations are not applicable to the termination of an association whose investment in the Farm Credit Bank of which it is a member is in excess of 25 percent of the bank's capital as computed according to GAAP, or whose indebtedness to the Farm Credit Bank of which it is a member is in excess of 25 percent of the total loans of the bank as of the quarter end preceding the adoption of the commencement resolution.

§ 611.1205 Definitions.

For the purposes of this subpart, the following definitions apply:

(a) *Commencement resolution* means the resolution adopted pursuant to § 611.1210(a) to indicate the commencement of the termination process.

(b) *GAAP* means generally accepted accounting principles, which is that body of conventions, rules and procedures necessary to define accepted accounting practice at a particular time, as promulgated by the Financial Accounting Standards Board and other authoritative sources recognized as setting standards for the accounting profession in the United States. GAAP shall include not only broad guidelines of general application but also detailed practices and procedures that constitute

standards against which financial presentations are evaluated. When the Farm Credit Administration's interpretation of how GAAP should be applied to a specific event or transaction differs from an association's interpretation, the interpretation of the Farm Credit Administration shall prevail.

(c) *OFI* means other financing institutions, as that term is defined in § 614.4540(e).

(d) *Reconsideration vote* means the vote at which the voting stockholders reconsider whether to terminate the terminating association's Farm Credit status.

(e) *Successor institution* means the institution to which the terminating association will convert when its Farm Credit charter is revoked.

(f) *Terminating association* means an association seeking to terminate its status as a Farm Credit institution and to charter the institution as a bank, savings and loan association, or other type of financial institution.

(g) *Terminating resolution* means the resolution adopted pursuant to § 611.1211(a) approving the applications for termination and a new charter and providing for submission of the termination proposal to a stockholder vote.

(h) *Termination vote* means the stockholder vote at which the termination proposal is first submitted to the voting stockholders for their approval or disapproval.

§ 611.1210 Advance notification.

(a) An association's board of directors shall commence the process of termination by adopting a commencement resolution indicating the association's intention to terminate its Farm Credit status.

(b) Within 5 days of the adoption of the commencement resolution by the board of directors, the terminating association shall:

(1) Submit a certified copy of the commencement resolution to the Farm Credit Administration; and

(2) Mail a brief annoucement to all holders of equity in the association which states that the board is taking steps to terminate its Farm Credit status and which describes the process of termination, the anticipated effect of termination on current holders of equity, and the type of institution the successor institution will be. If bylaws are adopted in accordance with paragraph (e) of this section, the announcement shall also state that, during the time period from the passage of the commencement resolution until the effective date of termination new common stock and participation certificates either purchased from the association in connection with a loan or sold to the association prior to the termination will not entitle the holder to receive a share in the adjusted book value in excess of par of the association.

(c)(1) Within 15 days after submission of the commencement resolution pursuant to paragraph (b)(1) of this section, the terminating association shall submit to the Farm Credit Administration a statement of its estimation of the exit fee together with an explanation of the computation of the exit fee pursuant to the requirements of § 611.1240. For purposes of this estimate of the exit fee, the computation date set forth in § 611.1240(c) shall be the quarter end preceding the date of the commencement resolution.

(2) Within 45 days of its receipt of the terminating association's estimated exit fee, the Farm Credit Administration shall either confirm the association's estimation of the exit fee or notify the association of any required revisions to the computation.

(3) In the event that the Farm Credit Administration requires adjustments to the estimated exit fee pursuant to paragraph (c)(2) of this section, the terminating association may request reconsideration of any revisions. Such request shall be in writing and shall set forth specific reasons why the revisions should not be made. The Farm Credit Administration shall reconsider the revisions and shall inform the terminating association of its determination within 15 days of the receipt of the reconsideration request.

(d) During the time period after the board of directors' adoption of the commencement resolution pursuant to paragraph (a) of this section and prior to the effective date of termination, the following conditions shall apply to the terminating association's conduct of business:

(1) Each prospective new borrower shall be informed of the effect of the proposed termination upon the borrower's loan and shall be specifically informed whether the borrower will continue to have any of the borrower rights provided under the Act and regulations promulgated thereunder;

(2) Any common stockholders or participation certificate holders who seek to have such equity interest retired before termination shall be informed that the retirement would extinguish the holder's right to an interest in the successor institution if the termination is completed or to dissent from the termination and receive an amount equal to the adjusted book value of the holder's equity in the terminating association.

(e) Notwithstanding any provisions of § 615.5230(b) to the contrary, an association may adopt bylaws which provide for the issuance of a special class of common stock and participation certificates in connection with loans granted during the time period subsequent to the adoption of the commencement resolution and prior to the termination. Such common stock or participation certificates, which shall be issued in accordance with section 4.3A of the Act, shall have characteristics identical to shares of the existing classes of common stock or participation certificates issued as a condition of the extension of a loan, except for the following:

(1) In the event of termination, the holder shall be entitled to receive the following:

(i) If the holder is eligible to vote and does not vote against the termination, an interest in the successor institution in an amount equal to the adjusted book value or the purchase price of the stock, whichever is less;

(ii) If the holder is not eligible to vote or is eligible to vote and votes against the termination, either an interest in the successor institution as set forth in paragraph (e)(1)(i) of this section, or, if such holder dissents pursuant to § 611.1260, cash in the amount of the purchase price or the adjusted book value of the stock or participation certificate, whichever is less.

(2) In the event that the termination does not occur, the special classes of stock or participation certificates shall automatically convert into shares of the otherwise identical classes of stock or participation certificates issued prior to the adoption of the commencement resolution.

§ 611.1211 Filing of termination application.

(a) The board of directors of an association that seeks to terminate its status shall adopt an appropriate termination resolution approving an application for such termination, approving an application for a new charter for the successor institution, and providing for the submission of such termination proposal to its stockholders for a vote.

(b) An original and three copies of a termination application consisting of the following materials shall be submitted by the terminating association to the Farm Credit Administration for review and preliminary approval:

(1) A certified copy of the termination resolution adopted pursuant to paragraph (a) of this section;

(2) A copy of the plan of termination as required under § 611.1230;

(3) An information statement that complies with the requirements of § 611.1225;

(4) All other information that is to be submitted to the stockholders and other equity holders in connection with the contemplated action; and

(5) Any additional information the board of directors wishes to submit to the Farm Credit Administration in support of the request or that the Farm Credit Administration requests.

(c) The terminating association shall provide the Farm Credit Administration with any material revisions to information in the plan of termination, including updated financial information, that becomes available during the pendency of the termination application and prior to termination.

§ 611.1212 Filing date of termination application.

(a) Except as provided in paragraph (c) of this section, the termination application will be given a filing date which shall be the date on which it is determined to be technically complete. Within 10 business days after the Farm Credit Administration receives the termination application, the Farm Credit Administration shall determine that the application is technically complete and give it a filing date, or return the application to the terminating association if it is incomplete. If the Farm Credit Administration fails to make a determination or to return the application before the end of the 10-day review period, the application shall be deemed to be technically complete and shall receive a filing date which is the last day of the 10-day review period.

(b) A termination application is considered to be technically complete when it is determined upon preliminary review to contain responses to all items required to be submitted to the Farm Credit Administration under § 611.1211.

(c) In the event the advance notification required in § 611.1210 is not received by the Farm Credit Administration at lest 60 days prior to the filing date which would otherwise be assigned to the termination application in accordance with paragraph (a) of this section, the filing date shall be the date that is 60 days following the date on which the terminating association first informs the Farm Credit Administration of the association's intention to terminate its Farm Credit status. During this 60-day period, the Farm Credit Administration shall contact other associations to determine their willingness to provide service to the territory of the terminating association or to determine if there are persons who wish to charter a new association to serve the territory. An inability of the Farm Credit Administration to arrange for a new service provider for the territory shall not be grounds for an extension of the 60-day period. However, the Farm Credit Administration may in its sole discretion reduce the required 60-day period in the event that a new service provider to serve the territory is determined. This paragraph shall not apply if the entire chartered territory of the terminating association is already included in the charter of one or more associations that are chartered to offer credit services of the same type as the terminating association.

§ 611.1215 Farm Credit Administration review and approval.

(a) When the termination application has received a filing date, the Farm Credit Administration shall review the application and either disapprove or give its preliminary approval pursuant to section 7.11(a)(2) of the Act.

(b) The Farm Credit Administration Board shall have 30 days from the filing date, as defined in § 611.1212, to approve or disapprove the termination application. If the Farm Credit Administration Board does not act within such 30-day period, the plan of termination may be submitted to the stockholders pursuant to section 7.11(a)(2) of the Act.

(c) If the application is disapproved, written notice specifying the reasons for disapproval shall be transmitted to the chief executive officer of the association, who shall promptly notify the association's board of directors. If the application is disapproved, it shall not be submitted to the stockholders for a vote.

(d) Upon stockholder approval of the propose termination as provided in § 611.1220, the secretary of the terminating association shall forward to the Farm Credit Administration a certified record of the results of the stockholder vote and shall notify its stockholders and other equity holders of the result of the vote as provided in § 611.1220(e).

(e) Final approval by the Farm Credit Administration Board pursuant to section 7.10(a)(2) shall be conditioned upon the following:

(1) A termination vote in favor of termination and, if a reconsideration vote is held, a reconsideration vote in favor of termination;

(2) Receipt by the Farm Credit Administration of conformed executed copies of all contracts and agreements submitted pursuant to § 611.1230;

(3) Satisfactory evidence of the terminating association's adequate provision for payment of debts and retirement of equities;

(4) Evidence of the grant of a new charter for the successor institution by the appropriate Federal or State chartering authority;

(5) Payment of the exit fee by certified check of other means agreed upon by the Farm Credit Administration and the terminating association; and

(6) The fulfillment of any other condition of termination imposed by the Farm Credit Administration Board which is necessary and appropriate to provide for the equitable treatment of the parties affected by the termination.

(f) If the Farm Credit Administration grants final approval, the terminating association's charter shall be revoked, and the termination shall be effective on the last to occur of—

(1) The proposed termination date of the terminating association;

(2) Ninety (90) days after receipt by the Farm Credit Administration of the notice required to be submitted pursuant to paragraph (d) of this section; and

(3) Receipt of final payment of the exit fee.

§ 611.1220 Voting record date and stockholder approval.

(a) Upon receipt of preliminary approval of the termination application by the Farm Credit Administration Board, or if the Board takes no action prior to the end of the 30-day review period, the association shall call a meeting of its voting stockholders. The stockholders meeting shall be held within 60 days of the last day of the 30-day review period. All holders of equity in the terminating association shall be permitted to attend the meeting. The stockholders eligible to vote shall be the stockholders who are eligible to vote on the voting record date as determined by the association's bylaws if such date is not more than 70 days prior to the stockholder vote, or on a date fixed by the board of directors which shall be not more than 70 days prior to the date of the stockholder vote. The association shall notify each stockholder that the resolution has been filed and that a meeting will be held in accordance with the association's bylaws.

(b) The notice of meeting to consider and act upon the board of directors' resolutions shall be accompanied by an information statement that complies with the requirements of § 611.1225.

(c)(1) The terminating association shall establish voting security procedures that comply with the procedures for the election of directors in § 611.330, as applicable. Specifically, the terminating association shall ensure that all information regarding how or whether individual stockholders have voted and all materials such as ballots, proxy ballots, election records, and other relevant documentation related to the votes of stockholders is held in strict confidence.

(2) The terminating association may adopt procedures that require the stockholders to sign or otherwise verify their eligibility to vote on an envelope which contains a marked ballot in a sealed envelope. The terminating association may also use signed proxies or eligibility certificates that will accompany a ballot or instructions on how to vote the proxy in a separate sealed envelope.

(3) The terminating association shall use a form of identity code on the ballot enabling it to determine which stockholders are eligible to exercise dissenters' rights and shall require that the votes be tabulated by an independent party who is not a stockholder, director, or officer of the terminating association or the successor institution. When the terminating association receives notification pursuant to § 611.1260 that a stockholder intends to exercise dissenters' rights, the association will verify with the independent party that the stockholder voted against the termination. The terminating association shall be informed of the vote of a stockholder only in the event that stockholder exercises the right to retire stock in the association in accordance with § 611.1260.

(d) The proposal shall be approved by the stockholders if agreed to by a majority of the eligible voting stockholders of the association voting in person or by proxy at the stockholders' meeting.

(e) Upon approval of a proposed termination by the stockholders of the terminating association, a certified statement showing the results of the stockholder vote shall be forwarded to the Farm Credit Administration within 10 days following the stockholders' meeting. The terminating association shall notify its stockholders and other holders of equity interests of the results of the vote not later than 30 days after the final vote. If the stockholder vote is in favor of termination, stockholders who voted against the termination and other equity holders shall be informed of their right to dissent as provided in § 611.1260(f). In addition, the terminating association shall further notify stockholders of their right to file a petition for reconsideration in accordance with § 611.1235 and that any petition for reconsideration must be filed on or before a date certain, which shall be 35 days after the date the terminating association mails notice to the stockholders of the results of the stockholder vote.

§ 611.1225 Requirements for information statement.

Notice of the meeting to consider and act upon a proposed termination shall be sent to all stockholders and other holders of equity interests and shall be accompanied by an information statement that contains the information and materials set forth in this regulation as follows:

(a) A statement on either the first page of the material or the notice of the stockholders' meeting, in capital letters and boldface type that:

THE FARM CREDIT ADMINISTRATION HAS NEITHER APPROVED NOR PASSED UPON THE ACCURACY OR ADEQUACY OF THE INFORMATION ACCOMPANYING THE NOTICE OF MEETING OR PRESENTED AT THE MEETING AND NO REPRESENTATION TO THE CONTRARY SHALL BE MADE OR RELIED UPON.

(b) A statement on the first page of the material entitled "Executive Summary" and consisting of a concise description of the material changes in rights of the borrowers, stockholders, and holders of other equity interests to occur as a result of the termination, the effect of such changes, and the potential benefits and disadvantages to them of the termination.

(c) A description of the plan of termination as required in § 611.1230.

(d) A statement by the board of directors of the terminating association enumerating the potential benefits and disadvantages of the termination together with the basis for the board's recommendation for termination.

(e) A list of the initial board of directors and senior officers of the successor institution, together with a brief description of the business experience of each such person, including principal occupation and employment, during the past 5 years.

(f) A summary of the provisions of the organizational documents of the successor institution, including the articles of incorporation and bylaws, that differ materially from the charter and bylaws of the terminating association. The summary shall indicate both whether the maintenance of a borrowing relationship with the successor institution will be required as a condition for maintaining a stockholder's interest, and whether the maintenance of a stockholder's interest will be required as a condition for maintaining a borrowing relationship.

(g) An explanation of any changes in the nature of the stockholders' and other equity holders' investment in the association, including but not limited to any changes in dividends, patronage refunds, voting rights, preferences, retirement of equities, and priority upon liquidation. If any eligible borrower stock is outstanding, such explanation shall include a statement that the guaranty afforded to eligible borrower stock by section 4.9A of the Act shall be extinguished at termination and that any stock of the successor institution received in exchange for eligible borrower stock shall not be protected under section 4.9A of the Act.

(h) An explanation of the effect of termination on the rights that borrowers are afforded under the Act; the expiration date of those rights, if applicable, under the provisions of the plan of termination; a statement that borrowers may seek to have their loans sold to or refinanced with another lending institution, including the association(s) that will be chartered to serve the terminating association's territory or any other associations that already serve the territory, provided that any such Farm Credit institution is authorized to make such a loan in accordance with part 614 of this chapter; and an explanation of the procedure for a borrower to apply for the sale or refinancing of his loan to the association(s) that will be chartered to serve the terminating association's territory, if such designations have been made. The disclosure shall include the name, address and telephone number of such association(s), together with a statement that any such association is not obligated to accept any loans of the terminating association.

(i) An explanation of the formula and process by which equity of the terminating association will be exchanged for equity in the successor institution or other consideration.

(j) A description of any agreement or arrangement with any person, including any officers or directors of the terminating association, relating to employment or termination of employment with the terminating association or employment with the successor institution.

(k) An explanation of the computation of the exist fee and the estimated amount of the exit fee.

(l) A statement detailing the nature and type of financial institution that the successor institution will become at

termination and the conditions of approval, if any, placed on the successor institution by the State or Federal financial regulator that will charter the successor institution.

(m) A summary of the differences, if any, between the terminating association and the successor institution with respect to interest rates, interest rate policies, collection policies, services provided, service fees, and any other item of interest that would affect a borrower's lending relationship with the successor institution including whether stockholders will be restricted in any way in their ability to borrow from the successor institution.

(n) A discussion of the expected capital requirements of the successor institution, and the amount and method of capitalization for the successor institution.

(o) An explanation of the sources and manner of funding the operations of the successor institution.

(p) An explanation of the existence of any continuing contingent liability that will not be paid immediatley upon termination and the manner in which this liability will be addressed by the successor institution.

(q) A summary of the differences in tax status of the terminating association and the successor institution, and an explanation of the effect of such changes on both the successor institution and the stockholders.

(r) A brief description of the regulatory environment for the successor institution and a summary of the differences from the current regulatory environment that affect the cost of doing business of the value of equity and that are not addressed elsewhere in the information statement.

(s) A statement describing those stockholders and other holders of equity that are entitled to dissenters' rights and an explanation of those rights as set forth in § 611.1260, including the estimated value of the stock upon distribution, procedures for the exercise of dissenters' rights, and the time period during which such rights may be exercised, and a statement that eligible voting stockholders who do not vote against the termination will not receive dissenters' rights.

(t)(1) A presentation of the following financial data:

(i) A balance sheet and income statement for the terminating institution for each of the 2 preceding fiscal years;

(ii) A balance sheet for the terminating institution as of a date within 90 days of the date the termination application is forwarded to the Farm Credit Administration, presented on a comparative basis with the corresponding period of the prior fiscal year;

(iii) An income statement for the interim period between the end of the last fiscal year and the date of the required balance sheet presented on a comparative basis with the corresponding period of the prior fiscal year;

(iv) A pro forma balance sheet of the successor institution presented as if termination had occurred as of the date of the most current balance sheet presented in the statement; and

(v) A pro forma summary of earnings for the successor institution presented as if the termination has been effective at the beginning of the interim period between the end of the last fiscal year and the date of the balance sheet presented pursuant to paragraph (t)(1)(iv) of this section.

(2) The format for the balance sheet and income statement shall be the same as is contained in the institution's annual report to stockholders and shall contain appropriate footnote disclosures, including data relating to nonperforming loans and related assets and allowance for losses.

(3) The financial statements shall include either of the following:

(i) A statement signed by the chief executive officer and each member of the board of directors of the terminating association that the various financial statements are unaudited, but have been prepared in all material respects in accordance with GAAP (except as otherwise disclosed therein) and are, to the best of each signer's knowledge, a fair and accurate presentation of the financial condition of the association; or

(ii) A signed opinion by an independent certified public accountant that the various financial statements have been examined in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and other such audition procedures as were considered necessary in the circumstances, and, as of the date of the statements, present fairly the financial position of the terminating association in accordance with GAAP applied on a consistent basis, except as otherwise disclosed therein.

(u) A discription of any event subsequent to the date of the financial statements, but prior to the date upon which the termination application is submitted to the Farm Credit Administration, that would have a material impact on the financial condition of the terminating association or the successor institution.

(v) A discription of any event subsequent to the submission of the termination application to the Farm Credit Administration that would have a material impact on any information in the termination application.

(w) A statement of any other material fact or circumstance that a stockholder would need to know in order to make an informed decision on the proposed plan of termination, or that is necessary to make the required disclosures not misleading.

(x) A proxy, together with instructions on the purpose and authority for its use, and the proper method for signature by the stockholder.

(y) A certification signed by the entire board of directors of the terminating association as to the truth, accuracy, and completeness of the information contained in the information statemen'. If any director refuses to sign the certification, the director shall inform the Farm Credit Administration of the reasons for such refusal.

§ 611.1226 Prohibited acts.

(a) No terminating association or director, officer, employee or agent thereof, shall make any untrue or misleading statement of a material fact, or fail to disclose any material fact concerning the proposed plan of termination to a stockholder of the association.

(b) No director, officer, employee, or agent of a terminating association shall make an oral or written representation to any person that a preliminary or final approval by the Farm Credit Administration of an association's plan of termination constitutes, directly or indirectly, either a recommendation on the merits of the proposal or an assurance concerning the adequacy or accuracy of any information provided to the association's stockholders and other equity holders in connection therewith.

§ 611.1230 Plan of termination.

The plan of termination shall include the following information:

(a) Copies of all contracts, agreements and other documents pertaining to the proposed termination and organization of the successor institution.

(b) A statement of the means by which the assets of the terminating association will be transferred to, and its liabilities assumed by, the successor institution.

(c) The terminating association's plan to retire, and the successor institution's plan to issue, equities held by holders of stock, participation certificates, and allocated equities, if any.

(d) A copy of the charter application filed with the appropriate Federal or State chartering authority, together with

any exhibits or other supporting information that is submitted to such authority.

(e) A statement whether the successor institution will continue to have a credit relationship with the Farm Credit bank and the effect such status will have on the provision for payment of the terminating association's debts. The plan of termination shall include evidence of the agreement and plan for satisfaction of outstanding debts, whether contained in a general financing agreement or otherwise.

(f) The proposed effective date of the termination.

§ 611.1235 Stockholder reconsideration.

(a) Eligible voting stockholders have the right to reconsider the approval of the termination provided that—

(1) A petition signed by 15 percent of the eligible voting stockholders of the association is filed with the association, and a copy of such petition is filed with the Farm Credit Administration, within 35 days after the date of mailing of the notification to stockholders of the final results of the stockholder vote required under § 611.1215; and

(2) Such petition is certified by the terminating association as provided in paragraph (b) of this section.

(b) Each petition shall include the signature, printed name and full address of each voting stockholer signing the petition. Within 5 days of its receipt of a timely filed stockholder petition, the association shall certify whether the signatures on the petition are the signatures of persons who were eligible voting stockholders of the terminating association on the voting record date, and the association shall notify the Farm Credit Administration of such certification.

(c) The petition shall include the name and address of a person who shall serve as petitioners' representative and who shall represent the interests of the petitioners in the reconsideration vote process.

(d) If the terminating association certifies that at least 15 percent of eligible voting stockholders have signed the petition, a special stockholders' meeting shall be called by the association to vote on the reconsideration. Such meeting shall be held within 60 days after the date on which the stockholders were notified of the final result of the termination vote. If a majority of stockholders of the association voting in person or by written proxy vote against the termination, the termination is not approved. If a majority of stockholders of the association voting in person or by written proxy do not vote against the termination, the termination shall be effective pursuant to the provisions of § 611.1215(f), but not less than 15 days after the reconsideration vote.

(e) The petitioners, through the petitioners' representative, and board of directors of the terminating association shall each have the opportunity to present to the stockholders and other equity holders a written statement of their views regarding the reasons for calling a reconsideration vote. Such statements shall be reasonable in length and shall be mailed to stockholders and other equity holders along with the notice of stockholders' meeting for the reconsideration vote.

(f) The terminating association shall, at its expense, immediately provide the stockholders initiating the petition with a list of the names and addresses of all of the eligible voting stockholders of the association. All other expenses for the petition shall be borne by the petitioners. Reasonable expenses for the reconsideration vote shall be borne by the terminating association.

§ 611.1240 Exit fee.

(a) For the purposes of this section, the following definitions apply:

(1) *Assets* means all assets less appropriate valuation reserves as determined in accordance with GAAP except where otherwise noted in this section.

(2) *Contingent liabilities* means those liabilities that, in accordance with GAAP, will materialize if certain events occur.

(3) *Total capital* means all capital stock, surplus and undivided profits accounts as determined in accordance with GAAP, except where otherwise noted in this section, and as adjusted pursuant to the requirements of § 611.1240.

(b) A terminating association shall pay an exit fee equal to the amount by which the total capital of the association exceeds 6 percent of its assets. The exit fee shall be paid to the Farm Credit Assistance Fund if the effective date of termination is prior to January 1, 1992 or to the Farm Credit Insurance Fund if the effective date is after that date.

(c) The computation date for the exit fee shall be the quarter end preceding the filing date. A certified audit of the terminating association shall be performed by a qualified public accountant, as defined in § 621.2(a)(21), as of the computation date. The Farm Credit Administration may, in its complete discretion, waive this requirement if such an audit was performed as of a date within the 6 months preceding the computation date.

(d) The method of computation shall be as follows:

(1) The average daily balance of assets and total capital for the past 12 months preceding the computation date will be computed as a basis for determining the exit fee; and

(2) Account balances shall be computed in accordance with GAAP and adjusted in accordance with paragraphs (e), (f), (g), and (h) of this section.

(e) For purposes of determining the amount of the exit fee, the Farm Credit Administration will review the terminating association's transactions over a 3-year period prior to the date of the adoption of the termination resolution. If this review determines that the terminating association's account balances do not accurately reflect the value of its assets and liabilities, or that the association has retired capital outside the ordinary course of business, or that the association has taken any other actions unrelated to its core business that have the effect of increasing or decreasing the amount of the exit fee, the Farm Credit Administration may make adjustments to the association's assets, liabilities, or capital and recompute the exit fee based on these adjustments. The review by the Farm Credit Administration shall include, but not be limited to:

(1) Additions to or subtractions from the allowance for loan losses;

(2) Additions to assets from transactions that are outside the terminating association's ordinary course of business;

(3) Dividends or patronage refunds exceeding the terminating association's usual practices;

(4) Changes in the terminating association's capitalization plan or implementation of that plan that increased or decreased the level of borrower investment;

(5) Contingent liabilities, such as loss-sharing obligations, that can be reasonably quantified; and

(6) Assets that may be overvalued, undervalued or not recorded on the books of the association.

(f) Capital of the terminating association owned by another Farm Credit institution or by the Financial Assistance Corporation shall not be included in capital for the purpose of determining the exit fee.

(g) In the event that GAAP requires that a liability be recorded on the balance sheet that will be offset by an unrecorded asset, the transaction recording the liability shall be reversed.

(h) In the event the terminating association has recorded expenses that

would not have been recorded but for the termination, such transactions shall be reversed.

(i) The exit fee shall be paid by certified check, or other means agreed upon by the Farm Credit Administration and the terminating association.

§ 611.1250 Repayment of debts.

(a) The terminating association shall provide for the payment or assumption by the successor institution of all outstanding debt obligations.

(b) The terminating association may establish and maintain an OFI relationship with the Farm Credit Bank, subject to all applicable requirements of part 614, subpart P, of this chapter. The general financing agreement establishing the OFI relationship shall provide for the assumption by the successor institution of any direct loan or other obligation that a production credit association is authorized to incur and that is not repaid at the time of termination. Any part of the direct loan or other obligation that is not linked to a loan covered by the general financing agreement shall be repaid as provided in paragraph (c) of this section.

(c) A terminating association that will not become an OFI shall either repay its direct loan and any other obligations to the Farm Credit Bank upon termination or shall arrange with the Farm Credit Bank to repay the loan or obligation. The terminating association may, with the concurrence of the Farm Credit Bank, repay the loan or obligation over a period that shall not exceed 3 years following termination.

(d) The terminating association shall pay or make provision for payment of obligations to any other Farm Credit institutions under any loss-sharing agreement or other agreement.

§ 611.1255 Retirement of equities owned.

(a) The Farm Credit Bank may retire all equities of the Farm Credit Bank that are owned by the terminating association on the termination date or may enter into an agreement with the terminating association that would provide for a phased retirement of the equities. Any such plan for phased retirement shall provide for such retirement to be completed by the earlier to occur on the date on which the terminating association repays all indebtedness to the bank or the date which is 3 years from the termination date, provided that no retirement shall occur during that period if any such retirement would result in the Farm Credit Bank's failure to meet minimum capital requirements.

(b) If the Farm Credit Bank and the terminating association are unable to reach agreement regarding the retirement of Farm Credit Bank equities, either institution may send the most recent proposals to the Farm Credit Administration along with an explanation of the points of disagreement. The Farm Credit Administration may require the bank to retire terminating association equities under such conditions as the Farm Credit Administration may require.

(c) No retirement shall occur if the Farm Credit Administration determines that the retirement of equities of the Farm Credit Bank would threaten the viability of the Farm Credit Bank.

(d) The amount to be paid to a terminating association in the retirement of equities owned in the Farm Credit Bank shall be equal to the amount of the allocated equities owned by the terminating association in the Farm Credit Bank, less any impairment, at the date the request for retirement is made by the terminating association. If the Financial Assistance Corporation owns any preferred stock in the Farm Credit Bank, any impairment of bank capital shall be applied first against the value of association-owned equities for determining the value of stock to be retired.

(e) If the terminating association has outstanding stock issued to another Farm Credit institution or outstanding preferred stock issued to the Financial Assistance Corporation, the association shall retire all such investment prior to termination.

(f) A Farm Credit Bank's equities obligated to be retired under any agreement between the terminating association and the Farm Credit Bank shall not be considered as part of the permanent capital of the Farm Credit Bank for purposes of § 615.5240.

§ 611.1260 Dissenters' rights.

(a) Dissenting stockholders, at their discretion, may, but are not required to, have their stock or participation certificates in the terminating association retired as provided in paragraph (b) of this section. To be eligible to be a dissenting stockholder a person must be the owner, other than a Farm Credit institution, of voting or non-voting stock or other equities of the terminating association who was either–

(1) Not eligible to vote on the termination resolution; or

(2) Eligible to vote on the termination resolution and voted, in person or by proxy, against such resolution.

(b) The terminating association shall pay dissenting stockholders in accordance with the priorities in liquidation set forth in the bylaws of the terminating association.

Notwithstanding any provision of paragraph (c) to the contrary, dissenting stockholders who hold eligible borrower stock shall receive not less than par value for their stock.

(c)(1) Except as provided in paragraph (d) of this section, the price paid to dissenting stockholders who own common stock or participation certificates shall be the adjusted book value, which is the book value on the computation date adjusted to reflect—

(i) Any increase or decrease in asset value resulting from the appraisals required in § 611.1240; and

(ii) Deduction of the amount of the exit fee.

(2) Payments made to dissenting stockholders who own common stock or participation certificates referred to in paragraph (c)(1) of this section shall be made on the following basis. If the adjusted book value of the common stock is less than or equal to the par or stated value of the stock, the full amount of the payment shall be in cash. If the adjusted book value of the common stock is greater than its par or stated value, the association:

(i) Shall pay in cash an amount equal to the par or stated value of the stock or participation certificate; and

(ii) Shall cause or otherwise provide for the successor institution to issue on the date of termination subordinated debt to the stockholder in an amount equal to the amount by which the book value exceeds the par or stated value of the stock or participation certificate. Such subordinated notes shall have a maturity date not in excess of 7 years after the date of issuance, shall have a priority on liquidation ahead of all equity shares but shall be subordinated to the claims of all other creditors, and shall carry a rate of interest that shall be not less than the rate for debt of comparable maturity issued by the Treasury of the United States plus 1 percent.

(d) If the association has adopted bylaws in accordance with § 611.1210(e), dissenting stockholders who own common stock or participation certificates issued in accordance with such bylaws shall be paid in cash an amount equal to the lesser of the par or adjusted book value of such stock or certificates.

(e) For the purposes of this section, common stock consists of voting stock, non-voting stock that was formerly voting stock, and stock that has no

priority of payment over any other class upon liquidation.

(f) The notice to stockholders and other holders of equity interests required in § 611.1220(e) shall include the following information:

(1) A statement of the rights of dissenting stockholders as specified in paragraph (a) of this section;

(2) The current book and par value per share, and the expected book and market value of the stockholder's pro rata interest in the successor institution; and

(3) An explanation of the procedure by which stockholders may exercise dissenters' rights and the form they shall return to the terminating association informing it of their intent to exercise such rights. The notification form by which stockholders may exercise dissenters' rights shall include the date by which the form must be returned to the terminating association, as specified in paragraph (b) of this section, and a place for stockholders to mark or indicate that they intend to exercise dissenters' rights. The notification form shall be a convenient method for the stockholders to notify the association and may consist of, but is not limited to, a postcard or pre- printed return envelope.

(g) An explanation that dissenting stockholders shall have until 30 days following notification of their dissenters' rights to request retirement of their stock or participation certificates. The stockholders' election to retire stock shall be rescinded in a petition for reconsideration is successful.

(h) An explanation that maintenance of a borrowing relationship with the successor institution shall not be required as a condition for owing stock in the successor institution, unless otherwise directed by the bylaws of the successor institution.

§ 611.1266 Loan refinancing by borrowers.

(a) All loans and loan assets of the terminating association shall become assets of the successor institution unless they have been sold by the terminating association to another lending institution or refinanced by the borrower.

(b) If an association has been designated to serve the territory of the terminating association prior to the mailing of the information statement, or if an association that offers credit services of the same type as the terminating association is already chartered to serve the territory, such association shall be identified in the information statement. In addition, such association shall provide the terminating association with the following information:

(1) The name and address of the association office that the borrower may contact;

(2) An explanation of the procedures to apply for financing with the association and the procedures by which the loan may be transferred to the association;

(3) An explanation of the stock purchase requirements of the new association; and

(4) Any other information the association wishes to include or routinely provides to new borrowers.

(c) If the terminating association receives the information required in paragraph (b) of this section prior to the mailing of the information statement to borrowers, the terminating association shall include such information in the information statement. If an association has not been designated to serve the territory or if the terminating association does not receive the information required in paragraph (b) of this section prior to the mailing of the information statement, the terminating association shall furnish each borrower with the address and telephone number of the district Farm Credit Bank with instructions that the bank may be contacted in the future to determine the name and address of the association(s) that will serve the territory in the future.

(d) The terminating association shall provide credit and loan information to the association designated to serve the territory upon the borrower's request, in accordance with §§ 618.8300 through 618.8325, and take such other steps as are necessary to facilitate the transfer of the loan to the association.

§ 611.1270 Continuation of borrower rights.

Terminating associations which maintain an OFI relationship with the Farm Credit Bank shall comply with borrower rights provisions contained in part 614, subparts K, L, M and N of this chapter. The terminating association may not require a waiver of applicable borrower rights provisions as a condition of ownership interest in and continued financing by the successor institution.

Dated: January 23, 1991

Curtis M. Anderson,

Secretary, Farm Credit Administration Board

[FR Doc. 91–2030 Filed 1–29–91; 8:45 am]

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CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1061, 1604, and 1704

Application for Exemption from Preemption

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Consumer Product Safety Commission is removing 16 CFR part 1604, regarding applications for exemption from preemption under the Flammable Fabric Act, and part 1704, dealing with applications for exemption from preemption under the Poison Prevention Packaging Act. The Commission is adding a new part 1061, concerning applications for exemption from preemption under four of the statutes administered by the Commission: the Consumer Product Safety Act, the Federal Hazardous Substances Act, the Flammable Fabrics Act, and Poison Prevention Packaging Act.

DATES: This rule will become effective on March 1, 1991.

FOR FURTHER INFORMATION CONTACT: Patricia Pollitzer, Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207, telephone 301–492–6980.

SUPPLEMENTARY INFORMATION:

A. Background

Four of the acts administered by the Consumer Product Safety Commission contain specific preemption provisions. These are the Consumer Product Safety Act ("CPSA"), 15 U.S.C. 2051 *et seq.*, the Federal Hazardous Substances Act ("FHSA") 15 U.S.C. 1261 *et seq.*, the Flammable Fabrics Act ("FFA"), 15 U.S.C. 1191 *et seq.*, and the Poison Prevention Packaging Act ("PPPA"), 15 U.S.C. 1471 *et seq.*

Although these provisions are not completely identical, each generally provides that when there is a product safety requirement in effect under one of these four acts that concerns a risk of injury from a product covered by one of the acts, no State or local government may, except as may apply to such products obtained for the government's own use, enforce a non-identical State or local statute or regulation designed to protect against the same risk or injury as that of a Commission requirement. Thus, in such situations, a federal requirement preempts State or local requirements not identical to a Commission requirement.

Each of the four acts also contains provisions that authorize the

Commission, upon application by the State or local government, to issue a regulation exempting a State or local statute or regulation from the preemptive effect of a Commission statute, standard, or regulation. To grant such an exemption, the Commission must find that the State or local statute or regulation provides a significantly higher degree of protection and does not unduly burden interstate commerce.

In 1976 the Commission published interim regulations concerning applications for exemption from preemption under the FFA (41 FR 31569, July 29, 1976, 16 CFR part 1604), and the PPPA (41 FR 37126, September 2, 1976, 16 CFR part 1704). On December 28, 1988, the Commission proposed to remove those interim regulations and replace them with a new part 1061 regarding applications for exemption from preemption under all four statutes. 53 FR 52428, December 28, 1988.

B. Explanation of Rule

1. Threshold for an Application For an Exemption

Section 1061.4 provides that applications for exemption from preemption will be considered on their merits where the applicant demonstrates that the State or local requirement for which exemption is sought has been enacted or issued in final form by an authorized body, where the application is made by that authorized body, and where the State or local requirement is actually preempted by a Commission statute, standard or regulation.

2. Form and Content or an Application for Exemption

Sections 1061.5 through 1061.10 specify the required form and content of an application for exemption. Section 1061.5 requires that an application identify the specific State or local requirement for which exemption is sought, the specific Commission statute, standard, or regulation that preempts the State or local requirement, and the authorized State or local contact person. Section 1061.6 provides that applicants should submit the most complete information possible to support the necessary findings, and the section requires applicants to explain the absence of otherwise required information. Section 1061.7 requires that an application include a copy of the State or local requirement, any available legislative history or other background materials concerning the requirement, and an explanation of why compliance would not cause the product to be in violation of applicable Commission requirements. Section 1061.8 requires applicants to provide various kinds of information on the risk of injury the local requirement is intended to address and to demonstrate that the State or local requirement provides a significantly higher degree of protection than the Commission statute, standard, or regulation. Section 1061.9 requires applicants to provide various kinds of information to demonstrate the effect of the State or local requirement on interstate commerce. Section 1061.10 requires applicants to provide a statement which identifies potentially affected individuals or groups.

3. Incomplete Applications

Section 1061.11 specifies how the Commission will handle incomplete applications.

4. Grant of Denial of an Application for Exemption

Section 1061.12 describes the procedures the Commission will follow in considering an application for exemption on its merits. In general, if the Commission proposes to grant an exemption it will publish a proposed regulation in the **Federal Register** and provide an opportunity for written and oral comments. If, after considering any comments received, it grants an application, the Commission will publish a final exemption regulation, which will include its findings. If it rejects an application, before or after soliciting public comments, the Commission will publish its reasons in the **Federal Register.**

C. Commission Response to Comments

The Commission received four comments in response to the proposed rule. All of the comments favored the rule, but had some suggestions for minor changes. Summaries of the comments and the Commission's responses are set forth below.

Section 1061.2(f): Definitions

Springs Industries, Inc. suggested expanding the definition of "State or local requirement" contained in § 1061.2(f) to include standards or requirements applied as common or statutory law by a State or local court or a federal court exercising diversity jurisdiction. The commenter asserts that in litigation concerning the FFA, courts are applying a "reasonableness" standard that is inconsistent with Congressional intent to provide a nationwide standard. The American Textile Manufacturers Institute, Inc. expressed its support for Springs Industries' comment.

The Commission does not believe that "standards" applied by courts should be included in the definition of "State or local requirement." Generally, courts do not establish prospective standards or regulations applicable to a category of persons, but instead deal with the specific parties before them. It is the Commission's view that the statutory preemption provisions were intended to address the legislative type of standard or regulation. Moreover, these procedures for application for exemption will be operative only once a State or local government recognizes that preemption may exist and, therefore, wishes to seek an exemption. It remains the role of the courts to determine whether a particular State or local standard or requirement is preempted.

Who May Apply for Exemption

The Chemical Specialists Manufacturers Association ("CSMA"), noting concerns with labeling requirements imposed by State and local legislation and regulations like California's Proposition 65, welcomed the Commission's proposed rule. CSMA recommended expanding the proposal to allow interested parties other than State and local governments to apply to the Commission for a "preemption determination." CSMA asserts that this would allow the Commission an opportunity to address preemption questions when State or local governments are unwilling to request a determination, and would allow the Commission to establish a consistent body of decisions on preemption.

After considering this suggestion, the Commission declines to make such a change. The four statutes themselves specifically provide for applications by "a State or political subdivision of a State." Thus, it does not appear that Congress contemplated exemption applications from other parties. To the extent that CSMA is asking for the Commission to provide an opportunity for others to seek the Commission's views on whether a particular State or local requirement would be preempted, the stated procedure for exemption would not affect such an effort. Interested persons have been, and continue to be, free to request an advisory opinion from the Office of the General Counsel concerning a specific preemption question. *See* 16 CFR 1000.7. More importantly, an interested person who believes that a requirement may be preempted can file suit to resolve the question, as courts are the final arbiters of such preemption questions.

Section 1061.9: Information Concerning Interstate Commerce

The Gas Manufacturers Association ("GAMA") made several comments concerning the information to be submitted on interstate commerce (§ 1061.9). GAMA approved of § 1061.9(e) requiring information concerning specific local conditions that make the State or local requirement necessary to protect public health and safety. GAMA also noted with approval that the proposal appeared to recognize that the determination of "undue burden on interstate commerce" involves a weighing of costs and benefits. However, GAMA recommended the following three changes to the proposal: (1) Addition of a requirement that an applicant show the degree to which specified local conditions are substantially different than elsewhere; (2) deletion of § 1061.9(d) requesting information concerning the probability that other State or local governments would apply for similar exemptions; and (3) publication in the Federal Register of applications that meet threshold requirements so that manufacturers, distributors, and dealers would have an opportunity to comment before the Commission makes a determination on an application.

After considering these comments, the Commission has decided to retain § 1061.9 as proposed without any changes. (1) It is the Commission's view that information concerning the degree to which local conditions vary from one place to another will be included in the information provided under § 1061.9(e) requiring information about the specified local conditions necessitating an exemption. Therefore, no additional requirement is necessary. (2) The Commission's four statutes at issue specifically provide that the Commission consider and make findings concerning the probability that other State or local governments will seek exemptions for similar requirements. Thus, the Commission must consider such information in making a determination on an application for exemption from preemption. (3) The Commission believes that the Rulemaking procedure that the statutory preemption provisions require will provide adequate opportunity for interested persons to comment on any request for exemption. Providing an additional step would considerably increase the time necessary for the application procedure.

D. Regulatory Flexibility Act

As explained in the proposed rule, the Commission expects that this rule will have only minimal effect on small government bodies. Thus, the Commission certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The regulation establishes procedures for the Commission to evaluate and decide applications from State and local governmental entities for exemptions from the preemptive effect of Commission statutes, standards, and regulations. Although states and larger counties and municipalities may have the capabilities to provide the required information, smaller government entities may have difficulty doing so. However, because local governments rarely have product specific safety regulations (with the exception of fireworks), they generally would not need to submit applications for exemption from preemption. Therefore these small governmental organizations would ordinarily remain unaffected by the rule the Commission is issuing. In the event that a small governmental organization is affected by the rule, the Commission staff is willing to assist those entities with preparation of the documents necessary to support an application.

List of Subjects in 16 CFR Part 1061

Administrative practice and procedure, Consumer protection, Intergovernmental relations.

For the reasons set forth in the preamble, the Consumer Product Safety Commission is amending title 16, chapter II, as follows:

PART 1604—[REMOVED]

1. Part 1604 is removed.

PART 1704—[REMOVED]

2. Part 1704 is removed.

3. Part 1061 is added to read as follows:

PART 1061—APPLICATIONS FOR EXEMPTION FROM PREEMPTION

Sec.

Authority: 15 U.S.C. 2075; 15 U.S.C. 1261n; 15 U.S.C. 1203; 15 U.S.C. 1476.

§ 1061.1 Scope and purpose.

(a) This part applies to the submission and consideration of applications by State and local governments for exemption from preemption by statutes, standards, and regulations of the Consumer Product Safety Commission.

(b) This part implements section 26 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2075), section 18 of the Federal Hazardous Substances Act (FHSA) (15 U.S.C. 1261n), section 16 of the Flammable Fabrics Act (FFA) (15 U.S.C. 1203), and section 7 of the Poison Prevention Packaging Act (PPPA) (15 U.S.C. 1476), all as amended.

§ 1061.2 Definitions.

For the purposes of this part:

(a) *Commission* means the Consumer Product Safety Commission.

(b) *Commission's statutory preemption provisions* and *statutory preemption provisions* means section 26 of the CPSA (15 U.S.C. 2075), section 18 of the FHSA (15 U.S.C. 1261n), section 16 of the FFA (15 U.S.C. 1203) and section 7 of the PPPA (15 U.S.C. 1476).

(c) *Commission statute, standard, or regulation* means a statute, standard, regulation, or requirement that is designated as having a preemptive effect by the Commission's statutory preemption provisions.

(d) *State* means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, Wake Island, Midway Island, Kingman Reef, Johnston Island, the Canal Zone, American Samoa, or the Trust Territory of the Pacific Islands.

(e) *Local government* means any political subdivision of a State having the authority to establish or continue in effect any standard, regulation, or requirement that has the force of law and is applicable to a consumer product.

(f) *State or local requirement* means any statute, standard, regulation, ordinance, or other requirement that applies to a product regulated by the Commission, that is issued by a State or local government, and that is intended to have the force of law when in effect.

§ 1061.3 Statutory considerations.

(a) The Commission's statutory preemption provisions provide, generally, that whenever consumer products are subject to certain Commission statutes, standards, or regulations, a State or local requirement applicable to the same product is

preempted, i.e., superseded and made unenforceable, if both are designed to protect against the same risk of injury or illness, unless the State or local requirement is identical to the Commission's statutory requirement, standard, or regulation. A State or local requirement is not preempted if the product it is applicable to is for the State or local government's own use and the requirement provides a higher degree of protection than the Commission's statutory requirement, standard, or regulation.

(b) The Commission's statutory preemption provisions provide, generally, that if a State or local government wants to enforce its own requirement that is preempted, the State or local government must seek an exemption from the Commission before any such enforcement. The Commission may, by regulation, exempt a State or local requirement from preemption if it finds that the State or local requirement affords a significantly higher degree of protection than the Commission's statute, standard, or regulation, and that it does not unduly burden interstate commerce. Such findings must be included in any exemption regulation.

§ 1061.4 Threshold requirements for applications for exemption.

(a) The Commission will consider an application for preemption on its merits, only if the application demonstrates all of the following:

(1) The State or local requirement has been enacted or issued in final form by an authorized official or instrumentality of the State or local government. For purposes of this section, a State or local requirement may be considered to have been enacted or issued in final form even though it is preempted by a Commission standard or regulation.

(2) The applicant is an official or instrumentality of a State or local government having authority to act for, or on behalf of, that government in applying for an exemption from preemption for the safety requirement referred to in the application.

(3) The State or local requirement is preempted under a Commission statutory preemption provision by a Commission statute, standard, or regulation. A State or local requirement is preempted if the following tests are met:

(i) There is a Commission statute, standard, or regulation in effect that is applicable to the product covered by the State or local requirement.

(ii) The Commission statute, standard, or regulation is designated as having a preemptive effect under a statutory preemption provision.

(iii) The State or local requirement is designed to protect against the same risk of injury or illness as that addressed by the Commission statute, standard, or regulation.

(iv) The State or local requirement is not identical to the Commission statute, standard, or regulation.

(b) State and local governments may contact the Commission's Office of the General Counsel to obtain informal advice on whether a State or local requirement meets the threshold requirements of paragraph (a) of this section.

§ 1061.5 Form of applications for exemption.

An application for exemption shall:

(a) Be written in the English language.

(b) Clearly indicate that it is an application for an exemption from preemption by a Commission statute, standard, or regulation.

(c) Identify the State or local requirement that is the subject of the application and give the date it was enacted or issued in final form.

(d) Identify the specific Commission statute, standard, or regulation that is believed to preempt the State or local requirement.

(e) Contain the name and address of the person, branch, department, agency, or other instrumentality of the State or local government that should be notified of the Commission's actions concerning the application.

(f) Document the applicant's authority to act for, or on behalf of, the State or local government in applying for an exemption from preemption for the particular safety requirement in question.

(g) Be signed by an individual having authority to apply for the exemption from federal preemption on behalf of the applicant.

(h) Be submitted, in five copies, to the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

§ 1061.6 Contents of applications for exemption.

Applications for exemption shall include the information specified in §§ 1061.7 through 1061.10. More generally, a State or local government seeking an exemption should provide the Commission with the most complete information possible in support of the findings the Commission is required to make in issuing an exemption regulation. If any of the specified information is omitted becuase it is unavailable or not relevent, such omission should be explained in the application.

§ 1061.7 Documentation of the State or local requirement.

An application for an exemption from preemption shall contain the following information:

(a) A copy of the State or local requirement that is the subject of the application. Where available, the application shall also include copies of any legislative history or background materials used in issuing the requirement, including hearing reports or studies concerning the development or consideration of the requirement.

(b) A written explanation of why compliance with the State or local requirement would not cause the product to be in violation of the applicable Commission statute, standard, or regulation.

§ 1061.8 Information on the heightened degree of protection afforded.

An application for an exemption from preemption shall also contain information demonstrating that the State or local requirement provides a significantly higher degree of protection from the risk of injury or illness than the preempting Commission statute, standard, or regulation. More specifically, an application shall contain:

(a) A description of the risk of injury or illness addressed by the State or local requirement.

(b) A detailed explanation of the State or local requirement and its rationale.

(c) An analysis of differences between the State or local requirement and the Commission statute, standard, or regulation.

(d) A detailed explanation of the State or local test method and its rationale.

(e) Information comparing available test results for the Commission statute, standard, or regulation and the State or local requirement.

(f) Information to show hazard reduction as a result of the State or local requirement, including injury data and results of accident simulation.

(g) Any other information that is relevant to applicant's contention that the State or local requirement provides a significantly higher degree of protection than does the Commission statute, standard, or regulation.

(h) Information regarding enforcement of the State or local requirement and sanctions that could be imposed for noncompliance.

§ 1061.9 Information about the effect on interstate commerce.

An application for exemption from preemption shall provide information on the effect on interstate commerce a

granting of the requested exemption would be expected to cause, including the extent of the burden and the benefit to public health and safety that would be provided by the State or local requirement. More specifically, applications for exemption shall include, where available, information showing:

(a) That it is technologically feasible to comply with the State or local requirement. Evidence of technological feasibility could take the form of:

(1) Statements by affected persons indicating ability to comply with the State or local government requirement.

(2) Statements indicating that other jurisdictions have established similar requirements that have been, or could be, met by persons affected by the requirement that is the subject of the application.

(3) Information as to technological product or process modifications necessary to achieve compliance with the State or local requirement.

(4) Any other information indicating the technological feasibility of compliance with the State or local requirement.

(b) That it is economically feasible to comply with the Sate or local requirement, i.e., that there would not be significant adverse effects on the production and distribution of the regulated products. Evidence of economic feasibility could take the form of:

(1) Information showing that the State or local requirement would not result in the unavailability (or result in a significant decline in the availability) of the product, either in the interstate market or within the geographic boundary of the State or local government imposing the requirement.

(2) Statements from persons likely to be affected by the State or local requirement concerning the anticipated effect of the requirement on the availability or continued marketing of the product.

(3) Any other information indicating the economic impact of compliance with the State or local requirement, such as projections of the anticipated effect of the State or local requirement on the sales and prices of the product, both in interstate commerce and within the geographic area of the State or local government.

(c) The present geographic distribution of the product to which the State or local requirement would apply, and projections of future geographic distribution. Evidence of the geographic distribution could take the form of governmental or private information or data (including statements from manufacturers, distributors, or retailers of the product) showing advertising in the interstate market, interstate retailing, or interstate distribution.

(d) The probability of other States or local governments applying for an exemption for a similar requirement. Evidence of the probability that other States or local governments would apply for an exemption could take the form of statements from other States or local governments indicating their intentions.

(e) That specified local conditions require the State or local government to apply with the exemption in order to adequately protect the public health or safety of the State or local area.

§ 1061.10 Information on affected parties.

An application for an exemption from preemption shall include a statement which identifies in general terms, parties potentially affected by the State or local requirement, especially small businesses, including manufacturers, distributors, retailers, consumers, and consumer groups.

§ 1061.11 Incomplete or insufficient applications.

(a) If an application fails to meet the threshold requirements of § 1061.4(a) of this part, the Office of General Counsel will inform the applicant and return the application without prejudice to its being resubmitted.

(b) If an application fails to provide all the information specified in §§ 1061.5 through 1061.10 of this part, and fails to fully explain why it has not been provided, the Office of General Counsel will either:

(1) Return it to the applicant without prejudice to its being resubmitted,

(2) Notify the applicant and allow it to provide the missing information, or

(3) If the deficiencies are minor and the applicant concurs, forward it to the Commission for consideration on its merits.

(c) If the Commission or the Commission staff believes that additional information is necessary or useful for a proper evaluation of the application, the Commission or Commission staff will promptly request the applicant to furnish such additional information.

(d) If an application is not returned under paragraphs (a) or (b) of this section, the Commission will consider it on its merits.

§ 1061.12 Commission consideration on merits.

(a) If the Commission proposes to grant an application for exemption it will, in accordance with 5 U.S.C. 553, publish a notice of that fact in the Federal Register, including a proposed exemption regulation, and provide an opportunity for written and oral comments on the proposed exemption by any interested party.

(b) The Commission will evaluate all timely written and oral submissions received from interested parties, as well as any other available and relevant information on the proposal.

(c) The Commission's evaluation will focus on:

(1) Whether the State or local requirement provides a significantly higher degree of protection than the Commission statute or regulation from the risk of injury or illness that they both address.

(2) Whether the State or local requirement would unduly burden interstate commerce if the grant of the exemption from preemption allows it to go into effect. The Commission will evaluate these factors in accordance with the Commission's statutory preemption provisions and their legislative history.

(3) Whether compliance with the State or local requirements would not cause the product to be in violation of the applicable Commission statute, standard, or regulation.

(d) If, after evaluating the record, the Commission determines to grant an exemption, it will publish a final exemption regulation, including the findings required by the statutory preemption provisions, in the Federal Register.

(e) If the Commission denies an application, whether or not published for comment, it will publish its reasons for doing so in the Federal Register.

Dated: January 22, 1991.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 91-1947 Filed 1-29-91; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8323]

RIN 1545-AL06

Information Reporting on Real Estate Transactions; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to the final regulations (T.D.

8323), which were published Thursday, December 13, 1990, (55 FR 51282). The regulations related to the information reporting requirements for real estate transactions contained in section 6045(e).

EFFECTIVE DATE: January 1, 1991.

FOR FURTHER INFORMATION CONTACT: Arthur E. Davis (202) 377–9581 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections, supersede § 1.6045–3T on the effective date and affect persons required to make returns of information under section 6045(e). Section 6045(e) was added to the Code by section 1521 of the Tax Reform Act of 1986 (Pub. L. 99–514, 100 Stat. 2746). Section 6045(e) was amended by section 1015(e) of the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. 100–647, 102 Stat. 3342).

Need for Correction

As published, the final regulations contain errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (T.D. 8323), which were the subject of FR Doc. 90–29239, is corrected as follows:

§ 1.6045–4 [Corrected]

Par. 1. On page 51289, in the second column, in § 1.6045–4, paragraph (m)(1), in the indented paragraph preceding the flush language, line four of the indented paragraph, the word "will" is corrected to read "may".

Par. 2. on page 51290, in the first column, in § 1.6045–4, paragraph (r) (Example 2), line sixteen, the letter "J" at the end of the line is corrected to read "C".

Par. 3. On page 51290, in the first column, in § 1.6045–4, paragraph (r) (Example 4) (i), line 4, the figure "$20,000" is corrected to read "$10,000".

Par. 4. on page 51290, in the first column, in § 1.6045–4, paragraph (r) (Example 4) (i), line six, the phrase "market value of $120,000", is corrected to read "market value of $120,000 and is encumbered by a $10,000 liability (which is assumed by G)".

Par. 5. On page 51290, in the first column, in § 1.6045–4, paragraph (r) (Example 4) (i), beginning in line six, the sentence "No liabilities will be assumed in the transaction and neither property is subject to any liabilities." is corrected to read "No other liabilities are involved in the transaction.".

Par. 6. On page 51290, in the second column, in § 1.6045–4, paragraph (r) (Example 4) (iii), line three, the phrase "proceeds of $20,000 (the cash received by H)" is corrected to read "proceeds of $20,000 (the amount received by H consisting of cash ($10,000) and consideration treated as cash ($10,000) under paragraph (i) of this section).".

Dale D. Goode,

Federal Register Liaison Officer Assistant Chief Counsel (Corporate).

[FR Doc. 91–2089 Filed 1–29–91; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024–AB86

Voyageurs National Park, MN; Snowmobile Regulations

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: This rulemaking amends 36 CFR 7.33 by adding paragraph (b) which specifically designates routes, portages and water surfaces open to snowmobile use. This amendment is necessary to authorize snowmobile use within Voyageurs National park. The intended effects are to provide for safe snowmobile use, to protect park resources, and to provide appropriate enjoyment to park users.

EFFECTIVE DATE: March 1, 1991.

FOR FURTHER INFORMATION CONTACT: Ben Clary, Superintendent, Voyageurs National Park, HCR 9, Box 600, International Falls, MN 56649.

SUPPLEMENTARY INFORMATION:

Background

Title 36, Code of Federal Regulations (36 CFR), § 2.18(c) requires the promulgation of special regulations to authorize snowmobile use within areas of the National Park System.

These regulations allow snowmobiling on designated lakes, land trails and safety portages within Voyageurs National Park. They reflect the legislative history and planning and public participation process summarized below.

Voyageurs National Park was authorized in 1971 and established in 1975. The park consists of approximately 219,128 acres of which 85,506 acres or 39 percent are water.

The water portions of the park have long served as primary transportation routes, and motorized travel on the major lakes (Rainy, Kabetogama, Namakan and Sand Point) precedes the park's establishment. Today motorboats and snowmobiles are used both for recreation and to provide year-round access to homes and vacation cabins in the adjacent region.

Overland snowmobile travel is also long established. The most popular overland snowmobile route existing today is the Chain of Lakes Trail located on the western half of the Kabetogama Peninsula. This twelve-mile trail connects five interior lakes with Kabetogama Lake by a series of portages and abandoned logging roads.

"NPS Management Policies" and 36 CFR 2.18 state that snowmobiling will be limited to designated routes and frozen lake surfaces used by motorized vehicles during other seasons or as otherwise provided by Federal statute.

The legislation authorizing Voyageurs National Park (Pub. L. 91–661, as codified at 16 U.S.C. 160 *et seq.*) includes such a provision. Section 303 of the Act, 16 U.S.C. 160h, states: "the Secretary [of the Interior] may, when planning for development of the park, include appropriate provisions for winter sports, including the use of snowmobiles."

The park's 1980 "Master Plan" followed this direction by providing for the use of snowmobiles on lakes and traditionally used land routes.

In 1983 the park's initial wilderness study was completed and the resulting draft "Wilderness Recommendation" and accompanying "Environmental Impact Statement" (EIS) were submitted to the Department of Interior's Legislative Counsel on June 8, 1983. A second recommendation superseding the June 8, 1983, recommendation was transmitted on November 17, 1983. Neither the first or the second recommendation were transmitted to the President or to the Congress.

An update of the wilderness study is scheduled to commence in the fall of 1990.

In April, 1989 the park's "Trail Plan and Environmental Assessment" was completed. This document proposed the development of certain overland snowmobile trails with the understanding that these trails would not preclude further wilderness study and potential wilderness designation.

A "Special Regulations For Lake Surface Snowmobiling Environmental Assessment" was completed in 1990 and supported the "Master Plan" recommendation to allow snowmobiling on Rainy, Kabetogama, Namakan and Sand Point Lakes.

This regulation implements the above recommendations by authorizing

snowmobile use on the frozen lake surfaces of the four major lakes, on the Chain of Lakes Trail, across associated safety portages, and on several short spur routes.

In order to mitigate snowmobile impacts on critical wildlife habitat within the park, temporary closures of the lake surfaces could occur under the authority of § 1.5 of 36 CFR. Other mitigation measures to reduce the potential impacts of snowmobiles on the park's resources will also be implemented. These actions include continued monitoring and analysis by the resource management and research staffs of resource conditions and trends, and visitor use and behavior. Non-regulatory measures will be adopted, including marking and grooming of trails on the lake surfaces to route snowmobiles away from areas frequented by wolves and other wildlife.

Summary of Public Comments

On October 29, 1990, the National Park Service, Department of the Interior, published in the **Federal Register** (55 FR 43382) a proposed rule to allow snowmobile use on designated lakes, land trails and safety portages within Voyageurs National Park. This proposal was made available for public review and comment for a period of thirty (30) days following publication in the **Federal Register**, and ending on November 28, 1990. The Superintendent, Voyageurs National Park, received a total of five written comments during this period. Of these, four were from organizations, and one was from a private individual.

Analysis of Public Comments

Three of the organizations offered no specific comments other than favoring the regulation.

The fourth organization provided ten specific comments opposing the regulation.

The private individual expressed three specific comments opposing snowmobile use on the Chain of Lakes Trail.

The areas of concern expressed by the organization opposing the regulations and the private individual were similar and have been combined into the following categories: (1) Compliance with Federal laws and National Park Service policies, (2) Wilderness designation, (3) Opportunity to comment, (4) Unlimited major lake access vs. established trails, (5) Snowmobile bias, and (6) Impacts to resources.

The Service's responses to the comments are as follows:

(1) Compliance with Federal Laws and National Park Service Policies

Both the organization and the private individual felt the proposed regulation violated Federal laws and National Park Service policies.

The National Park disagrees. "NPS Management Policies" and 36 CFR 2.18 state that snowmobiling may be allowed on designated routes and frozen lake surfaces used by motorized vehicles and motorboats during other seasons or as otherwise provided by Federal statute. The water surfaces designated for snowmobile use by this regulation are used by motorboats during other seasons. The legislation authorizing Voyageurs National Park (Public Law 91–661, as codified at 16 U.S.C. sections 160 *et seq.*) includes a provision for the use of snowmobiles.

(2) Wilderness Designation

The organization and the private individual commented that snowmobiling should not be allowed until a final wilderness proposal is submitted to Congress.

The National Park Service believes there is no conflict between this regulation and any future wilderness designation. Snowmobile use under this regulation will not diminish the suitability of any potential wilderness identified during the re-initiated wilderness study process. As stated in the "Background" section, this regulation will be amended as appropriate to reflect the recommendations of the re-initiated wilderness study.

(3) Opportunity To Comment

The organization and the private individual felt the public had not been given sufficient opportunity to comment on the Chain of Lakes Trail.

The decision to allow snowmobile use on this traditional snowmobile route has been public knowledge since Voyageurs National Park issued a press release in September, 1989 identifying it as an interim on-land route until the Kabetogama Peninsula Trail outlined in the "trail Plan" could be constructed. The thirty (30) day comment period provided for in the proposed regulation fully complies with both the statutory provisions of 5 U.S.C. 553, and the policy requirements of the Department of Interior (Part 318, Department of the Interior Manual, Chapter 6.4D).

Additional opportunities for the public to react to snowmobiling within the park will occur as part of the re-initiated wilderness study process.

(4) Unlimited Major Lake Access vs. Established Trails

The organization was concerned that the proposed regulation allowed unlimited snowmobile travel on the major lakes, rather than limiting this activity to designated trails.

Both the 1980 "Master Plan" and the 1990 "Special Regulations for Lake Surface Snowmobiling Environmental Assessment" recommended snowmobile use be allowed on the entire frozen surfaces of the major lakes.

Use of the frozen lake surfaces will be managed by non-regulatory measures, including the marking and grooming of trails to route snowmobiles away from areas frequented by wolves and other wildlife.

(5) Snowmobile Bias

Another concern expressed was that the National Park Service is manifesting a biased intent favoring snowmobiling over other recreational activities.

The 1990 "Trail Plan", the recommendations of which served as the foundation for this regulation, in fact addressed all types of trails. This regulation is not intended for the benefit of one type of user to the exclusion of others, but rather reflects the legislation authorizing the Park (Pub. L. 91–661). This legislation recognized snowmobiling as an appropriate use.

(6) Impacts to Resources

Comments in this final category addressed concerns that snowmobile use allowed by this regulation will impact wildlife and habitat.

As stated in the "Background" section, mitigation measures to reduce the potential impacts of snowmobiles on the park's resources will be implemented. Monitoring and analysis of resource conditions and visitor use trends by the resource management and research staff will continue. Temporary closures will occur as appropriate, and non-regulatory measures will be adopted, including marking and grooming of trails on the lake surfaces to route snowmobiles away from areas frequented by wolves and other wildlife.

After reviewing all comments, the National Park Service has determined that the regulation as previously published represents a reasonable balance of use and resource protection accurately reflecting the park's legislative history and planning and public participation process. Therefore, the regulation is published as a final rule without change.

Drafting Information

The primary author of this regulation is Hugh Dougher, Park Ranger, Voyageurs National Park.

Paperwork Reduction Act

This rulemaking does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Compliance with Other Laws

Pursuant to the National Environmental Policy Act, 42 U.S.C. 4332, the Service prepared a Draft Trail Plan and Environmental Assessment. The environmental assessment led to a Finding of No Significant Impact.

Public input was prepared during a series of public hearings. Extensive public comment, both oral and written, was received regarding the matter of snowmobile use.

The NPS has determined that this rulemaking is not a "major rule" within the meaning of E.O. 12291 ((46 FR 13193); Feb. 19, 1981). In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, which became effective January 1, 1981, the Service has determined that the regulations proposed in the rulemaking will not have a significant economic effect on a substantial number of small entities, nor does it require a preparation of a regulatory analysis.

The Service has reviewed this rule as directed by Executive Order 12360, "Government Actions and Interference with Constitutionally Protected Property Rights," to determine if this rule has "policies that have taking implications." The Service has determined that this rule does not have takings implications because it allows an activity previously prohibited by Service regulations. This will allow winter access to private lands within and adjacent to the park which is otherwise prohibited.

List of Subjects in 36 CFR Part 7

National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, 36 CFR Chapter I is amended as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

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

Authority: 16 U.S.C. 1, 3, 9a, 460(q), 462(k); Sec. 7.96 also issued under D.C. Code 8–137 (1981) and DC Code 40–721 (1981).

2. Section 7.33 is amended by adding paragraph (b) to read as follows:

§ 7.33 Voyageurs National Park.

* * * * *

(b) *Snowmobiles.* (1) The following lakes and trails within Voyageurs National Park are open to snowmobile use:

(i) The frozen waters of Rainy, Kabetogama, Namakan, Mukooda, Little Trout and Sand Point Lakes.

(ii) The Moose River Railroad Grade from the park boundary north to Ash River, and then east to Moose Bay, Namakan Lake.

(iii) The portage trail between Grassy Bay and Little Trout Lake.

(iv) The Chain of Lakes Trail from its intersection with the Black Bay to Moose Bay portage, across Locator, War Club, Quill, Loiten, and Shoepack Lakes, to Kabetogama Lake.

(2) Snowmobile use is allowed across the following marked safety portages: Black Bay to Moose Bay, Lost Bay to Saginaw Bay, Laurins Bay to Kettle Falls, Squirrel Narrows, Squaw Narrows, Grassy Bay, Namakan Narrows, Swansons Bay, Mukooda Lake to Sand Point Lake (north), Mukooda Lake to Sand Point Lake (south), Mukooda Lake to Crane Lake, Tar Point, Kohler Bay, and Sullivan Bay to Kabetogama Lake.

(3) The Superintendent may determine yearly opening and closing dates for snowmobile use, and temporarily close trails or lake surfaces, taking into consideration public safety, wildlife management, weather, and park management objectives.

(4) Maps showing the designated routes are available at park headquarters and at ranger stations.

(5) Snowmobile use outside open designated routes and lake surfaces is prohibited.

Dated: January 5, 1991.

Scott Sewell,

Acting Assistant Secretary for Fish, Wildlife and Parks.

[FR Doc. 91–2178 Filed 1–29–91; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

Medical; Amendment To Incorporate Technical Changes

AGENCY: Department of Veterans Affairs.

ACTION: Final technical amendments.

SUMMARY: The Department of Veterans Affairs (VA) is making technical amendments to correct editorial type errors contained in 38 CFR part 17 that were inadvertently not changed when the amendments were published.

EFFECTIVE DATE: March 1, 1991.

FOR FURTHER INFORMATION CONTACT: Paul C. Tryhus, Chief, Policies and Procedures Division (161B), Veterans Health Services and Research Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–2143.

SUPPLEMENTARY INFORMATION: This amendment simply corrects editorial type errors contained in VA regulations at 38 CFR 17.56(a), 17.80(a)(4) and 17.99. Sections 17.56(a) and 17.80(a)(4) are being amended to correct paragraph citations. Section 17.99 is being amended to correct an authority citation and to delete an improper reference, i.e., "subject to the limitations in § 17.53;", which has no impact on the authority to procure fee basis services, community hospital or nursing home care and individually authorized services.

VA finds that good cause exists for making these amendments final without previous publication of a notice of proposed rulemaking. All of the changes contained in these regulations are technical ones designed to correct erroneous references and citations. There are no substantive changes. Public participation in this rulemaking is therefore unnecessary (38 CFR 1.12).

Since a notice of proposed rulemaking is unnecessary and will not be published, these final amendments do not come within the term "rule" as defined in the Regulatory Flexibility Act, 5 U.S.C. 601(2), and are therefore not subject to the requirements of the Act. These amendments will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612.

These final regulatory amendments do not contain a major rule as that term is defined by Executive Order 12291, Federal Regulation. The final regulatory amendments will not have a $100 million annual effect on the economy, and will not cause a major increase in costs and prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete in domestic or foreign-based markets

The Catalog of Federal Domestic Assistance numbers are 64.009 and 62.011.

List of Subjects in 38 CFR Part 17

Alcoholism, Claims, Dental health, Drug abuse, Foreign relations, Government contracts, Grant

programs—health, Health care, Health facilities, Health professions, Medical devices, Medical research, Mental health programs, Nursing home care, Philippines, Veterans.

These amendments are promulgated under the authority granted the Secretary of Veterans Affairs by 38 U.S.C. 210(c).

Approved: January 18, 1991.

Edward J. Derwinski,

Secretary of Veterans Affairs.

38 CFR part 17, Medical, is amended as follows:

PART 17—[AMENDED]

1. The authority citation for 38 CFR part 17 continues to read as follows:

Authority: 72 Stat. 1114; 38 U.S.C. 210, unless otherwise noted.

§ 17.56 [Amended]

2. In § 17.56, paragraph (a), remove the words "§ 17.48(g)" and add, in its place, the words "§ 17.48(j)".

§ 17.80 [Amended]

3. In § 17.80, paragraph (a)(4), remove the words "§ 17.48(g)" and add, in its place, the words "§ 17.48(j)".

§ 17.99 [Amended]

4. In § 17.99, after the numbers "213", add the words "and 603"; remove the words "subject to the limitations in § 17.53"; and add an authority citation at the end of the section to read as follows:

* * * * *

(Authority: Pub. L. 99–272, sec. 19011)

[FR Doc. 91–2147 Filed 1–29–91; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 642

[Docket No. 900656–0196]

Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic

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

ACTION: Notice of closure.

SUMMARY: The Secretary of Commerce (Secretary) closes the commercial fishery in the exclusive economic zone (EEZ) for Spanish mackerel from the Atlantic migratory group. The Secretary has determined that the commercial allocation for Atlantic group Spanish mackerel was reached on January 25, 1991. This closure is necessary to protect the overfished Atlantic Spanish mackerel resource.

EFFECTIVE DATE: Closure is effective on January 26, 1991, through March 31, 1991.

FOR FURTHER INFORMATION CONTACT: Mark F. Godcharles, 813–893–3722.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP), as amended, was developed by the South Atlantic and Gulf of Mexico Fishery Management Councils (Councils) under authority of the Magnuson Fishery Conservation and Management Act, and is implemented by regulations at 50 CFR part 642. Catch limits recommended by the Councils for the Atlantic migratory group of Spanish mackerel for the current fishing year (April 1, 1990, through March 31, 1991) set the commercial allocation at 3.14 million pounds.

Under § 642.22(a), the Secretary is required to close any segment of the Spanish mackerel commercial fishery when its allocation has been reached, or is projected to be reached, by publishing a notice in the **Federal Register.** The Secretary has determined that the commercial allocation for the Atlantic migratory group of Spanish mackerel of 3.14 million pounds was reached on January 25, 1991. Hence, the commercial fishery for Atlantic group Spanish mackerel is closed effective January 26, 1991, through March 31, 1991. The closure applies in the EEZ from the Connecticut/New York border southward to a line extending directly east from the Dade/Monroe County, FL boundary (25°20.4′ N. latitude).

Except for a person aboard a charter vessel, during the closure, no person aboard a vessel permitted to fish under a commercial allocation may fish for, retain, or have in possession in the EEZ Spanish mackerel from the Atlantic migratory group. A person aboard a charter vessel may continue to fish for Spanish mackerel from the Atlantic migratory group under the bag limits set forth in § 642.28(a)(1)(iv), provided the vessel is under charter and the vessel has an annual charter vessel permit issued under § 642.4(a)(3). A charter vessel with a permit to fish on a commercial allocation is under charter when it carries a passenger who fishes for a fee or when there are more than three persons aboard, including operator and crew.

During the closure, Spanish mackerel from the Atlantic migratory group taken in the EEZ, including those harvested under the bag limit, may not be purchased, bartered, traded, or sold. This prohibition does not apply to trade in Spanish mackerel from the Atlantic migratory group that were harvested, landed, and bartered, traded, or sold prior to the closure and held in cold storage by a dealer or processor.

Other Matters

This action is required by 50 CFR 642.22(a) and complies with E.O. 12291.

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

List of Subjects in 50 CFR Part 642

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: January 24, 1991.

Richard H. Schaefer,

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

[FR Doc. 91–2138 Filed 1–25–91; 3:00 pm]

BILLING CODE 3510–22–M

50 CFR Part 650

[Docket No. 51222–6240]

Atlantic Sea Scallop Fishery

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

ACTION: Temporary adjustment of the meat-count and shell-height standards.

SUMMARY: NMFS issues this notice to implement a temporary adjustment of the meat-count and shell-height standards for the Atlantic sea scallop fishery. This action increases the average meat-count standard to 35 meats per pound (MPP) (35 meats per 0.45 kilogram (kg)) and the shell-height standard to 3⅜ inches (87 millimeter (mm)).

EFFECTIVE DATE: February 1, 1991, through June 30, 1991.

FOR FURTHER INFORMATION CONTACT: Patricia A. Kurkul (Resource Policy Analyst), Fishery Management Operations, NMFS Northeast Regional Office, 508–281–9331.

SUPPLEMENTARY INFORMATION: Regulations at 50 CFR part 650 implementing the Fishery Management Plan for Atlantic Sea Scallops (FMP) authorize the Director, Northeast Region, NMFS (Regional Director), to adjust temporarily the meat-count/shell-height standards (standards) upon finding that specific criteria are met. These criteria, which appear at § 650.22(c), include the finding that: (1) The objective of the FMP would be achieved more readily, or would be better served through an adjustment of the standards; (2) the recommended alteration in the standards would not reduce expected catch over the

following year by more than 5 percent from that which would have been expected under the prevailing standard; (3) the recommended standards for meat count and shell height are consistent with each other; and (4) 50 percent of the harvestable biomass is at scallop sizes smaller than those consistent with the prevailing standards, and a temporary relaxation of the standards would not jeopardize future recruitment to the fishery. Adjusments of the standards may remain in effect for up to 12 months.

After consideration of the criteria, the Regional Director made a recommendation to adjust the standards. In accordance with the regulations, comments on this recommendation were solicited from the New England Fishery Management Council (Council), which voted to support the Regional Director's recommendation, and a public hearing was January 10, 1991. Attendance at the public hearing was low, and only two members of the industry commented. The comments did not address the recommendation but were generally critical of the use of the standards as management measures.

Three written comments were also received on the recommendation: two from industry associations and one from a vessel owner. The comments from the associations were in support of the recommended adjustment. The vessel owner supported the adjustment to the meat-count standard but not the adjustment to the shell-height standard.

After consideration of the full record, including (1) comments from the public, (2) comments from the Council, (3) available resource and assessment information, and (4) available information on the fishery and the industry, the Regional Director is adjusting the standards to 35 MPP with a corresponding shell-height standard of 3⅜ inches for the period February 1, 1991, through June 30, 1991.

This adjustment to the standards coincides with the end of the 10-percent spawning-season adjustment approved under Amendment 2 to the FMP (53 FR 23634, June 23, 1988). These standards were also adjusted in 1990 at the end of the spawning season adjustment period (55 FR 4613, February 9, 1990).

Survey information shows that, although abundance and recruitment values for the sea scallop resource are among record highs, the resource is dominated by small scallops and large scallops are scarce. The scarcity of large scallops for mixing with the small, abundant scallops makes attaining an average MPP standard difficult. Vessel costs increase because additional time and fuel must be spent in search of large scallops, discard mortality of small scallops increases, and landings decrease despite high resource abundance. These factors conflict with the objectives of the FMP and criterion 1.

This action meets criterion 2 because catches are not expected to be reduced in 1992 by more than 5 percent. In addition, the standards for meat count and shell height are consistent with each other and conform to criterion 3.

Criterion 4 states that 50 percent of the harvestable biomass must be at sizes smaller than the prevailing standard (30 MPP). Recent survey results show that 80 percent of the harvestable biomass consists of scallops smaller than 30 MPP; thus, this portion of criterion 4 is met. Criterion 4 also states that a temporary relaxation of the standards must not jeopardize future recruitment to the fishery. Sea scallops have their first significant spawning at age 4. Age-4 sea scallops range from 30 count to 50 count. The Regional Director recognizes that caution must be exercised when recommending a temporary adjustment to the meat-count standard within this range. It is unlikely that an adjustment of this magnitude for 5 months will jeopardize future recruitment to the fishery.

This temporary adjustment will be effective February 1, 1991, through June 30, 1991. During this period, the meat-count standard will be 35 MPP (35 meats per 0.45 kg), and the shell-height standard 3⅜ inch (87 mm). On July 1, 1991, the standards will revert to 30 MPP (30 meats per 0.45 kg) and 3½ inches (89 mm) shell height. This adjustment will allow the sea scallop fishery to remain economically viable while the predominately small sea scallops, which grow rapidly, reach harvestable sizes under the 30 MPP standard.

List of Subjects in 50 CFR Part 650

Fisheries, Reporting and recordkeeping requirements.

Dated: January 24, 1991.

Richard H. Schaefer,

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

[FR Doc. 91-2136 Filed 1-29-91; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 56, No. 20
Wednesday, January 30, 1991

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

Agricultural Marketing Service

7 CFR Parts 982 and 999

[Docket No. FV-89-103PR]

Domestic and Imported Shelled Filberts/Hazelnuts Grown in Washington and Oregon; Withdrawal of Proposed Changes in Quality Requirements

AGENCY: Agricultural Marketing Service, USDA

ACTION: Withdrawal of proposed rule.

SUMMARY: This document withdraws a proposed rule to change the quality requirements for domestic shelled filberts/hazelnuts by reducing from 2 percent to 1 percent the tolerance for the major defects of mold, insect injury, rancidity, and decay. This document also withdraws a proposal to make the same changes in the quality requirements for imported shelled filberts/hazelnuts under section 999.400. After review of the comments received on the proposed and available information and data, it has been determined that there is insufficient evidence to support a reduction in the tolerance level.

EFFECTIVE DATE: January 30, 1991.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, room 2525, South Building, Washington, DC 20090-6456; telephone (202) 475-3920.

SUPPLEMENTARY INFORMATION: This action withdraws a proposed rule under Marketing Order 982, as amended (17 CFR part 982), regulating the handling of filberts/hazelnuts grown in Washington and Oregon. This order is effective pursuant to the Agricultural Marketing Agreement Act of 1937 (17 U.S.C. 601-674), as amended.

On June 7, 1990, a proposed rule was published in the **Federal Register** (55 FR 23205) to change the quality requirements for domestic shelled filberts/hazelnuts by reducing from 2 percent to 1 percent the tolerance for the major defects of mold, insect injury, rancidity, and decay. The proposal would have also made a corresponding change in section 999.400 of the import regulations which affect imported shelled filberts/hazelnuts. That section requires that imports of filberts/hazelnuts. That section requires that imports of filberts/hazelnuts meet the same quality requirements as applicable to domestic shipments of filberts/hazelnuts under the marketing order. Comments were requested on the proposal from interested persons through July 9, 1990.

The U.S. Department of Agriculture (Department) received a request filed on behalf of the Association of Food Industries, Inc., (AFI) to extend the comment period on the proposed rule in order to provide more time for interested persons to analyze the proposed rule and prepare comments. Subsequently, the Department extended the comment period by 60 days until September 7, 1990.

The Department received 132 comments on the proposal. Fourteen comments were in opposition, and 118 comments were in favor of the proposed rule. Comments in favor of the proposed rule were received from interested filbert/hazelnut growers, the Filbert/Hazelnut Marketing Board (Board), the Associated Oregon Hazelnut Industries (AOHI), and other interested organizations.

Comments in favor of the proposed rule stated that the filbert/hazelnut industry needs to provide the domestic market with a consistent quality product to improve consumption. Most of the commenters asserted that Turkish filberts/hazelnuts imported into the U.S. are of an inferior quality and users of filberts/hazelnuts cannot be assured that they will receive a good quality product each time they purchase them. The commenters, however, did not provide sufficient evidence to support this contention or to demonstrate that the 1 percent level would improve consumption. Also, the commenters stated that, currently, the domestic industry is voluntarily packing to a 1 percent tolerance level. The industry is concerned that some handlers may not comply with this practice in the future.

The 14 comments in opposition to the proposed rule were received from the Italian and Turkish governments, two consumer organizations (Public Voice and Consumers for World Trade), nine importers, and the AFI, which is a trade organization representing 400 food companies in the domestic and international food trade.

The Italian government indicated that Italian filberts/hazelnuts have distinct characteristics that differentiate them from the domestic product, and, because of these characteristics, it is impracticable to apply a reduced tolerance to the imported product. Also, according to the Italian government, the change appears to be in direct contravention of the General Agreement on Tariffs and Trade (GATT). The Italian government also stated that Italy is not aware of any evidence reflected in the current rulemaking record which suggests a change in circumstances since the issue was raised four years ago.

The Turkish government has similar concerns; however, they asserted that since Turkey is the largest producer and exporter of filberts/hazelnuts to the United States, the Turkish government is concerned that the proposal to reduce the tolerance level inevitably singles out Turkey as its main target.

The consumer organizations commented that the implementation of the 1 percent tolerance level could have a serious impact on importers since the majority of imported filberts/hazelnuts may not meet the 1 percent level. Also, they asserted that there is no evidence that consumers and users are dissatisfied with the quality of imported filberts/hazelnuts currently being received.

Most of the importers commented that they were satisfied with the quality of imported filberts/hazelnuts that they purchased. Also, the importers asserted that changing the tolerance level when there are no major quality issues which affect filberts/hazelnuts will not likely enhance their marketability. Both the importers and the AFI believe that consumer acceptance of filberts/hazelnuts is more related to a preference for other nuts, coupled with historically inadequate supplies of domestic filberts/hazelnuts, than to increasing minimum quality factors for filberts/hazelnuts. Importers contend that the imported product has a higher oil content and a flavor preferred by some users over domestic supplies.

The AFI commented that the Board's recommendation contained no evidence that implementation of more restrictive tolerances will strengthen the domestic market. Also, exporters would be less willing to ship filberts/hazelnuts to the United States if more restrictive regulations were in effect, because the exporters bear the risk of transportation costs when shipments are rejected. The AFI asserted that the domestic industry has been looking forward to increases in production for several years; however, this has not occurred because of unusual weather, diseases, and crop cycles. For this reason, the AFI commented that imports continue to be needed, not only to provide users with product characteristics they desire, but also to ensure sufficient commodity supply to meet demand.

The AFI asserted that a restriction from 2 percent to 1 percent would halt imports of filberts/hazelnuts, thereby depriving domestic purchasers both of their choice between domestic and foreign commodity alternatives and of the foreign product they often prefer. The AFI asserted that the implementation of the proposal would involve substantial costs to society, i.e., consumers, producers, importers, and foreign exporters.

Based on the Department's review of the comments and available information and data, it is hereby determined that the record does not support a reduction in the tolerance for major defects in domestic and imported shelled filberts/hazelnuts from 2 percent to 1 percent. There is insufficient evidence to support the contention that such a change would cause an increase in U.S. consumption of filberts/hazelnuts.

List of Subjects

7 CFR Part 982

Filberts/hazelnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

7 CFR Part 999

Dates, Filberts/hazelnuts, Food grades and standards, Imports, Nuts, Prunes, Raisins, Reporting and recordkeeping requirements, Walnuts.

Therefore, the proposed rule published in the **Federal Register** on June 7, 1990, (55 FR 23205) is hereby withdrawn.

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

Dated: January 25, 1991.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 91–2165 Filed 1–29–91; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Parts 1209, 1211, and 1212

[FV–90–155]

Invitation To Submit Proposals for Mushroom Promotion, Research, and Consumer Information Order; Pecan Promotion and Research Plan; and Lime Research, Promotion, and Consumer Information Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Invitation to submit proposals for initial plans/orders.

SUMMARY: Interested persons are invited to submit proposals for promotion and research plans/orders, or components of proposed plans/orders, for pecans, limes, and mushrooms as provided for by the Food, Agriculture, Conservation, and Trade Act of 1990 (Act). The Act authorizes national industry funded research and promotion programs. Interested persons are also invited to submit views on whether it would be beneficial to hold public meetings during an ensuing comment period to discuss the proposals.

DATES: Proposals must be received by March 1, 1991, to be ensured of consideration.

ADDRESSES: Interested persons are invited to submit written proposals for initial plans. Proposals should be sent in triplicate to: Docket Clerk, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456. Please state that your comments refer to Docket Number FV–90–155 and specify the commodity to which your comment applies. Comments received may be inspected at the office of the Docket Clerk, USDA–AMS, room 2525, South Building, 14th and Independence Avenue SW., between 8 a.m. and 4:30 p.m. Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: The following individuals at the above address; or facsimile number 202–447–5698 or telephone: (1) Richard Schultz 245–5172 for mushrooms; or (2) Jim Wendland 475–3916 for pecans and limes.

SUPPLEMENTARY INFORMATION: The Act (Pub. L. 101–624) signed on November 28, 1990, authorizes the Secretary of Agriculture to establish national promotion and research programs for pecans, limes, and mushrooms. The programs would be funded by assessments which, in accordance with the provisions of the Act, are not to exceed $0.02 per pound of pecans and $0.01 per pound of limes and mushrooms both on domestic pecans, limes, and mushrooms and on pecans, limes, and mushrooms imported into the United States. The programs would be operated by administrative bodies appointed by the Secretary of Agriculture. The Pecan Marketing Board would consist of 15 members, the Lime Board 11 members, and the Mushroom Council four to nine members.

Pursuant to the Act, any person or association of persons who may be affected by its provisions may submit proposal for a plan/order. Accordingly, notice is hereby given that the Department of Agriculture will receive written proposals for these promotion and research plans/orders, or for various provisions thereof.

Interested persons are also invited to submit views on whether it would be beneficial to hold public meetings to discuss any proposed plan/order which may be proposed by the Department. Any meetings scheduled would likely be held during the comment period of such a proposed rule.

In submitting proposals, interested persons shall include: (1) The proposed plan/order language; (2) a separate description of the proposed plan/order provisions; (3) an explanation of the proposed plan/order provisions; (4) identification of the section of the Act that would be implemented by a plan/order provision; and (5) any other pertinent information concerning a proposal that would assist in this process of implementing the Act.

All proposals consistent with the Act will be published in the **Federal Register** for public comment. All views received will be considered in the development of final plans/orders.

List of Subjects in 7 CFR Parts 1209, 1211, and 1212

Administrative practice and procedure, Advertising, Agricultural research, Fruit and vegetable products, Limes, Marketing agreements, Mushrooms, Nuts, Pecans, Promotion, Reporting and recordkeeping requirements.

Authority: The Food, Agriculture, Conservation, and Trade Act of 1990; Pub. L. 101–624; Title XIX.

Signed at Washington, DC, January 25, 1991.

Daniel Haley,

Administrator.

[FR Doc. 91–2166 Filed 1–29–91; 8:45 am]

BILLING CODE 3410–02–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 35

Quality Assurance in the Medical Use of Byproduct Material; Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The Nuclear Regulatory Commission (NRC) staff plans to convene a public meeting with representatives of the Agreement States to discuss a proposed rule, draft regulatory guide, and other applicable guidance concerning quality assurance in the medical use of byproduct material.

DATES: The meeting will be held Thursday and Friday, February 7 and 8, 1991 and will begin at 9 a.m. and end about 5 p.m., each day.

ADDRESSES: Residence Inn, 2000 Winward Way, San Mateo, CA 94404.

FOR FURTHER INFORMATION CONTACT: Dr. Anthony N. Tse, Regulation Development Branch, Mail Stop NL/S–129, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–3797.

SUPPLEMENTARY INFORMATION: A proposed rule was published in the **Federal Register** on January 16, 1990 [55 FR 1439] which described a performance-based quality assurance program that the NRC believes should be incorporated into each licensee's medical use program. The proposed rule also contains certain modifications to the definition of the term misadministration and to the related reporting and recordkeeping requirements. The NRC has also prepared a draft regulatory guide that contains specific quality assurance procedures that could be used by the licensees to establish a QA program that meets the performance-based rule.

The purpose of the meeting is to conduct a roundtable discussion on the proposed rule, draft regulatory guide, and other applicable guidance with the representatives of the Agreement States.

The draft regulatory guide is available for inspection, and copying for a fee, at the NRC Public Document Room, 2120 L Street (Lower Level) NW., Washington, DC. A transcript of the forthcoming meeting will be available by about March 4, 1991 at the NRC Public Document Room.

Conduct of the Meeting

The meeting will be chaired by Mr. John Telford, Chief, Rulemaking Section, Regulation Development Branch, Division of Regulatory Applications, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission. The meeting will be conducted in a manner that will facilitate the orderly conduct of business.

The following procedures apply to public participation in the meeting:

1. At the meeting, questions or statements from attendees other than participants (i.e., representatives of the Agreement States and designated NRC staff) will be entertained as time permits.

2. Seating for the public will be on a first come—first served basis.

Dated at Rockville, Maryland, this 23rd day of January 1991.

For the Nuclear Regulatory Commission.

Sher Bahadur,

Chief, Regulation Development Branch, Division of Regulatory Applications, Office of Nuclear Regulatory Research.

[FR Doc. 91–2152 Filed 1–29–91; 8:45 am]

BILLING CODE 7590–01–M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1700, 1701, 1702, and 1704

Rule Review Under the Regulatory Flexibility Act

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of review of rules and availability of report.

SUMMARY: The Commission has completed its review of four rules issued under the Poison Prevention Packaging Act that were in existence on January 1, 1981. The purpose of this review was to determine whether rules issued before enactment of the Regulatory Flexibility Act, which have a significant economic impact on a substantial number of small entities, should be continued without change, amended, or revoked.

The Commission has considered the provisions of these rules, and their economic impact, if any, on the firms and organizations subject to the rules, and other relevant information. The Commission has determined that no further action with respect to any of these rules is warranted by the Regulatory Flexibility Act. A report on this rule review, entitled "Regulatory Flexibility Act Review, Poison Prevention Packaging Act Rules" is available on request.

ADDRESSES: Requests for copies of the report should be addressed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Marcia Robbins, Directorate for Economic Analysis, Consumer Product Safety Commission, Washington, DC 20207, telephone: (301) 492–6962; or Allen F. Brauninger, Attorney, Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207, telephone: (301) 492–6980.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (RFA) (5 U.S.C. chapter 6) became effective on January 1, 1981, and generally requires Federal agencies to evaluate the economic impact of their rules on small entities. The term "small entity" is defined by the RFA to include small business, small not-for-profit organizations, and small counties, cities, and other local governmental jurisdictions. Section 610 of the RFA (5 U.S.C. 610) requires agencies to review all rules in existence on January 1, 1981, which have a significant economic impact on a substantial number of small entities. The purpose of this review is to determine whether the rules under consideration should be continued without change, amended, or revoked, consistent with the purposes of the statutes which they implement, to minimize any significant economic impact which they may have on small entities. Section 610 of the RFA requires agencies to consider the following factors with respect to each of the rules under review:

(1) The continued need for the rule.

(2) The nature of complaints or comments about the rule received from the public.

(3) The complexity of the rule.

(4) The extent to which the rule overlaps, duplicates, or conflicts with other Federal rules, and to the extent feasible, with rules of state and local governments.

(5) The length of time since the rule has been evaluated, or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

In the **Federal Register** of January 30, 1990 (55 FR 3071), the Commission began its review of existing rules issued under the Poison Prevention Packaging Act (PPPA) by publishing a notice which listed four rules issued under provisions of the PPPA which may have an economic impact on small entities. The rules listed in that notice are codified in title 16 of the Code of Federal Regulations by the following part numbers:

1700—Poison Prevention Packaging

1701—Statements of Policy and Interpretation
1702—Petitions for Exemption from Poison Prevention Packaging Act Requirements; Petition Procedures and Requirements
1704—Applications for Exemption from Preemption

The notice of January 30, 1990, gave a brief description of the provisions of each rule, the need for the rule, and its legal basis. The notice also invited written comments on the rules under consideration. No comments were received.

After considering the provisions of each rule, its economic impact, if any, on small entities subject to its provisions, and other relevant information, the Commission has concluded that no further action with regard to any of the rules is warranted by section 610 of the RFA.

The Commission has published a report on this RFA rule review. This report, entitled "Regulatory Flexibility Act Review, Poison Prevention Packaging Act Rules," is available without charge by writing to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or by calling (301) 492–6800.

Dated: January 25, 1991.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 91–2196 Filed 1–29–91; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 42

[Public Notice 1329]

Visas: Documentation of Immigrants; Immigration Benefits

AGENCY: Bureau of Consular Affairs, DOS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would amend the Department's visa regulations, § 42.72 of part 42, title 22, Code of Federal Regulations, to implement the provisions of sections 143 (a) and (b) of the Immigration Act of 1990, Public Law 101–649. Sections 154 (a) and (b) confer immigration benefits upon certain aliens who are natives of and/or resident in Hong Kong. Specifically, section 154 (a) and (b) authorize the issuance of immigrant visas having an extended period of validity to aliens chargeable to the foreign state limitation for Hong Kong who are classifiable under certain immigrant preferences and to aliens who qualify for issuance of a visa under the provisions of section 124 of Public Law 101–649.

DATES: Written comments must be received in duplicate on or before March 1, 1991.

ADDRESSES: Interested persons are invited to submit comments in duplicate to: Director, Office of Legislation, Regulations and Advisory Assistance, Visa Office, Department of State, Washington, DC 20522–0113.

FOR FURTHER INFORMATION CONTACT: Cornelius D. Scully, III, Director, Office of Legislation, Regulations and Advisory Assistance, Visa Office (202) 663–1184.

SUPPLEMENTARY INFORMATION:

Public Law 101–649 Background

The Immigration Act of 1990, Public Law 101–649, contains several provisions explicitly designed to benefit aliens who are natives of and/or resident in Hong Kong. Among these provisions are sections 154 (a) and (b).

Sections 154 (a) and (b) authorize, upon request of a beneficiary alien, the issuance to the alien of an immigrant visa with an extended period of validity, beyond that provided for in section 221(c) of the Immigration and Nationality Act. A beneficiary alien may elect the extended period of validity either at the time of actual visa issuance or within four months thereafter.

Aliens entitled to benefit from this provision are (1) aliens resident in Hong Kong who are issued visas under section 124 of Public Law 101–649; (2) aliens chargeable to the foreign state limitation for Hong Kong resident in Hong Kong as of the date of enactment of Public Law 101–649 who are issued immigrant visas during fiscal year 1991 as preference immigrants under sections 203(a) (1), (2), (4), and (5) of the Immigration and Nationality Act; and (3) aliens chargeable to the foreign state limitation for Hong Kong resident in Hong Kong as of the date of enactment of Public Law 101–649 who are issued immigrant visas during fiscal year 1992 and thereafter as preference immigrant under sectyion 203(a) (1), (2), (3), and (4), or 203(b)(1) of the Immigration and Nationiality Act, as amended by Public Law 101–649.

In order to quality for this benefit, the alien must be resident in Hong Kong as of November 29, 1990, the date of enactment Public Law 101–649. Continuing residence in Hong Kong following the date of enactment is not required. Accordingly, an alien otherwise qualified for this benefit who subseuqently moves from Hong Kong to another part of the world can nonetheless make use of this benefit at such time as he or she actually applied for an immigrant visa. Thus, while most beneficiaries will apply for their immigrant visa at the U.S. Consulate General at Hong Kong, the Department anticipates that some may eventually make such application at another immigrant visa issuing office.

Section 154(b) also provides that a bebeficiary alien whose entitlement to immigrant classification and to visa issuance is based upon the alien's being a child within the meaning of section 101(b) of the Immigration and Nationality Act shall not lose such entitlement because the alien has ceased to be a child during the period between issuance of the visa and application for admission into the United States for permanent residence.

Finally, an alien who decides to make use of the extended validity period must, prior to applying for admission for permanent residence, notify a consular officer of hs or her intention to do so. Upon such notification, the consular officer is required to determine that the alien remains admissible as an immigrant.

If the consular officer detemines that the alien remains admissible as an immigrant, he or she will endorse the immigrant visa to reflect that determination. The endorsement will be valid for a period of four months. If, for some reason, the alien fails to apply for admission within the four-month period, the alien will have to again seek a redetermination of admissibility and a second endorsement, also valid for four months. If an alien should delay travel beyond the ultimate expiration date of January 1, 2002, the alien would lose the benefit of the redetermination and endorsement procedure and be required to follow normal immigrant visa requirements and procedures.

Discussion of Proposed Regulations

Section 42.72 would be amended by adding paragraph (e). Paragraph (e)(1) would provide that beneficiary aliens may, either at the time of visa issuance or within the four months thereafter, request that their immigrant visa be made valid until January 1, 2002. If the alien so requests at the time of visa issuance, the extended validity date will be noted the face of the visa. If a beneficiary alien does not so request at the time of visa issuance, the visa will be issued for the standard validity period set forth in paragraphs (a) and (d) of § 42.72. If a beneficiary alien requests the extended validity period after visa issuance, but within four months following the date of visa issuance, the consular officer will issue the alien

officer will issue the alien a replacement visa bearing the extended expiration date rather than annotating the original visa.

Paragraph (e)(ii) would describe the beneficiary aliens in the manner set forth in sections 154(a) and (b).

Paragraph (e)(iii) would provide that a beneficiary alien whose entitlement to visa isasuance was based upon the alien's being a "child" within the meaning of section 101(b)(1) of the Immigration and Nationality Act will not cease to be entitled to the visa because the alien has reached age twenty-one or has married.

Paragraph (e)(iv) would establish the procedure for redetermination of a beneficiary alien's admissibility to the United States prior to actual application for admission for permanent residence. Whenever an alien receives a visa having extended validity, the consular officer is required to notify the alien in writing of the requirement for a redetermination of admissibility. Once the alien formulates plans for travelling to the United States to apply for admission for permanent residence, the alien must notify the consular officer of those plans. Upon notification, the consular officer will schedule an appointment for the alien so that the redetermination can be made. The appointment will be scheduled no sooner than four months preceding the alien's contemplated date of travel to the United States. The consular officer will inform the alien what documents, if any, the alien must present at the time of appointment.

If the consular officer determines that the alien remains admissible to the United States for permanent residence, he or she will endorse the alien's visa to reflect that determination. If the consular officer finds that the alien is not admissible for permanent residence, the consular officer will revoke the immigrant visa, following the requirements and procedures for visa revocation set forth in § 42.82 of part 42.

This rule is not considered to be a major rule for purposes of Executive Order 12291 nor is it expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 22 CFR Part 42

Aliens, Immigrants, Visas, Validity of visa.

Accordingly, part 42 would be amended to read:

PART 42—[AMENDED]

1. The authority citation for part 42 would continue to read:

Authority: Sec. 104, 66 Stat. 174, 8 U.S.C. 1104, sec. 109(b)(1), 91 Stat. 847; sec. 103, 104 Stat. 4985.

2. Section 42.72 would be amended by adding paragraph (e) to read as follows:

§ 42.72 Validity of Visa.

* * * * *

(e) Aliens Chargeable to the Foreign State Limitation for Hong Kong Under the Provisions of section 124 of Public Law 101–469.

(1) Notwithstanding the provisions of paragraphs (a) through (d) of this section, the period of validity of an immigrant visa issued to an immigrant described in paragraph (e)(2) of this section may, at the request of the applicant, be extended until January 1, 2002, if the applicant so requests either at the time of issuance of the visa or within four months thereafter. If an applicant entitled to issuance of an immigrant visa having an extended period of validity fails to request extended validity at the time of issuance but subsequently, within four months thereafter, requests that the validity be extended pursuant to this paragraph, the consular officer shall issue a replacement visa to the alien in accordance with the provisions of § 42.74(b).

(2) An immigrant may request the extended period of validity provided for in paragraph (e)(1) of this section if he or she

(i) Is

(A) Resident in Hong Kong as of the date of enactment of Public Law 101–649;

(B) Chargeable to the foreign state limitation for Hong Kong; and

(C) Classifiable, during fiscal year 1991, as a preference immigrant under section 203(a) (1), (2), (4), or (5) of the INA or, during fiscal year 1992 and thereafter, as a preference immigrant under section 203(a) (1), (2), (3), or (4), or 203(b)(1); or

(ii) Is issued a visa pursuant to section 124 of Public Law 101–649.

(3) An alien who elects to have the period of validity of his or her immigrant visa extended as provided in paragraph (e)(1) of this section and whose entitlement to the immigrant classification of such visa was based upon his or her status as a child at the time of issuance shall not cease to be entitled to such visa by reason of attaining age twenty-one or marrying prior to his or her application for admission into the United States.

(4) An alien who has elected to have the period of validity of his or her visa extended pursuant to paragraph (e)(1) of this section shall, if his or her contemplated date of application for admission into the United States is later than four months following the date of visa issuance, notify the appropriate consular officer of his or her intention to travel to the United States for this purpose. The consular officer shall thereupon schedule an appointment with such alien for the purpose of determining whether or not the alien remains admissible into the United States as an immigrant. Such appointment shall be scheduled not sooner than four months preceding the alien's contemplated date of application for admission for permanent residence. If the consular officer determines that the alien continues to be admissible to the United States as an immigrant, he or she shall endorse the alien's visa in the manner prescribed by the Department. If the consular officer determines that the alien has become inadmissible to the United States, he or she shall revoke the visa as provided in § 42.82. A consular officer who issues a visa having an extended period of validity pursuant to this paragraph shall, at the time of visa issuance, notify in writing the alien concerned of this requirement.

Dated: December 27, 1990.

James Ward,

Acting Assistant Secretary for Consular Affairs.

[FR Doc. 91–2140 Filed 1–29–91; 8:45 am]

BILLING CODE 4710–06–M

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22 CFR Part 42

[Public Notice 1328]

Visas: Documentation of Immigrants; Numerical Controls and Priority Dates

AGENCY: Bureau of Consular Affairs (DOS), State.

ACTION: Proposed rule.

SUMMARY: In order to implement the provisions of section 155 of Public Law 101–649, this proposed rule would amend § 42.54 to 22 CFR part 42, by redesignating the current regulations and adding paragraph (b). Section 155 provides that certain Lebanese preference applicants for whom visa numbers would be available within fiscal years 1991 and 1992 shall have such numbers made available as early as possible in the respective fiscal year. To benefit from the provisions of section 155, which became effective on November 29, 1990, one must be a native Lebanese beneficiary of a petition approved under section 203(a) (2) or (5) of the Immigration and Nationality Act (as in effect prior to the date of enactment of Pub. L. 101–649).

DATES: Written comments must be received on or before March 1, 1990.

ADDRESSES: Interested persons are invited to submit comments in duplicate to: Director, Office of Legislation, Regulations, and Advisory Assistance, Visa Office, Department of State, Washington, DC 20522–0113.

FOR FURTHER INFORMATION CONTACT: Cornelius D. Scully III, Director, Office of Legislation, Regulations, and Advisory Assistance, (202) 663–1184.

SUPPLEMENTARY INFORMATION: Present regulations in § 42.54 consist of a paragraph sub-divided into (a), (b) and (c). These sub-divided paragraphs would be redesignated as (a)(1), (a)(2), and (a)(3) but would not otherwise be affected by this amendment. The new paragraph (b) implements section 155 of Public Law 101–649.

Public Law 101–649 Background

Section 155 of Public Law 101–649 was apparently motivated by an intent to expedite the departure from Lebanon of applicants for whom visa numbers would be available at a later date in FY–91 or FY–92 but is not limited to such Lebanese. By its terms, the provision benefits a native of Lebanon who is not firmly resettled in a country other than Lebanon for whom a petition had been approved under section 203(a) (2) or (5) of the Immigration and Nationality Act as of November 29, 1990, the effective date of Public Law 101–649.

Natives of Lebanon who are beneficiaries of approved Second or Fifth preference petitions but are firmly resettled in third countries would not benefit from accelerated visa processing and would be processed under the normally applicable rules for immigrant visa number allocation.

By its terms this provision also includes the child of such an applicant. The Department believes that the omission of "spouse" of such an applicant is a matter of legislative oversight, possibly resulting from the fact that no derivative spouse could exist under section 203(a)(2) of the Immigration and Nationality Act. Inasmuch as other aspects of the legislation, as well as the floor debates and the House Committee Report (Rept. 101–723), all emphasize the desirability of family unification, it would appear very unlikely that this section omitted "spouse" with the intent to separate families. Moreover, the Department notes that section 203(a)(8) (which becomes section 203(d) of the Immigration and Nationality Act as amended by Pub. L. 101–649] specifically confers the same status and order of consideration upon a spouse (or child) for whom a visa is not otherwise immediately available, and therefore deems it appropriate to include spouses of those Lebanese fifth preference applicants who will benefit under this provision.

Discussion of Proposed Rule

Section 42.54 paragraph (b)(1) would impose on the Department the requirement in each of fiscal years 1991 and 1992 to notify consular officers promptly of the latest priority date that will be reached worldwide within the respective fiscal year, based on a reasonable estimate, for applicants entitled to status under section 203(a) (2) and (5) of the Immigration and Nationality Act.

Section 42.54 paragraph (b)(2) would authorize consular officers to require additional information, if necessary, to determine whether applicants not physically present in Lebanon have firmly resettled in another country. Section 42.54(b)(3) would require the Department to allocate visa numbers for such Lebanese applicants upon notification that the applicants are documentarily qualified as defined in 22 CFR 42.55(b).

List of Subjects in 22 CFR Part 42

Aliens, Immigrants, Visas.

This rule is not considered to be a major rule for purposes of E.O. 12291 nor is it expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

PART 42—[AMENDED]

Accordingly part 42 would be amended as follows:

1. The authority citation for part 42 would be revised to read:

Authority: Sec. 104, 66 Stat. 174, 8 U.S.C. 1104, sec. 109(b)(1), 91 Stat. 847; sec. 103, 104 Stat. 4985.

2. Section 42.54 would be revised to read:

§ 42.54 Order of Consideration.

(a) *General.* Consular officers shall request applicants to take the steps necessary to meet the requirements of INA 222(b) in order to apply formally for a visa as follows:

(1) In the chronological order of the priority dates of all applicants within each of the immigrant classifications specified in INA 203(a);

(2) In the order specified in INA 203(b) with regard to all applicants chargeable to the same foreign state or dependent area as specified in INA 202(a) and 202(c); and

(3) In the chronological order of the priority dates of all applicants within the special immigrant classifications specified in INA 101(a)(27) (E), (F), or (G).

(b) *Beneficiaries of Section 155 of Public Law 101–649.* Notwithstanding paragraph (a) of this section, for fiscal years 1991 and 1992:

(1) The Department shall notify consular officers of the latest priority date, based on a reasonable estimate, for which visa numbers will probably be available worldwide under INA 203(a) (2) and (5) (in FY–91) and INA 203(a) (2) and (4) (in FY–92);

(2) Immediately after receipt of the Department's projected fiscal year ultimate priority date, if they have not previously done so, consular officers shall ensure that all natives of Lebanon who are beneficiaries of petitions conferring such status, approved no later than November 29, 1990, are notified promptly of the requirements the applicants must meet under INA 222(b) to apply formally for a visa. Such notifications sent to applicants not physically present in Lebanon may require, if necessary, additional information to enable the consular officer to determine whether or not the applicant is firmly resettled (as defined in 8 CFR 207.1(b)) in a country other than Lebanon;

(3) Upon a determination that the applicant is not firmly resettled in a country outside Lebanon, and that the applicant is documentarily qualified as provided in § 42.55(b), the consular officer shall so report any such preference Lebanese applicant and the Department shall promptly allocate a visa number for the use of such applicant.

Dated: December 27, 1990.

James Ward,

Acting Assistant Secretary for Consular Affairs.

[FR Doc. 91–2139 Filed 1–29–91; 8:45 am]

BILLING CODE 4710–06–M

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22 CFR Part 43

[Public Notice 1339]

Visas; Documentation of Immigrants

AGENCY: Bureau of Consular Affairs, DOS.

ACTION: Notice of proposed rule.

SUMMARY: This proposed rule would amend part 43 of title 22, Code of Federal Regulations, to add provisions in implementation of section 133 of Public Law 101–649 Section 314 of

Public Law 99–903 established a two-year program of visa issuance (referred to as the "NP-5 program"), limited to 5,000 visas per year, for natives of foreign states which had been adversely affected by the enactment of Public Law 89–236, the Act of October 3, 1965. Section 2 of Public Law 100–658 extended the program for two additional years, increasing the visas available to 15,000 annually for the two additional years. Section 133 of Public Law 101–649 does not amend section 314 but effectively extends its operation for an addition year for the benefit of certain aliens who had been selected for visa issuance under the program but who for specified reasons could not be issued immigrant visas.

DATES: Written comments must be received on or before March 1, 1991.

ADDRESSES: Interested persons are invited to submit comments in duplicate to: Director, Office of Legislation, Regulations and Advisory Assistance, Visa Office, Department of State, Washington, DC 20522–0113.

FOR FURTHER INFORMATION CONTACT: Cornelius D. Scully, III, Director, Office of Legislation, Regulations, and Advisory Assistance, (202) 663–1184.

SUPPLEMENTARY INFORMATION:

Public Law 101–649 Background

Section 133 of Public Law 101–649 provides that during fiscal year 1991 immigrant visa numbers shall be made available to aliens selected under section 314 of Public Law 99–603, as amended by Public Law 100–658, but who could not be issued immigrant visas prior to the expiration of the legislation on September 30, 1990, because (1) the numerical limitations under section 314 prevented it; (2) they were found to be ineligible to receive a visa under section 212(a)(19) or 212(e) of the Act; or (3) it was discovered during the administrative processing of their application that they were nationals, but not natives, of an adversely affected foreign state.

The exact language of the statute defines the beneficiaries as "qualified immigrants who—(1) were notified by the Secretary of State before May 1, 1990, of their selection for issuance of an immigrant visa * * *". The Department interprets that language to include aliens who were "documentarily qualified" prior to October 1, 1990. The term "documentarily qualified" is defined in § 40.1(g) of Title 22, Code of Federal Regulations, as follows:

> "Documentarily qualified" means that the alien has reported that all the documents specified by the consular officer as sufficient to meet the requirements of INA 222(b) have been obtained, and that necessary clearance procedures of the consular office have been completed. This term shall be used only with respect to the alien's qualification to apply formally for an immigrant visa; it bears no connotation that the alien is eligible to receive a visa.

There were a certain number of aliens who had been notified to prepare themselves for visa issuance prior to May 1, 1990, and who had become "documentarily qualified" prior to the end of the program (September 30, 1990) but for whom immigrant visa numbers were not available. This occurred because, in the last months of the program, there was a sudden revival of interest by applicants with earlier registration dates in immigrating under the program.

Under the Department's processing system for numerically limited applicants, notification to prepare for final action (visa issuance or refusal) is sent to applicants in chronological order. An attempt is made to send such notifications at appropriate time intervals and in sufficient number to ensure that the number of applicants who complete the administrative processing (become "documentarily qualified") and are, thus, ready for visa issuance approximates as nearly as possible the amount of visa numbers available under the applicable numerical limitation.

In the case of the NP–5 program, for reasons not clear to the Department, a substantial number of applicants to whom such notifications were sent at relatively early stages failed to pursue their applications. As a result, the Department sent additional notifications in order to ensure that visa numbers were not lost for lack of applicants ready for visa issuance.

Unexpectedly, during the last months of the program, many of those who had failed to pursue their applications suddenly decided to do so. Because of the requirement that visas be issued in chronological order, those with early registration dates had to be issued visas ahead of those with the later dates, even though they had been dilatory in pursuing their applications. It was this phenomenon which left a substantial number of applicants unable to receive visas in the last months of the program, even though they had had reason to believe that they would. Section 133 was intended to make visas available during fiscal year 1991 for such applicants.

In addition, throughout the NP–5 program there have been cases in which an alien's application indicated that he or she was a native of an adversely affected country and it was subsequently discovered that the alien was a national but not a native of such a country. In some cases, the alien was born in an entirely different part of the world and had been naturalized in the adversely affected country. In other cases, the area in which the alien was born was, at the time of birth, a part of an adversely affected country but sovereignity over the area was transferred to a non-adversely affected country prior to the time alien applied under the NP–5 program. Section 133 authorizes making visas available for such aliens if they apply or re-apply during fiscal year 1991. The Department understands that, in some such cases, the discrepancy may have been discovered before the alien concerned had become "documentarily qualified" and that the consular office processing the application may have thereupon terminated the processing of the alien's application. The Department is of the opinion that the language of section 133 is intended to include such an alien, even though the alien may never have become "documentarily qualified" because of the early discovery of the discrepancy.

Finally, throughout the NP–5 program there have been individual applicants to whom an immigrant visa could not be issued because they were ineligible to receive visa under section 212(a)(19) or 212(e) of the Act. Section 212(a)(19) bars visa issuance to an alien who has procured, or seeks or has sought to procure, a visa, entry or other benefit under the immigration law by fraud or a willful misrepresentation of a material fact. Section 212(e) bars issuance of an immigrant visa to a former exchange visitor (nonimmigrant class J–1 or J–2) who is required to reside in his or her country of nationality or last foreign residence for two years unless the alien has completed two years' residence there.

Section 133 also authorizes making visa numbers available to such aliens. The statutory language with respect to this class of aliens is rather confused or, perhaps, incomplete. The statute expressly authorizes (but does not require) the Attorney General to waive ineligibility under section 212(a)(19). On the other hand, the statute does not provide a mechanism for waiving the requirements of section 212(e) on a case-by-case basis. After consideration, it is the Department's view that it is intended that section 212(e) not apply to such an alien, if the alien applies or re-applies for a visa during fiscal year 1991. Accordingly, the Department is providing in its regulations that section 212(e) will not be applicable to an

otherwise qualified alien during fiscal year 1991.

It is the Department's understanding that some NP–5 applicants to whom section 212(e) applies may have realized that they could not overcome the bar of section 212(e) before the NP–5 program expired and abandoned their applications before becoming "documentarily qualified." It is the Department's opinion that the language of section 133 is intended to include such applicants as well.

The provision authorizing (but not requiring) the Attorney General to waive ineligibility under section 212(a)(19) leads the Department to conclude that section 212(a)(19) cannot similarly be made inapplicable to an otherwise qualified alien. Rather, it is the Department's conclusion that individual aliens found ineligible under section 212(a)(19) will have to apply to the Immigration and Naturalization Service for a waiver of that ineligibility. The Department assumes that INS will establish a procedure for the submission and adjudication of such waiver applications which is similar to that already in existence for the submission and adjudication of applications under section 212(i) of the Act.

This rule is not considered to be a major rule for purposes of E.O. 12291 nor is it expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 22 CFR Part 43

Aliens, Nonpreference immigrants, Visas.

Accordingly part 43 would be amended to add § 43.6, part 43

PART 43—[AMENDED]

1. The authority citation for part 43 is revised to read as follows:

Authority: Sec. 104, 66 Stat. 174, 8 U.S.C. 1104; Sec. 109(b)(1), 91 Stat. 847; Sec. 314, 100 Stat.

2. Part 43 would be amended to add § 43.6 to read:

§ 43.6 Processing and adjudication during Fiscal Year 1991.

(a) *General.* During fiscal year 1991 immigrant visa numbers shall be made available, without numerical limitation, to aliens who were registered pursuant to § 43.3 of this part, who were notified of their selection prior to May 1, 1990, and who—

(1) Became "documentarily qualified" (as that term is defined in 22 CFR 40.1(g)) prior to October 1, 1990, but for whom a visa number was not available prior to that date; or

(2) Were refused an immigrant visa under section 212(e) or section 212(a)(19) of the INA prior to October 1, 1990; or

(3) Were informed by a consular officer prior to October 1, 1990, that section 212(e) of the INA would preclude issuance of a visa to them, unless waived, and thereafter abandoned pursuit of their application; or

(4) Were, prior to October 1, 1990, determined by a consular officer to be nationals, but not natives, of an adversely affected country.

(b) *Eligibility to receive a visa.* The provisions of § 43.5 of this part shall apply to determinations of eligibility to receive a visa during fiscal year 1991. In addition, the provisions of section 212(e) of the Immigration and Nationality Act, as amended, shall not apply in making such determinations. An alien determined to be ineligible to receive a visa under section 212(a)(19) of such Act may not be issued a visa during fiscal year 1991 unless the Attorney General shall have waived such ineligibility.

Dated: December 27, 1990.

James Ward,

Acting Assistant Secretary for Consular Affairs.

[FR Doc. 91–2141 Filed 1–29–91; 8:45 am]

BILLING CODE 4710-06-M

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22 CFR Part 45

[Public Notice 1331]

Visas: Documentation of Immigrants

AGENCY: Bureau of Consular Affairs, DOS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would establish a new part 45 of title 22, Code of Federal Regulations, to implement the provisions of section 124 of Public Law 101–649. Section 124 authorizes the issuance of up to 12,000 visas annually during fiscal years 1991, 1992, and 1993 to aliens who are beneficiaries of petitions approved for this purpose by the Immigration and Naturalization Service, their spouses and children. In order to be a beneficiary of a petition for this purpose, an alien must be a resident of Hong Kong and employed by certain U.S. business entities at an office in Hong Kong in certain qualifying positions. This proposed rule would favorably affect a defined class of aliens to whom section 124 grants immigrant status.

DATES: Written comments must be received on or before March 1, 1991. All comments received before the expiration of the comments period will be considered prior to final action on this proposal.

ADDRESSES: Interested persons are invited to submit comments in duplicate to: Director, Office of Legislation, Regulations, and Advisory Assistance, Visa Office, Department of State, Washington, DC, 20522–0113.

FOR FURTHER INFORMATION CONTACT: Cornelius D. Scully, III, Director, Office of Legislation, Regulations, and Advisory Assistance, (202) 663–1184

SUPPLEMENTARY INFORMATION:

Public Law 101–649 Background

Section 124 of Public Law 101–649 provides that during fiscal years 1991, 1992, and 1993 up to 12,000 immigrant visa numbers shall be made available to certain aliens working in Hong Kong and their spouses and children. In order to qualify, the alien must be the beneficiary of a petition approved for this purpose by the Immigration and Naturalization Service. The beneficiary's spouse and children are entitled to benefit derivatively by reason of their relationship to the beneficiary. Immigrant visa numbers made available to beneficiaries of approved petitions and their spouses and children are required to be made available in chronological order based on the filing dates of the approved petitions.

A petition for classification under section 124 may be approved if the beneficiary is resident in Hong Kong, is employed in Hong Kong by a business entity owned and organized in the United States or an affiliate or subsidiary of such an entity, the entity employs at least 100 persons in the United States and 50 outside the United States, and the entity has a gross annual income of at least $50 million. The beneficiary must be an officer or supervisor of the entity in a capacity that is managerial or executive or involves specialized knowledge and must have been so employed by the entity for at least one continuous year before the filing of the petition. The beneficiary must also have a firm offer of employment in the United States from the entity and the terms of the offer must meet certain standards.

Discussion of Proposed Regulations

Since section 124 specifies that that petition must be filed with, and approved by, the Attorney General, regulations providing the standards and procedures for the filing and adjudication of petitions pursuant thereto will be promulgated by the Immigration and Naturalization Service.

The regulations proposed herein would provide for (1) the consideration of visa applications by beneficiaries of approved petitions and their spouses and children; and (2) redetermination of an alien's admissibility prior to actual application for admission for permanent residence if the alien elects to have the period of validity of his or her immigrant visa extended as provided in sections 154(a) and (b) of Public Law 101–649 and in § 42.72(e) of part 42 of this title. Section 124 specifies that a beneficiary alien must be resident in Hong Kong at the time of the filing of a petition in his or her behalf but does not on its face require that the alien continue to reside there subsequent to that time. On the other hand, it is clear that a beneficiary alien must continue to be employed by the petitioning business entity in a qualified position during the entire period between filing of the petition and the alien's actual application for admission for permanent residence.

If the beneficiary intends to apply for admission for permanent residence within the normal validity period of an issued immigrant visa, the issue of continuing residence in Hong Kong ordinarily will not arise since the time periods involved are too short to allow for intervening transfer by the petitioning entity to an office elsewhere than in Hong Kong. On the other hand, if the alien elects an extended period of validity, as provided in sections 154(a) and (b) of Public Law 101–649, it could well occur that the petitioning business entity might wish to transfer the alien to an office elsewhere in the world before the alien seeks admission for permanent residence in the United States. Should this occur, the question will arise whether the alien retains entitlement to the immigrant visa with extended validity which has been issued to him or her.

It is not clear to the Department what the intention of the proponents of section 124 may have been in this respect. The Department is of the opinion, however, that the language of section 124 lends itself more plausibly to the interpretation that the alien would retain entitlement even if transferred by the business entity to an office elsewhere during the period between visa issuance and application for admission for permanent residence. Accordingly, § 45.4(c) would so provide.

Another issue relates to the position occupied by the alien during the period between visa issuance and application for admission for permanent residence and the position to which the alien is destined after admission. While the language of section 124 does not specifically address this issue, the language of House Report 101–723, at p. 74 makes it clear that it is not intended that the alien be required to remain in the same position throughout that time period, which might extend as long as ten years. Rather, it is contemplated that the alien might be transferred to other positions in the normal course of employment during that period. The intent appears to be that such transfers will not divest the alien of entitlement, provided the position or positions occupied during that period were positions which would have met the requirements for petition approval initially. Similarly, it is clear that the position to which the alien is destined after admission for permanent residence must be a position of similar character.

Accordingly, in § 45.4(b) of the Department would provide that an alien required to seek a redetermination of admissibility will not be found inadmissible if the positions he or she has occupied in the period since visa issuance have been positions which would have supported approval of a petition. In addition, the Department has provided that the alien must present evidence that the position to which he or she is destined after admission is also one within the business entity's organization which would have supported petition approval.

This rule is not considered to be a major rule for purposes of Executive Order 12291 nor is it expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 22 CFR Part 45

Aliens, Immigration, Immigrants, Visas.

Proposed Regulations

In view of the foregoing, title 22, Code of Federal Regulations, would be amended by adding part 45 to chapter I, subchapter E—Visas, to read:

PART 45—VISAS: DOCUMENTATION OF IMMIGRANTS UNDER SECTION 124 OF PUB. L. 101–649

Sec.
45.1 General.
45.2 Priority date of applicants.
45.3 Control of numerical limitation.
45.4 Period of validity of immigrant visas.
45.5 Redetermination of eligibility if visa validity extended.

Authority: Sec. 124 of Pub. L. 101–649.

§ 45.1 General.

Except as specifically provided in this part, the provisions of the INA, as amended, and of parts 40 and 42 of this chapter shall apply to application for, consideration of, and issuance or refusal of, immigrant visas under section 124 of Public Law 101–649.

§ 45.2 Priority date of applications.

The priority date of an alien who is the beneficiary of a petition approved by the Service to accord status under section 124 of Public Law 101–649 shall be the filing date of the approved petition, as determined by the Service. The priority date of the spouse or child, accompanying or following to join such an alien shall be the priority date of the alien spouse or parent.

§ 45.3 Control of numerical limitation.

(a) *Centralized control.* Centralized control of the numerical limitation specified in section 124 of Public Law 101–649 is established in the Department. In order to effect this control, the Department shall limit the number of immigrant visas and the number of adjustments of status that may be granted to aliens applying under section 124 of Public Law 101–649 to a number not to exceed 12,000 in any fiscal year and not to exceed in any month of a fiscal year 1,200 plus any balance remaining from authorizations for preceding months in the same fiscal year.

(b) *Allocation of immigrant visa numbers.* Within the numerical limitations specified in paragraph (a) of this section and based on the chronological order of priority dates of applicants as established pursuant to § 45.2 of this part, the Department shall allocate immigrant visa numbers for use in connection with the issuance of immigrant visas and the granting of adjustment of status to such aliens.

§ 45.4 Period of validity of immigrant visas.

The period of validity of an immigrant visa issued pursuant to this part shall be as provided in section 42.72(e) of part 42.

§ 45.5 Redetermination of eligibility if visa validity extended.

(a) An alien to whom an immigrant visa is issued pursuant to this part who elects to have the validity of the visa extended as provided in § 42.72(e)(iv) of part 42 shall, prior to seeking admission into the United States for permanent residence, have his or her admissibility redetermined as provided therein.

(b) An alien who seeks a redetermination of admissibility pursuant to paragraph (a) of this section and § 42.72(e)(iv) of part 42 shall not be found to be admissible unless he or she

(1) Has continued to be employed by the petitioning entity in a qualifying position since issuance of the visa and

presents a letter describing the specific qualifying employment the alien will take up upon admission to the United States; or

(2) Is the spouse or child accompanying or following to join such an alien.

(c) For the purposes of this section, "qualifying position" shall include both the position occupied by the alien at the time the petition in the alien's behalf was approved and any other position within the petitioning business entity's organization, regardless of geographical location, which would meet the requirements for approval of such a petition in the alien's behalf. For the purposes of this section, "qualifying employment" shall mean any position within the business entity's organization in the United States of the kind required for approval of such a petition.

Dated: December 27, 1990.

James Ward,

Acting Assistant Secretary for Consular Affairs.

[FR Doc. 91-2142 Filed 1-29-91; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 7, 70, and 75

RIN 1219-AA27

Approval Requirements for Diesel-Powered Machines, Exposure Monitoring, and Safety Requirements for the Use of Diesel-Powered Equipment in Underground Coal Mines; Public Hearings

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of public hearings.

SUMMARY: On December 27, 1990, the Mine Safety and Health Administration (MSHA) announced three public hearings to receive public comments on the Agency's proposed regulations on the use of diesel-powered equipment in underground coal mines. In response to commenters, the Agency will hold a fourth public hearing in Birmingham, Alabama. Each hearing will cover major issues raised by comments submitted in response to the proposed rule.

The December 27, 1990, notice announced that the hearing in Chicago would cover only proposed provisions addressing 30 CFR part 7 approval requirement for diesel-powered machines. A request was made to accept comments on all parts: 7, 70, and 75. After consideration of this request, MSHA will receive comments on all sections of the proposal at the four locations.

DATES: All requests to make oral presentations for the record should be submitted at least five days prior to the hearing date. The public hearings will be held on the following dates: January 30 & 31, 1991, Salt Lake City, Utah; February 12 & 13, 1991, Pittsburgh, Pennsylvania; February 20 & 21, 1991, Chicago, Illinois; and March 5 & 6, 1991, Birmingham, Alabama, beginning at 9 a.m.

ADDRESSES: The hearings will be held at the following locations:

January 30 and 31, 1991—Clarion Hotel, Midtown Suites; 999 South Main Street; Alta A and Alta B; Salt Lake City, Utah 84111.

February 12 & 13, 1991—Lawrence Convention Center; 1001 Penn Avenue—North VII; Pittsburgh, Pennsylvania 15322.

February 20 & 21, 1991—Kluczynski Federal Building; 230 South Dearborn Street; Courtroom 3908, Chicago, Illinois 60604.

March 5, and 6, 1991—Jefferson Civic Center No. 1 Civic Center Plaza; 21st Street and 10th Avenue North; Birmingham, Alabama, 35203.

Send requests to make oral presentations to: Mine Safety and Health Administration, Office of Standards, Regulations and Variances, room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203 or telephone the Office of Standards at (703) 235-1910.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA, (703) 235-1910.

SUPPLEMENTARY INFORMATION: On December 27, 1990, MSHA published in the **Federal Register** (55 FR 53164) a notice to hold three public hearings to receive comments on the Agency's proposed regulations on the use of diesel-powered equipment in underground coal mines. In response to commenters, the Agency will hold a fourth public hearing in Birmingham, Alabama. Each hearing will cover major issues raised by comments submitted in response to the proposed rule.

The notice announced the hearing in Chicago would cover proposed provisions addressing 30 CFR part 7 approval requirements for diesel-powered machines only. A request was made to accept comments on all parts 7, 70, and 75. After consideration of this request, MSHA will receive comments on all sections of the proposal at the four locations.

MSHA will also accept additional written comments and other appropriate data from any interested party, including those not presenting oral statements. Written comments and data submitted to MSHA will be included in the rulemaking record. To allow for the submission of any post-hearing comments, the record will remain open unitl April 12, 1991.

In the interest of conducting a meaningful, productive hearing, the Agency reserves the right to schedule parties so that all points of view can be heard as effectively as possible.

Dated: January 24, 1991.

William J. Tattersall,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 91-2104 Filed 1-29-91; 8:45 am]

BILLING CODE 4510-43-M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1191

[Docket No. 90-2]

RIN 3014-AA09

Americans With Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities; Hearings

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Proposed rule; notice of hearings.

SUMMARY: On January 22, 1991, the Architectural and Transportation Barriers Compliance Board published proposed guidelines in the **Federal Register** (56 FR 2296) to provide guidance to the Department of Justice in establishing accessibility standards for new construction and alterations in places of public accommodation and commercial facilities, as required by the Americans with Disabilities Act of 1990. To ensure broad public input into the rulemaking, the Board has scheduled 14 hearings around the country to hear from all segments of the public that will be affected by the guidelines.

DATES: The dates and times of the hearings are listed under **SUPPLEMENTARY INFORMATION.**

ADDRESSES: The locations of the hearings are listed under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Barbara Gilley, Architectural and Transportation Barriers Compliance Board, 1111—18th Street NW., suite 501,

Washington, DC 20036. Telephone (202) 653–7834 (Voice/TDD). This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Board will hold hearings on the following dates and times at the locations listed below on the proposed Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities which were published in the **Federal Register** on January 22, 1991 (56 FR 2296):

February 11, 1991—Dallas, Texas, 9 a.m. to 1 p.m., Bachman Recreational Center, 2750 Bachman Drive, Assembly Rm.
February 12, 1991—Los Angeles, Calif., 9 a.m. to 1 p.m., Holiday Inn Westwood, 10740 Wilshire Boulevard
February 13, 1991—Minneapolis, Minn., 9 a.m. to 1 p.m., Minneapolis Convention Center, 1301 Second Avenue, South, room 208, Sections C & D
February 14, 1991—Salt Lake City, Utah, 9 a.m. to 1 p.m., Hilton Airport, 5151 Wiley Post Way
February 15, 1991—Seattle, Washington, 2 p.m. to 6 p.m., Seattle Main Library Auditorium, 1000 Fourth Avenue (4th & Spring)
February 19, 1991—Albuquerque, NM, 10 a.m. to 2 p.m., Ramada Hotel Classic, 6815 Menaul Blvd., Ambassador Rm.
February 20, 1991—Phoenix, Arizona, 10 a.m. to 5 p.m., Phoenix Main Library Auditorium, 12 E. McDowell
February 21, 1991—Sacramento, California, 9 a.m. to 1 p.m., Radisson Sacramento, 500 Leisure Lane, Edgewater Room
February 26, 1991—Atlanta, Georgia, 9 a.m. to 1 p.m., Ramada Inn—Airport, 1419 Virginia Avenue
February 27, 1991—Kansas City, Missouri, 9 a.m. to 1 p.m., Hyatt Regency Crown Center, 2345 McGee Street, Chicago Room
February 28, 1991—Cincinnati, Ohio, 9 a.m. to 1 p.m., City Hall, Council Chambers, 801 Plum Street
March 4, 1991—Miami, Florida, 9 a.m. to 1 p.m., Marriott-Airport, 1201 N.W. LeJeune Road
March 5, 1991—New York, New York, 9 a.m. to 1 p.m., LaGuardia Marriott, 102–05 Ditmars Blvd., East Elmhurst
March 7, 1991—Chicago, Illinois, 9 a.m. to 1 p.m. Central West Community Central, 2102 W. Ogden

Persons who wish to present oral comments on the proposed guidelines may register at the hearing location beginning one-hour before the start of the hearing. Persons will be heard in the order in which they register. Oral comments should be concise and limited to five (5) minutes. A written copy of the comments should be submitted for the official record. If more people register to present comments than can be heard in the time scheduled for the hearing, the Board reserves the right to select among those persons who register to ensure that the various interested parties are given an opportunity to speak. The Board is particularly interested in receiving comments on the specific questions identified in the preamble to the proposed guidelines.

All hearing sites are accessible to individuals with disabilities. Sign language interpreters and assistive listening systems will be available for individuals with hearing impairments.

Copies of the proposed guidelines are available in print and accessible formats (cassette tape, braille, large print, or computer disk). Single copies may be obtained by calling 1–800–USA–ABLE (this is a toll free number).

Persons may also submit written comments on the proposed guidelines. Written comments should be sent to the Office of the General Counsel, Architectural and Transportation Barriers Compliance Board, 1111—18th Street, NW., suite 501, Washington, DC 20036. Written comments should be received by March 25, 1991.

William H. McCabe,

Chairman, Architectural and Transportation Barriers Compliance Board.

[FR Doc. 91–2153 Filed 1–29–91; 8:45 am]

BILLING CODE 8150–01–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 218

[FRA Docket No. ROS–2, Notice No. 1]

RIN 2130—AA48

Bridge Worker Safety Rules

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: FRA proposes to establish safety standards for the protection of workers on railroad bridges.

DATES: (1) Written comments (three copies) must be received no later than April 15, 1991. Comments received after that date will be considered to the extent possible without incurring additional expense or delay.

(2) An informal hearing on this subject will be held on Thursday, March 28, 1991, at 9:30 a.m. in room 2230, 400 Seventh Street SW., Washington, DC. Prepared statements (five copies) must be received no later than March 15, 1991.

ADDRESSES: Written comments should be submitted to the Docket Clerk, Office of Chief Counsel (RCC–30), FRA, room 8209, 400 Seventh Street, SW., Washington, DC 20590. Persons desiring to be notified that their written comments have been received by FRA should submit a stamped, self-addressed postcard with their comments. The Docket Clerk will indicate on the postcard the date the comments were received and return the postcard to the addressee. Written comments will be available for examination, both before and after the closing date for comments, during regular business hours in room 8209 of the Nassif Building at the above address.

FOR FURTHER INFORMATION CONTACT: Christine Beyer, Trial Attorney, Office of Chief Counsel, FRA, Washington, DC, 20590. Telephone: (202) 366–0635 or (202) 366–0628. Rolf Mowatt-Larssen, Office of Safety, FRA, Washington, DC 20590. Telephone: (202) 366–4094.

SUPPLEMENTARY INFORMATION:

Legislative Background

Section 19 of the Rail Safety Improvement Act of 1988 ("RSIA"), Pub. L. 100–342, 102 Stat. 624 (June 22, 1988), amended section 202 of the Federal Railroad Safety Act of 1970 ("FRSA"), 45 U.S.C. 431, by adding new subsection (n), which provides that FRA should "* * * issue such rules, regulations, orders, and standards as may be necessary for the safety of maintenance-of-way employees, including standards for bridge safety equipment, such as nets, walkways, handrails, and safety lines, and requirements relating to instances when boats shall be used."

FRA intends in this proceeding to make comprehensive determinations regarding the regulatory action needed to address the safety of workers on railroad bridges. In considering the necessity of such rules, pursuant to section 19 of the RSIA, one issue to be addressed is the adequacy and appropriateness of currently applicable federal standards issued by the Occupational Safety and Health Administration (OSHA).

Jurisdictional Background

FRA has a complementary relationship with OSHA that includes overlapping jurisdiction with respect to occupational safety and health issues in the railroad industry. Just as FRA lacks safety jurisdiction in non-railroad environments, OSHA lacks jurisdiction over safety issues relating directly to railroad operations—a subject over which FRA's authority is exclusive. Thus, one question is whether the occupational safety issues presented by work on railroad bridges are so inherent to the railroad environment that FRA alone should regulate them, or whether they cut across industry lines without raising special concerns in the railroad

context and thus are properly addressed by general OSHA standards.

OSHA has not promulgated regulations specifically applicable to work on railroad bridges or to work on other types of bridges. However, a variety of OSHA rules addressing occupational safety issues commonly found in railroad bridge work are found in part 1926, Safety and Health Regulations for Construction, and part 1910, Occupational Safety and Health Standards (usually referred to as general industry standards). Where other agencies possess overlapping jurisdiction, section 4(b)(1) of the Occupational Safety and Health Act, 29 U.S.C. 653(b)(1) contemplates that federal safety agencies can displace OSHA:

> Nothing in the Act shall apply to working conditions of employees with respect to which other Federal agencies * * * exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

In 1978, FRA issued a Statement of Policy setting out the respective areas of jurisdiction of FRA and OSHA in the railroad industry. 43 FR 10583 (March 14, 1978). In that Statement, FRA drew the jurisdictional line between "occupational safety and health" issues in the railroad industry and work related directly to "railroad operations," with FRA having jurisdiction over the latter, and OSHA over the former, except where compliance with OSHA regulations could be shown to adversely affect the safety of rail operations. FRA noted that it

> has determined that a territorial approach to the exercise of its statutory jurisdiction over railroad safety * * * would deplete energies and resources better devoted to the safety of railroad operations. If FRA were to address all occupational safety and heatlh issues which arise in the railroad yards, shops, and associated offices, the agency would be forced to develop a staff and field capability which, to an extent, would duplicate the capability already possessed by OSHA.

43 FR 10585. Both courts and the Occupational Safety and Health Review Commission have held that the assertion of authority in a policy statement constitutes an exercise of FRA's statutory authority under the rail safety laws sufficient to displace OSHA standards, pursuant to section 4(b)(1) of the OSH Act, with respect to health and safety issues intrinsic to "railroad operations." *Velasquez* v. *Southern Pacific Transp. Co.*, 734 F.2d 216, 218 (5th Cir. 1984); *Southern Pacific Transp. Co.* v. *Usery*, 539 F.2d 386 (5th Cir. 1976), *cert. denied*, 434 U.S. 874 (1977); *Consolidated Rail Corp.*, 10 OSHC (BNA) 1577 (1982).

The Policy Statement points to FRA's "proper role" as concentrating "its limited resources in addressing hazardous working conditions in those traditional areas of railroad operations (*i.e.*, "the movement of equipment over the rails") in which (FRA) has special competence." 43 FR 10585. After considering the necessity of standards for work on bridges pursuant to section 19 of the RSIA, FRA now believes that such work may be so much a part of railroad operations that FRA should address this issue in its own regulatory program.

FRA has previously addressed working conditions on bridges. After issuing an ANPRM in 1976, holding hearings, and receiving comments on the need for walkways on railroad bridges, FRA concluded that a federal regulation requiring the construction of bridge walkways was not warranted, and FRA terminated the rulemaking proceeding in 1977. 42 FR 22184 (May 2, 1977). Then in the 1978 Policy Statement FRA recognized that OSHA has relevant rules and addressed working conditions on railroad bridges directly:

> The OSHA regulations would not apply to *Ladders, platforms, and other surfaces on* signal masts, catenary systems, *railroad bridges,* turntables, and similar structures, or to walkways beside the tracks in yards or along the right-of-way. These are areas which are so much a part of the operating environment that they must be regulated by the agency with the primary responsibility for railroad safety. Therefore, FRA will determine the need for and feasibility of general standards to address individual hazards related to *such surfaces,* keeping in mind the requirement of proper clearances and the familiarity of employees with existing industry designs.

43 FR 10587 (emphasis added). As this segment of the Policy Statement indicates, FRA intended to displace OSHA regulations with respect to the surfaces on bridges, *i.e.*, track structures, but did not intend to prevent OSHA from exercising its more general responsibilities for the safety of railroad workers with respect to fall protection and respiratory equipment. However, these distinctions have proved confusing to the regulated community, railroad employees, inspectors, and in some instances, adjudicatory bodies. FRA has recently received a number of legal memoranda addressing these issues from railroads and railroad associations; all of these evidence this confusion. All are available for inspection in the docket of this rulemaking.

Also, labor organizations have complained about confusion regarding the appropriate federal agency to approach when railroad bridge worker safety issues arise. To ameliorate that situation, the Brotherhood of Maintenance of Way Employees (BMWE), on one hand, has urged aggressive OSHA enforcement of its standards on railroad bridges, and on the other hand, was the moving party seeking inclusion of this issue in the RSIA. Accordingly, FRA understands the BMWE's objective to be clarity as between FRA and OSHA, not some specific result. FRA agrees that work on railroad bridges exposes workers to significant risk of harm. To be effective in reducing those risks, the appropirate federal standards for personal protection, and the identity of the agency responsible for their enforcement, must be crystal clear.

Bridge Work Hazards

Most railroad bridges crossing water, streets, and valleys were built many decades ago. In that time, railroad traffic has changed, with many bridges now having to support passage of heavier cars and denser traffic. Due to the considerable age of railroad bridges and these changing traffic patterns, more frequent maintenance will be necessary, increasing the exposure of workers to bridge maintenance hazards. Those risks are real. FRA accident data indicate that approximately 171 employee injuries and 10 employee fatalities resulted from falls from railroad bridges during the ten-year period ending in 1987.

On April 10, 1990, OSHA published a notice of proposed rulemaking concerning walking and working surfaces (55 FR 13360) and released accident data relating to employee falls from surfaces. The data revealed that in 1985 alone, approximately 200,000 injuries that required one or more lost work days occurred as the result of a fall. The statistics also indicate that many employee injuries occur because no fall protection system is used or, if one is employed, it is used improperly.

Some railroads such as Union Pacific, CSX, Southern Pacific, and Conrail have issued their own guidelines on the use of personal protective equipment and safe working procedures for workers on bridges. While in some respects these guidelines parallel OSHA regulations, there remains some concern among railroad employees that railroad guidelines do not encompass all the requisite bridge safety issues and are not followed consistently.

Participation Requested

Having previously reserved at least some aspects of work on bridges to itself through "negative displacement" unde-

section 4(b)(1), FRA now proposes to extend its authority to all aspects of railroad bridge worker safety. It could do this in several ways: (1) Develop and enforce independent FRA standards, (2) adopt and enforce existing OSHA standards, (3) adopt enforcement rules only by which FRA would enforce OSHA standards, or (4) some combination of these. Depending on the issue, differing approaches could be appropriate.

In an analogous context, FRA has rules in effect that contemplate FRA enforcement of Environmental Protection Agency noise standards in the railroad industry. 49 CFR part 210. There, FRA lacks the technical expertise to set standards, but it has developed the capability to monitor and test for compliance. Similarly, in the railroad bridge context, OSHA has developed technical standards concerning personal protective equipment and fall protection (*e.g.*, the tensile strength of lines, the height and strength of nets, the concentration levels of respiratory threats that can be combatted with respirators) that may serve as a guideline for an independent FRA regulatory and enforcement program.

In the railroad safety context, FRA believes that it can address the health and safety hazards confronting railroad bridge workers by issuing and enforcing its own regulations. By affirmatively asserting regulatory authority over all aspects of railroad bridges, both operational and otherwise, FRA can tailor relevant OSHA regulations to take account of the peculiarities of the railroad environment.

Under this proposal, the inspection of bridge worker safety equipment would be completed by the more appropriate inspection force. FRA inspectors possess extensive knowledge of the practices relating to track, signal, and train control operation—knowledge that is essential to safely complete an inspection of the fall protection and personal protective equipment being employed at a given bridge repair site. FRA inspectors often are aware of construction and repair operations in progress, and can therefore inspect for adequate protective equipment in a timely fashion. In addition, this proposal will prevent duplicative inspection efforts as FRA inspectors, unlike OSHA inspectors, can conduct an inspection of bridge worker safety devices as they complete their periodic track and singal inspections. Finally, FRA's proposal will provide clarity for workers, industry representatives, inspectors, and adjudicatory bodies when issues concerning personal protective equipment and fall protection arises in the field.

FRA's proposed rule mirrors OSHA regulations concerning personal protective equipment and fall protection. However, changes have been made as necessary to accommodate the railroad environment, and those changes are printed in italics for convenience. Finally, FRA is aware of OSHA's recent Notice of Proposed Rulemaking, 55 FR 13360 (April 10, 1990), concerning walking and working surfaces, and fall protection systems, and will follow developments in that proceeding. OSHA hopes to publish a final rule in 1992 that may alter current industry standards with respect to fall protection and working surfaces. FRA would expect to monitor such developments and amend its own rules as appropriate.

Interested parties are encouraged to comment on this proposal. This proposed rule has benefited from suggestions received from the Association of American Railroads (AAR), the BMWE, Burlington Northern Railroad (BN), the Chicago and Northwestern Transportation Company (CNW), and CSX Transportation, Inc., and all of these comments are available for inspection in the docket of this rulemaking. If specific questions or issues are not addressed in this proposal, but they are believed to be important to the safety of workers on bridges, those submitting comments are urged to address them. Similarly, commenters should not allow the format of the proposed rule to restrict their comments on the need for any particular personal protective equipment or procedure.

FRA's proposed rule is presented as a focus for discussion, not as a judgment as to necessity or irrelevancy of any particular personal protective equipment or procedures. Similarly, the form and content of the proposal should not be viewed as exhaustive. FRA is receptive to comments that additional aspects should be considered, or that certain standards are unnecessary.

Section-by-Section Analysis

1. Definitions are provided in proposed additions to 49 CFR 218.5 for lanyards, lifelines, and safety belts based generally on performance specifications.

2. Proposed § 218.71 states the purpose and scope of this subpart to be prevention of accidents and casualties by prescribing minimum safety requirements for railroad employees who perform duties on a railroad bridge structure. Railroads may prescribe more stringent additional requirements.

The proposed subpart would apply to all railroad employees as defined in § 218.5(r). An exception is allowed for workmen performing repairs of a minor nature, with examples of the excepted work provided. A safety belt and lanyard shall be required in all instances, but additional fall protection would not be required when employees are examining, inspecting, or assessing working conditions. These exceptions are proposed because this work normally exposes the employee to a fall hazard for only a short time; installation of fall protection itself exposes the installers of the protective systems to additional fall hazards that can easily exceed the risks posed by the inspection activity; employees assessing working conditions are likely to be more aware of the existing fall hazards than are employees preoccupied with attending to repair duties; and such work is usually conducted in good weather. Section 218.71(d) exempts installation of fall protection systems where installation alone presents a greater hazard than does the work to be performed; the railroad must be able to show that installation poses the greater risk.

For the purpose of this proposal, and without prejudging the issue, FRA has required fall protection where employees are working at least six feet above ground or water. FRA welcomes comment on this issue.

3. Proposed § 218.72 provides that additional fall protection is not required on bridges where walkways and railings exist. If, however, employees work beyond the railings or over the side of the bridge, fall protection would be required. Fall protection would also be mandated where there are holes on the bridge deck large enough for a person to fall through.

4. Use of safety belts, lifelines, and lanyards is addressed in proposed § 218.73. The text of proposed subsection (a) prohibits use of lifelines, safety belts, and lanyards for material or equipment hoists, or similar uses. Moreover, once subject to full in-service loading (due to an employee fall, as contrasted to static load testing), the safety belt, lifeline, or lanyard must be permanently removed from service. But, given that the extent of the fall, the employee's weight, and the type of deceleration device used affect the system's capacity for reuse and argue against blanket prohibition of reuse, we solicit comments on whether the proposed rule should stipulate, instead, that the device be removed from service and inspected and not used for

employee protection again until determined suitable.

Proposed § 218.73(b) requires securement of lifelines to an anchorage above the point of operation, or if one above the point of operation does not exist, which may be the case on many railroad bridges, to another anchorage capable of supporting a minimum dead weight of 5,400 pounds.

Proposed § 218.73(c) states length and strength requirements for safety belt lanyards. The safety belt lanyard must be a minimum of ½ inch nylon, or equivalent, and the lanyard maximum length must allow a fall of no greater than six feet, or sufficient length to prevent the user's contact with surfaces below.

Proposed § 218.73(d) requires safety belt and lanyard hardware to be drop forged or pressed steel, plated according to certain federal specifications, and capable of withstanding a tensile loading of 4,000 pounds without taking a permanent deformation.

5. Proposed § 218.74 requires use of safety nets. The text of subsection (a) mandates safety nets when workplaces are more than 25 feet above the surface and when other fall protection (scaffolds, safety lines/belts, etc.) is impractical. Subsection (b) requires that safety nets be installed and tested prior to the start of any work operations.

Proposed § 218.74(c)(1) mandates extension of nets eight feet beyond the edge of the work surface, and installation as close under the work surface as possible, but never more than 25 feet below the work level.

Subsection (c)(1) also mandates that net installation be such as to prevent a falling body's contact with any surfaces or structures below, and this clearance must be determined by impact load testing.

Subsection (c)(2) requires only one level of net protection for bridge construction.

Proposed § 218.74(d) limits net mesh size to six inches to six inches. This limits mesh openings to four six-inch sides: A 36 square inch limit protects employees from an opening so large that they could be injured by their head's falling into the opening, resulting in a broken neck. Subsection (d) also sets a preference standard for nets of 17,500 foot-pounds minimum impact resistance, determined and certified by the manufacturer, and proof-test labelled. It additionally mandates that edge ropes provide a minimum breaking strength of 5,000 pounds.

In the proposal, § 218.74(e) provides that forged steel safety hooks or shackles shall be used to fasten the net to its supports.

Proposed § 218.74(f) requires that connections between net panels develop the full strength of the net.

6. Proposed § 218.75 concerns safety protection for employees working over or near water. Proposed subsection (a) requires that, where the danger of drowning exists or the water is in excess of three feet deep, employees shall be provided with life jackets or buoyant vests meeting the U.S. Coast Guard requirements stipulated in 46 CFR 160.047, 160.052, 160.053. Life preservers complying with U.S. Coast Guard regulations in 46 CFR 160.055 must also be available.

Subsection (b) mandates inspection of buoyant vests and life preservers before and after each use by properly trained individuals who have been designated by the railroad; units with defects that reduce strength or buoyancy are not to be used.

Under proposed subsection (c), ring buoys (complying with U.S. Coast Guard requirements at 46 CFR 160.050) with at least 90 feet of line are to be readily available, with a distance between buoys of no more than 200 feet.

Proposed subsection (d) requires at least one life-saving skiff to be immediately available where employees are working over or adjacent to water.

7. Proposed § 218.76 addresses respiratory protection. Subsection (a) provides that employees required to use respirators will be instructed on the proper use of, and limitations of, the equipment.

Proposed § 218.76(b) requires alteration or removal of facial hair or apparel that interferes with a satisfactory seal of respiratory equipment.

Proposed § 218.76(c) requires use of a respiratory protective device appropriate to the contaminant exposure.

Proposed § 218.76(d) provides for regular inspection of respiratory equipment. In addition, the proposed subsection requires that this equipment be maintained in proper operating condition, stipulating that gas mask canisters and chemical cartridges be replaced as necessary so as to provide complete protection and mechanical filters be cleaned or replaced as necessary.

Proposed § 218.76(e) requires that previously used respirator equipment be cleaned and disinfected before issuance to another employee.

8. Proposed § 218.77 addresses requirements for head protection. Subsection (a) mandates when helmets shall be required, and subsections (b) and (c) describe the standards they shall meet.

9. Proposed § 218.78 addresses requirements for scaffolds: (b) stationary and (c) manually propelled mobile ladder stands and scaffolds. Prefatory language states that scaffolding is to be maintained in a safe condition.

Proposed subsection (a) sets forth standards for all timber members used in both scaffolds and guardrails.

Proposed § 218.78(b)(1) would require that guardrails be constructed of nominal two-by-four inch lumber, or materials of equivalent strength, and installed no less than 36 inches nor more than 42 inches high. Guardrails must also be provided with a midrail of nominal one-by-four inch lumber, or materials of equivalent strength; supports at intervals not greater than eight feet; and toeboards a minimum of four inches high.

Section 218.78(b)(2) of the proposal stipulates that the strength of scaffolds and their components (including footings or anchorage) be able to support at least four times the maximum intended load.

Movement or alteration of a scaffold while it is occupied is prohibited in proposed § 218.78(b)(3). Subsection (b)(4) requires the provision of an access ladder or equivalent safe access. Subsection (c) requires that manually propelled mobile ladder stands and scaffolds be capable of carrying the design load. Section 218.78(c)(2) requires that ladder stands and scaffolds have support capability of at least four times the design working load. Proposed subsection (c)(3) stipulates that exposed surfaces have no sharp edges or burrs.

Proposed subsection (c)(4) requires a maximum work level height of no more than four times the minimum or least base dimensions of any mobile ladder stand or scaffold. When this requirement is not met by the basic mobile unit, either suitable outrigger frames must be used to achieve this least base dimension or the unit must be guyed or braced against tipping.

Proposed § 218.78(c)(5) stipulates a minimum work-level platform width for mobile scaffolds of not less than 20 inches; a minimum step-width for ladder stands of 16 inches; and fabrication of ladder stand steps from slip-resistant treads.

Proposed subsection (b)(6) requires that guardrails be constructed of minimum two-by-four inch lumber, or equivalent strength, and no less than 36 inches nor more than 42 inches high; midrails of nominal one-by-four inch lumber, or equivalent strength; supports at intervals of nor more than eight feet; and toeboards of a minimum height of four inches.

Proposed § 218.78(b)(7) provides that climbing ladders or stairways for access and egress be affixed or built into the scaffold, and located so that its use will not have a tendency to tip the scaffold.

Proposed § 218.78(b)(8) stipulates that wheels or casters be designed to support four times the design working load; that casters have a positive wheel and/or swivel lock to prevent movement; and that ladder stands have a swivel-type lock on at least two of the four casters.

Proposed § 218.79 requires that the railroad or contractor provide any of the personal protective equipment in subpart F when hazardous conditions are present.

Proposed § 218.80 provides that protective footwear comply with pertinent industry standards.

Proposed § 218.81 requires that the railroad provide or see that eye and face protection equipment is provided when conditions that may lead to eye and face injury are present. The protection equipment must be kept in a safe and sanitary condition, and must accommodate those workers who wear corrective lenses.

Walkways

Section 19 of the RSIA requires that FRA consider the merit of issuing regulations concerning walkways on railroad bridges. On November 15, 1976, FRA published an advance notice of proposed rulemaking (ANPRM, 41 FR 50302) to study the need for Federal regulations requiring construction of walkways on railroad bridges, trestles, and similar structures. After considerable study and analysis of the comments submitted, FRA terminated the proceeding on April 26, 1977 (42 FR 22184). The data received indicated that the presence or absence of walkways had little statistical correlation to railroad employee injuries. This was found to be true in large part because individual railroad carriers had identified those structures that posed the greatest hazards and had installed walkways where needed.

Several commenters also expressed concern over the increased dangers to trespassers that would result from a walkway requirement, and statistical data supported these concerns.

Finally, the high cost of complying with a federal walkway requirement could divert funds otherwise intended for ongoing maintenance and improvement programs. The net result could actually decrease overall safety to railroad employees and members of the public.

Based on these findings, FRA determined that a federal walkway requirement was not warranted, and in fact, may be deleterious to railroad employee safety. FRA has no information to indicate that the data underlying this conclusion has changed significantly, and therefore is not proposing regulations requiring walkways on railroad bridges. However, comments concerning the necessity of walkways are requested and will be considered.

Regulatory Impact

E.O. 12291 and DOT Regulatory Policies and Procedures

This proposed rulemaking has been evaluated in accordance with existing policies and procedures and is considered to be nonmajor under Executive Order 12291. It is, however, considered to be significant under DOT policies and procedures (44 FR 11304, February 26, 1979) because it would initiate a substantial regulatory program.

Consequently, FRA has prepared and placed in the docket a regulatory evaluation addressing the economic impact of the proposed rule. It may be inspected and copied at Room 8209, 400 Seventh Street, SW., Washington, DC 20590. Copies may also be obtained by submitting a written request to the FRA Docket Clerk at the above address.

Estimates of potential benefits from the issuance of FRA's proposed rule are based on a reduction in the risk of fatalities and injuries caused by falls from railroad bridges. By reducing these risks, lost wages, health care expenditures, and the loss of human life will decrease, resulting in an estimated annual benefit of $1,259,832.

The only potential costs associated with the proposed rule are those FRA will incur to monitor and enforce compliance with the new regulations. Estimates indicate that each of FRA's eight regions will devote half of one man-year, or four man-years nationwide, to be increased monitoring and enforcement effort brought about by this proposed rule. Based on an annual cost of $66,000 per man-year, the total expected cost to FRA to enforce the proposed rule will be $264,000.

The benefit-to-cost ratio of the proposed rule is 4.76 to 1 if the rule is 100% effective in reducing bridge worker injuries and fatalities. Although total industry compliance and a complete reduction in deaths and injuries may be unrealistic, FRA believes that bridge worker safety nonetheless will increase substantially with implementation of the proposed rule. If the rule is 75% effective in reducing injuries, the benefit-to-cost ratio is 3.57 to 1, and if only 50% effective, the ratio is a positive one at 2.38 to 1.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires a review of proposed rules to assess their impact on small entities. In reviewing the economic impact of the proposed rule, FRA concluded that this proposed rule will hava a minimal economic impact on a minor number of small entities. There is no direct or indirect economic impact on small units of government, businesses, or other organizations. Therefore, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act. State rail agencies remain free to particpate in the administration of FRA's rules but are not required to do so.

Paperwork Reduction Act

There are no information collection requirements in these proposed FRA regulations. Consequently, no estimate of a public reporting burden is required.

Environmental Impact

FRA has evaluated these proposed regulations in accordance with its procedures for ensuring full consideration of the environmental impact of FRA actions, as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) other environmental statutes, Executive Orders, and DOT Order 5610.1c. These proposed regulations meet criteria establishing this as a non-major action for environmental purposes.

Federalism Implications

This proposed rule would not have a substantial effect 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. Thus, in accordance with Executive Order 12612, preparation of a Federalism Assessment is not warranted.

List of Subjects in 49 CFR Part 218

Railroad bridge work safety, Railroad safety.

The Proposed Rule

Note: Italicized portions indicate changes from OSHA regulations.

In consideration of the foregoing, FRA proposes to amend part 218, title 49, Code of Federal Regulations as follows:

PART 218—[AMENDED]

1. The authority citation for part 218 continues to read as follows:

Authority: 45 U.S.C. 431, 438, as amended; Pub. L. 100–342; and 49 CFR 1.49(m).

2. By amending the table of contents to add subpart F as follows:

Subpart F—Performing Work on Bridges

Sec.

3. By amending § 218.5 to add paragraphs (o) through (s) as follows:

§ 218.5 Definitions.

(o) *Lanyard* means a rope, suitable for supporting one person. One end is fastened to a safety belt or harness and the other end is secured to a substantial object or a *lifeline.*

(p) *Lifeline* means a rope, suitable for supporting one person, to which a lanyard or safety belt (or harness) is attached.

(q) *Safety belt* means a device, usually worn aroung the waist, which, by reason of its attachment to a lanyard and lifeline or a structure, will prevent a worker from falling.

(r) *Railroad employee as used in subpart F of this part means any employee of, or employee of a contractor of, a railroad owning or responsible for the construction, inspection, testing, or maintenance of a bridge whose assigned duties, if performed on the bridge, affect the track, bridge structural members, operating mechanisms and water traffic control systems, or signal, communication, or train control systems integral to that bridge.*

(s) *Railroad bridge means a structure supporting one or more railroad tracks above land or water with a span length of 12 feet or more measured along the track centerline. This term applies to the entire structure between the faces of the backwalls of abutments or equivalent components, regardless of the number of spans, and includes all such structures, whether of timber, stone, concrete, metal, or any combination thereof.*

4. By adding subpart F consisting of §§ 218.71 through 218.78 to read as follows:

§ 218.71 Purpose and scope.

(a) *The purpose of this subpart is to prevent accidents and casualties arising from the performance of work on railroad bridges.*

(b) *This subpart prescribes minimum railroad safety rules for railroad employees performing work on bridges. Each railroad may prescribe additional or more stringent operating rules, safety rules, and other special instructions.*

(c) *These provisions apply to all railroad employees, railroads, and contractors of railroads performing work on railroad bridges. An exception to the provisions for the protection of these employees is that workers performing track repairs of a minor nature that can be completed by working between the rails, or in close proximity to the rails, such as routine welding, spiking, anchoring, spot surfacing, and joint bolt replacement, are not subject to the requirements of §§ 218.74, 218.75, and 218.76.*

(d) *Sections 218.73 and 218.74 shall not apply if the installation of fall protection devices poses a greater exposure to risk than the work to be performed. The railroad shall have the burden of proving that the installation of such devices poses greater exposure to risk than performance of the work itself.*

(e) When fall protection is required by § 218.72 and 218.74 and employees are working six feet or more above the ground, they shall be protected by the use of safety belts, lifelines, or lanyards.

§ 218.72 Walkways and railings.

Where employees are working on a railroad bridge equipped with secure walkways and secure railings, or on another secure surface where danger of falling does not exist, additional fall protection is not required if employees do not work beyond the railings or over the side of the bridge, and there are no gaps or holes on the bridge deck large enough to permit a person's body to fall through.

§ 218.73 Safety belts, lifelines, and lanyards.

(a) Lifelines, safety belts, and lanyards shall be used only for employee safeguarding. Any lifeline, safety belt, or lanyard actually subjected to full in-service loading through, *e.g.*, an employee fall, as distinguished from static load testing, shall be immediately removed from service and shall not be used again for employee safeguarding.

(b) *Lifelines shall be secured to an anchorage above the point of operation, or if one does not exist, to a structural member capable of supporting a minimum dead weight of 5,400 pounds.*

(c) Safety belt lanyards shall be a minimum of ½-inch nylon, or equivalent, with a maximum length to provide for a fall of no greater than six feet, *or a length sufficient to prevent the user's contact with the surfaces or structures below.* The rope shall have a nominal breaking strength of 5,400 pounds.

(d) All safety belt and lanyard hardware shall be drop forged or pressed steel, cadmium plated in accordance with type 1, Class B plating specified in Federal Specification QQ–P–416C. Surfaces shall be smooth and free of sharp edges.

(e) All safety belt and lanyard hardware, except rivets, shall be capable of withstanding a tensile loading of 4,000 pounds without cracking, breaking, or taking a permanent deformation.

§ 218.74 Safety nets.

(a) Safety nets shall be provided when the bridge workplace height is more than 25 feet above the ground or water surface, or other surfaces where the use of ladders, scaffolds, catch platforms, temporary floors, lifelines, or safety belts is impractical.

(b) Where safety net protection is required by this part, *work at the height at which protection is required by this subpart* shall not begin until the net is in place and has been tested.

(c)(1) Nets shall extend eight feet beyond the edge of the work surface where employees are exposed and shall be installed as close under the work surface as practical, but in no case more than 25 feet below such work surface. Nets shall be hung with sufficient clearance to prevent a falling body's contacting the surfaces or structures below. Such clearances shall be determined by impact load testing.

(2) Only one level of nets are required for bridge construction.

(d) The mesh size of nets shall not exceed six inches by six inches. All new nets shall meet a performance standard of 17,500 foot-pounds minimum impact resistance as determined and certified by the manufacturer and shall bear a label of proof test. Edge ropes shall provide a minimum breaking strength of 5,000 pounds.

(e) Forged steel safety hooks or shackles shall be used to fasten the net to its supports.

(f) Connections between net panels shall develop the full strength of the net.

§ 218.75 Working over or near water.

(a) Where railroad employees are working over or near water *in excess of*

three feet deep or where the danger of drowning exists, the railroad shall provide and the employees shall use *life vests or buoyant work vests in compliance with U.S. Coast Guard requirements in 46 CFR 160.047, 160.052, 160.053. Life preservers in compliance with U.S. Coast Guard requirements in 46 CFR 160.055 must also be within ready access.*

(b) Prior to and after each use, *all flotation devices shall be inspected for defects that would reduce their strength or bouyancy by individuals, designated and trained by the railroad.* Defective units shall not be used.

(c) Ring buoys with at least 90 feet of line shall be provided and readily available for emergency rescue operations. Distance between ring buoys shall not exceed 200 feet.

(d) At least one lifesaving skiff shall be immediately available at locations where life vests are required.

§ 218.76 Respiratory protection.

(a) The railroad shall provide respirators or require that respirators are provided when such equipment is necessary to protect employees from health effects caused by breathing air contaminated with harmful dusts, particles, fogs, fumes, mists, gases, smokes, sprays, or vapors. The railroad shall instruct employees in the proper use and limitations of such equipment.

(b) *If facial hair or apparel interfere with a satisfactory seal of respiratory protective equipment, the employee shall alter or remove such facial hair or apparel so as to eliminate interference and allow a satisfactory seal.*

(c) *The type of respirator protective devices used shall be appropriate for the specific contaminant to which the employee is exposed. The work environment of employees, and testing of surrounding air quality, must comport with the Department of Labor, Occupational Safety and Health regulations regarding Permissible Exposure Limits of airborne contaminants as set forth in 29 CFR 1910.1000–1101.*

(d) *Respiratory protective equipment shall be inspected and maintained in proper operating condition. Gas mask canisters and chemical cartridges shall be replaced as necessary so as to provide complete protection. Mechanical filters shall be cleaned or replaced as necessary.*

(e) Respiratory protective equipment shall be regularly cleaned and disinfected. Those used by more than one worker shall be thoroughly cleaned and disinfected after each use.

§ 218.77 Head protection.

(a) Employees working in areas where there is a possible danger of head injury from impact, or from falling or flying objects, or from electrical shock and burns, shall be protected by protective helmets.

(b) Helmets for the protection of employees against impact and penetration of falling and flying objects shall meet the specifications contained in American National Standards Institute, Z89.1–1969, Safety Requirements for Industrial Head Protection.

(c) Helmets for the head protection of employees exposed to high voltage electrical shock and burns shall meet the specifications contained in American National Standards Institute, Z89.2–1971.

§ 218.78 Scaffolding.

Scaffolding *used in connection with railroad bridge maintenance, inspection, testing, and construction* shall be maintained in a safe condition and meet the following minimum requirements:

(a) All load-carrying timber members of scaffold framing or guardrails shall be a minimum of 1,500 fiber (Stress Grade) construction grade lumber. All dimensions are nominal sizes as provided in the American Lumber Standards, except that where rough sizes are noted, only rough or understressed lumber of the size specified will satisfy minimum requirements.

(b) Stationary scaffolds shall be designed and erected in conformity with the following:

(1) *Guardrails shall be constructed of a minimum nominal two-by-four inch lumber, or equivalent strength when other materials are used, installed no less than 36 inches nor more than 42 inches high, with a midrail of nominal one-by-four inch lumber, or equivalent strength when other materials are used. Supports shall be at intervals not to exceed eight feet.* Toeboards shall be a minimum of four inches in height.

(2) Each scaffold and scaffold component, *except guardrail systems but including footings and anchorage,* shall be capable of supporting, without failure, displacement or settlement, *its own weight and* at least four times the maximum intended load *applied or transmitted to that scaffold or scaffold component.*

(3) Scaffolds shall not be altered or moved while they are occupied.

(4) An access ladder or equivalent safe access shall be provided.

(c) Manually propelled mobile ladder stands and scaffolds shall conform to the following:

(1) Manually propelled mobile ladder stands and scaffolds shall be capable of carrying the design load.

(2) All ladder stands, scaffolds, and scaffold components shall be capable of supporting, *without failure, displacement, or settlement, its own weight and* at least four times the *maximum intended load applied or transmitted to that ladder stand, scaffold, or scaffold component.*

(3) All exposed surfaces shall be free from sharp edges or burrs.

(4) The maximum work level height shall not exceed four times the minimum or least base dimensions of any mobile ladder stand or scaffold. Where the basic mobile unit does not meet this requirement, suitable outrigger frames shall be employed to achieve this least base dimension, or provisions shall be made to guy or brace the unit against tipping.

(5) The minimum platform width for any work level shall not be less than 20 inches for mobile scaffolds (towers). Ladder stands shall have a minimum step width of 16 inches. The steps of ladder stands shall be fabricated from slip resistant treads.

(6) Guardrails shall be a minimum of nominal two-by-four inch lumber, or equivalent strength when other materials are used, installed no less than 36 inches nor more than 42 inches high, with a midrail of nominal one-by-four inch lumber, or equivalent strength when other materials are used. Supports shall be at intervals not to exceed eight feet. Toeboards shall be a minimum of four inches in height.

(7) A climbing ladder or stairway shall be provided for proper access and egress, and shall be affixed or built into the scaffold and so located that in its use it will not have a tendency to tip the scaffold.

(8) Wheels or casters shall be capable of supporting, without failure, at least four times the *maximum intended load applied or transmitted to that component.* All scaffold casters shall be provided with a positive wheel and/or swivel lock to prevent movement. Ladder stands shall have at least two of the four casters and shall be of the swivel type.

§ 218.79 Personal protective equipm

The railroad is responsible for requiring the wearing of appropriate personal protective equipment in all operations where there is an exposure to hazardous conditions or where this part indicates the need for using such equipment to reduce the hazards to the railroad employees.

§ 218.80 Foot protection.

Safety-toe footwear for employees shall meet the requirements and specifications in American National Standard for Men's Safety-Toe Footwear, Z41.1–1976. Rubber protective equipment shall conform to the requirements established in the American National Standards Institute Standards.

§ 218.81 Eye and face protection.

(a) Employees shall be provided with eye and face protection equipment when potential eye or face injury may result from physical, chemical, or radiant agents.

(b) Eye and face protection equipment required by this section shall meet the requirements specified in American National Standards Institute, Z87.1–1968, Practice for Occupational and Educational Eye and Face Protection.

(c) Face and eye protection equipment required by this section shall be kept clean and in good repair. Use of equipment with structural or optical defects is prohibited.

(d) Employees whose vision requires the use of corrective lenses, when required by this regulation to wear eye protection, shall be protected by goggles or spectacles of one of the following types:

(1) Spectacles whose protective lenses provide optical correction;

(2) Goggles that can be worn over corrective lenses without disturbing the adjustment of the lenses;

(3) Goggles that incorporate corrective lenses mounted behind the protective lenses.

Issued in Washington, DC, on January 24, 1991.

Gilbert E. Carmichael,

Federal Railroad Administrator.

[FR Doc. 91–2109 Filed 1–29–91; 8:45 am]

BILLING CODE 4910–06–M

National Highway Traffic Safety Administration

49 CFR Part 531

[Docket No. LVM 89–01; Notice 8]

Passenger Automobile Average Fuel Economy Standards; Proposed Decision To Grant Exemption

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

ACTION: Proposed decision to grant exemption from average fuel economy standards and to establish an alternative standard.

SUMMARY: This proposal is being issued in response to a petition filed by Dutcher Motors, Inc. (Dutcher) requesting that it be exempted from the generally applicable average fuel economy standard of 27.5 miles per gallon (mpg) for model year (MY) 1992 passenger automobiles, and that a lower alternative standard be established for the company for that year. This document proposes that the requested exemption be granted and that an alternative standard of 17.0 mpg for MY 1992 be established for Dutcher. In a companion **Federal Register** notice published today, the agency addresses separately Dutcher's petition for alternate fuel economy standards for Model Years 1989 and 1991, which were not timely filed.

DATES: Comments on this proposal must be received on or before March 18, 1991.

ADDRESSES: Comments on this notice must refer to the docket number and notice number of this notice and should be submitted to: Docket Section, NHTSA, room 5109, 400 Seventh Street SW., Washington, DC 20590. Docket hours are from 9:30 a.m. to 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Orron Kee, Office of Market Incentives, NHTSA, 400 Seventh Street SW., Washington, DC 20590. Mr. Kee's telephone number is (202) 366–0846.

SUPPLEMENTARY INFORMATION:

Background

Section 502(c) of the Motor Vehicle Information and Cost Savings Act, as amended (the Act), provides that a low volume manufacturer of passenger automobiles may be exempted from the generally applicable average fuel economy standards for passenger automobiles if those standards are more stringent than the maximum feasible average fuel economy for that manufacturer and if NHTSA establishes an alternative standard for the manufacturer at its maximum feasible level. Under the Act, a low volume manufacturer is one that manufacturers (worldwide) fewer than 10,000 passenger automobiles in the model year for which the exemption is sought (the affected model year) and that manufactured fewer than 10,000 passenger automobiles in the second model year before the affected model year. In determining maximum feasible average fuel economy, the agency is required by section 502(e) of the Act to consider:

(1) Technological feasibility;
(2) Economic practicability;
(3) The effect of other Federal motor vehicle standards on fuel economy; and
(4) The need of the Nation to conserve energy.

Selection of the Type of Alternative Standard

The Act permits NHTSA to establish alternative average fuel economy standards applicable to exempted low volume manufacturers in one of three ways: (1) A separate standard may be established for each exempted manufacturer; (2) classes, based on design, size, price, or other factors, may be established for the automobiles of exempted manufacturers, with a separate average fuel economy standard applicable to each class; or (3) a single standard may be established for all exempted manufacturers.

If an exemption is to be granted to Dutcher for MY 1992, NHTSA believes it is appropriate to establish a separate standard for that manufacturer because the agency has already used this approach for another low volume manufacturer that petitioned for an exemption for MY 1992. NHTSA has reached a final decision on an exemption petition filed by Rolls-Royce Motors, Inc. for the 1992 model year (49 CFR 531.5(b)(2)).

Classification of Transitaxi as a Passenger Automobile

Due to differences in the definitions used by this agency and the Environmental Protection Agency, the Transitaxi is classified differently by these two agencies. For MYs 1986–1988, the Environmental Protection Agency (EPA) had classified the Dutcher model as a "light duty truck" for emissions compliance due to the model's derivation from existing truck components (40 CFR part 86.02–2). However, for those years, NHTSA has concluded that the Transitaxi is a "passenger automobile" for fuel economy purposes. The Transitaxi is a passenger automobile under the definition in 49 CFR 523.4 since it transports not more than 10 individuals and since it does not meet any configurational or usage criteria for light trucks given in 49 CFR 523.5.

Background Information on Dutcher

Dutcher Motors, Inc., a small company located in San Marcos, California, was chartered in 1984 to manufacture a limited quantity of a single model of special purpose vehicles called Transitaxi. Dutcher incorporates unique design features that facilitate use of the vehicle for handicapped and disabled individuals. The Transitaxi is designed to be used in any business providing shared-ride taxi service, demand response dial-a-ride systems, airport-to-hotel shuttles and/or feeder line service to city buses and rail lines.

Dutcher's principal stockholder is Cornelius Dutcher, who resides in San Marcos, California, which is also the location of its present office headquarters and production facility. Dutcher employs approximately eight workers. Dutcher does not control, is not controlled by and is not under common ownership with another manufacturer of passenger automobiles. For the 1992 model year, Dutcher intends to use General Motors (GM) engines and other GM parts, but these components were purchased in arms-length transactions from General Motors Corporation. The components will then be installed in the vehicle which will be designed and manufactured by Dutcher. The planned vehicle would have the largest interior volume index of any passenger automobile sold in the United States.

Dutcher has informally notified this agency that as a cost saving measure, it intends to contract with another small business to do the actual assembly work for the Transitaxi for MY 1992.

The 1992 Dutcher models will have GM 3.8 liter, electronically fuel injected, V-6 engines. The Environmental Protection Agency (EPA) fuel economy test results for the MY 1989 Dutcher (the most recent model year for which testing was conducted) were a combined value of 16.4 miles per gallon, somewhat higher than the earlier version of the Transitaxi that used a Ford engine. Vehicle specifications for MY 1992 are as follows:

Maximum width—81.5 inches
Maximum length—196.8 inches
Maximum height—76.5 inches
Curb weight—4200 pounds
Interior volume index—350 cubic feet
Net horsepower—165

Dutcher stated in its September 12, 1989 letter that the 1992 model would be similar to a 1990 prototype, which is 200 pounds lighter than the 1989 version.

Areas specifically addressed by the Dutcher petition to improve its fuel economy include mix shift, weight reduction, engine improvements, and drive train and transmission improvements.

Methodoloty Used To Project Maximum Feasible Average Fuel Economy Level for Dutcher

Baseline Fuel Economy

To project the level of fuel economy which will be achievable by Dutcher in MY 1992, the agency considered whether there were technical or other improvements that would be feasible for these Dutcher vehicles, whether or not the company will actually incorproate such improvements in those vehicles. The agency reviewed the technological feasibility and economic practicability of any changes.

NHTSA interprets *technological feasibility* as meaning that technology which would be available to Dutcher for use on its 1992 model year automobiles, and which would improve the fuel economy of those automibiles. The areas examined for technologically feasible improvements were weight reduction, aerodynamic improvements, engine improvements, and drive line improvements. Due to Dutcher's limited financial resources, small engineering staff, very low production volume, and assemblage of stock components, the petitioner will have few opportunities for technological improvements for fuel economy.

Economic practicability is interpreted as meaning the financial capability of the manufacturer to improve its average fuel economy by incorproating technologically feasible changes to its 1992 model year automibiles. In assessing that capability, the agency has always considered market demand since it is an implicit part of the concept of economic practicability. Consumers need not purchase what they do not want.

In accordance with the concerns of economic practicability, NHTSA has considerd only those improvements which would be compatible with the basic design concepts of Dutcher automobiles. Hence, design changes that would make the cars unsuitable for transporting the wheelchair bound or other handicapped, and eliminating options usually available on cars, such as air conditioning, automatic transmission, power steering, and power windows, were not examined. Such changes to the basic design of the Dutcher could be economically impracticable since they might well significantly reduce the demand for these automobiles, thereby reducing sales and causing significant economic injury to the low volume manufacturer.

Mix Shift

Since only one vehicle model exists, the Dutcher corporate average fuel economy is based on the fuel economy of that one model, the Transitaxi, and cannot be averaged with the fuel economy of any other models.

Weight And Aerodynamic Drag Reduction

Dutcher stated in its petition that considerable engineering effort had gone into weight reduction of their model and special attention has been given to good aerodynamic design. For example, the Transitaxi is designed with a smooth front cowl, flush windows and door handles, and a bottom cover, all of which promote a low drag coefficient. The body is made primarily of fiberglass to reduce the weight of the vehicle. Dutcher states that it is considering using several kinds of low-friction, synthetic lubricants.

Technology for Fuel Economy Improvements

Because of the Dutcher's limited financial resources, small engineering staff, extremely low production volume, and assemblage of stock components, few opportunities for technological improvements for fuel economy exist. Dutcher purchases standard components, or better, for installation in its Transitaxis. Dutcher depends entirely on GM, the supplier of the engine, for technological improvements in fuel efficiency of the engine since the company does not have the financial resources and the staff to do it themselves. The transmission is a four-speed automatic transmission with lockup torque converter clutch, one of the more efficient transmission designs available. The driveshaft utilizes low friction, ball-type, constant-velocity, universal joints. The drivetrain is entirely at the rear of the vehicle. A Buick V-6 engine and 4-speed automatic transmission are mounted in transverse configuration.

Dutcher's dynamometer horsepower setting for the 1989 EPA certification testing, when compared to that of MY 1990 passenger vans and station wagons of smaller frontal area and interior volume, as indicated in the table below, shows that the Transitaxi uses good aerodynamic design equivalent to current industry standards. The agency has compared MY 1989 data for Dutcher versus MY 1990 data for the other vehicles as this is the most current data available to the agency. As earlier stated, except for the fact that the 1992 version will be approximately 200 pounds lighter, the agency anticipates no significant differences between the MY 1989 and MY 1992 Transitaxis.

DYNAMOMETER SETTING COMPARISON

Model	Acct. dyno. hp.	Frontal area, square feet	Interior volume index
Dutcher Transitaxi	14.7	37	350
*Ford Aerostar	11.7	31.3	176
*GM Astro	13.8	34.4	202
*Chrysler Caravan/ Voyager	10.2	n/a	213
Mercury Grand Marquis Wagon	12.5	26.6	165
*Chevrolet Lumina APV	9.8	29.4	158

DYNAMOMETER SETTING COMPARISON—Continued

Model	Acct. dyno. hp.	Frontal area, square feet	Interior volume index
*Ford E-150 Club Wagon	16.7	37.7	238

*These vehicles are classified by EPA as light trucks.

Thus, the only significant opportunity for improvement in these components will be the result of any improvements which GM decides for its own purposes to make in the engine and drivetrain it will supply for Dutcher. Dutcher's role will be limited to attempting to modify the drivetrain to meet emissions requirements.

Effect of Other Motor Vehicle Standards

Since any fuel economy effects experienced by Dutcher vehicles as a result of any Federal safety or emissions standards were reflected in the fuel economy values which the vehicles achieved in EPA testing, there are no unaccounted for effects for the agency to consider.

The Need of the Nation To Conserve Energy

The agency recognizes there is a need to conserve energy, to promote energy security, and to improve balance of payments. However, as stated previously, NHTSA has tentatively determined that it will not be technologically feasible or economically practicable for Dutcher to achieve an average fuel economy in the 1992 model year above 17.0 mpg. Since Dutcher probably cannot exceed 17 mpg, granting an exemption and setting an alternative standard at that level would not have any effect on fuel consumption and would not affect the need of the Nation to conserve energy.

Proposed Alternative Standard

Based on the foregoing discussion, this agency has tentatively concluded that it would not be technologically feasible and economically practicable for Dutcher to improve the fuel economy of its model year 1992 automobiles above an average of 17.0 mpg, that compliance with other Federal automobile standards would not adversely affect achievable fuel economy, and that the national effort to conserve energy would not be affected by granting the requested exemption and establishing an alternative standard. Consequently, the agency tentatively concludes that the maximum feasible average fuel economy for Dutcher in MY 1992 will be 17.0 mpg. Therefore, the agency proposes to exempt Dutcher from the generally applicable standard of 27.5 mpg and to establish an alternative standard for Dutcher of 17.0 mpg for model year 1992.

NHTSA has analyzed this proposal and determined that neither Executive Order 12291 nor the Department of Transportation regulatory policies and procedures apply, because the proposal would not establish a "rule," which term is defined in the Executive Order as "an agency statement of general applicability and future effect." The proposed exemption is not generally applicable, since it would apply only to Dutcher Motors, Inc., as discussed in this notice. If the Executive Order and the Departmental policies and procedures were applicable, the agency would have determined that this proposed action is neither major nor significant. The principal impact of this proposal is that the exempted company would not have to pay civil penalties for failing to meet generally applicable fuel economy standards. Since this proposal sets an alternative standard at the level determined to be Dutcher's maximum feasible level for model year 1992, no fuel would have been saved by establishing a higher alternative standard. The impacts for the public at large will be minimal.

The agency has also considered the environmental implications of this proposal in accordance with the National Environmental Policy Act and determined that this proposal, if adopted, will not significantly affect the human environment. Regardless of the fuel economy of the exempted vehicles, they must pass the emissions standards which measure the amount of emissions per mile traveled. Thus, the quality of the air is not affected by the proposed exemption and alternative standard. Further, since the exempted passenger automobiles could not have achieved better fuel economy than is proposed herein, granting the proposed exemption would not affect the amount of fuel available.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation, 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 531

Energy conservation, Gasoline, Imports, Motor vehicles.

In consideration of the foregoing, it is proposed that 49 CFR part 531 be amended as follows:

PART 531—[AMENDED]

1. The authority citation for part 531 would continue to read as follows:

Authority: 15 U.S.C. 2002; delegation of authority at 49 CFR 1.50.

2. Section 531.5(b) is proposed to be amended by adding paragraph (b)(11) and the introductory text of paragraph (b) would be republished to read as follows:

§ 531.5 Fuel economy standards.

* * * * *

(b) The following manufacturers shall comply with the standards indicated below for the specified model years:

* * * * *

(11) Dutcher Motors, Inc.

Model year	Average fuel economy standard (miles per gallon)
1986	16.0
1987	16.0
1988	16.0
1992	17.0

Issued on: January 23, 1991.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 91-2018 Filed 1-29-91; 8:45 am]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 56, No. 20
Wednesday, January 30, 1991

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 COMMERCE

Foreign-Trade Zones Board

[Docket No. 3-91]

Foreign-Trade Zone 20—Suffolk, VA; Application for Subzone; ABB Power Generation, Inc., Electric Power Generator Assembly Facility, Chesterfield County, VA (Richmond Port of Entry Area)

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Virginia Port Authority, grantee of FTZ 20, requesting special-purpose subzone status for the large turbine electric power generator facility of ABB Power Generation, Inc. (ABB) (subsidiary of ABB Asea Brown Boveri Group, Switzerland), located in the Richmond, Virginia, area. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on January 14, 1991.

The ABB plant (29 acres, 160 employees) is located at 1200 Willis Road, some three miles south of Richmond's city limits in Chesterfield County, Virginia. The facility, which was established in 1989, is currently being used for repair, maintenance, and testing of turbine electric power generators produced in Europe. The company's plans call for assembly of the generators at the Richmond facility in the near future. The finished equipment will be produced for both domestic and export markets. Foreign materials will account for some 70 percent of the value of the finished products at the outset and include turbine rotor blades, journal and thrust bearings, combustion chamber systems, compressor housings and diffusers, burners, blow off valves, generator materials, control parts, and emission monitoring components.

Zone procedures would exempt ABB from Customs duty payments on the foreign components used in the production of items for export. On its domestic sales, the company would be able to choose the duty rate that applies to the finished generators (3.0). The duty rates on foreign materials range from 2.5 to 8.0 percent. The application indicates that the savings from zone procedures will help improve the firm's international competitiveness.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of Dennis Puccinelli (Chairman), Foreign Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Howard Cooperman, Regional Director for Inspection and Control, U.S. Customs Service, Southeast Region, 909 SE. First Avenue, Miami, Florida 33131–2595; and, Colonel Richard Johns, Division Engineer, U.S. Army Engineer District Norfolk, 803 Front Street, Norfolk, Virginia 23510–1096.

Comments concerning the proposed foreign-trade subzone are invited form interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before March 21, 1991.

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, 8010 Federal Building, 400 N. 8th Street, Richmond, Virginia 23240

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 4213, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: January 22, 1991.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 91-2197 Filed 1-29-91; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: January 30, 1991.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce ("the Department") has received timely requests, in accordance with § 353.22(a)(1) of the Department's regulations, for administrative reviews of various antidumping and countervailing duty orders and findings.

Initiation of Reviews

In accordance with §§ 352.22(c) and 355.22(c) of the Department's regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than December 31, 1991.

	Periods to be reviewed
Antidumping Duty Proceedings	
CANADA:	
Elemental Sulphur	
A-122-047	
Petro-Canada Resources, Inc.	12/1/89–11/30/90.
Sulco Chemicals, Ltd.	12/1/89–11/30/90.
JAPAN:	
Certain Telephone Systems	
A-588-809	
Iwatsu Electric Co.	8/3/89–11/30/90.
MEXICO:	
Porcelain-on-Steel Cookware	
A-201-504	
Cinsa, S.A., Acero, S.A.	12/1/89–11/30/90.

	Periods to be reviewed
THE PEOPLE'S REPUBLIC OF CHINA:	
Porcelain-on-Steel Cookware	
A-570-506	
Clover Enamelware/ Lucky Enamelware	12/1/89-11/30/90.
SWEDEN:	
Stainless Steel Hollow Products	
A-401-603	
Sandvik AB, AB Sandvik Steel, Sandvik Steel Co	12/1/89-11/30/90.
TAIWAN:	
Certain Telephone Systems	
A-583-806	
Auto Telecom	7/26/89-11/30/90.
Bitronic Telecoms	
Sinoca Enterprises	
Taiwan Int'l.	
Taiwan Telecom.	
Tecom Co., Ltd.	
Magtron Co.	
Countervailing Duty Proceedings	
MEXICO:	
Porcelain-on-Steel Cookware C-201-505	1/1/90-12/31/90

Interested parties must submit applications for administrative protective orders in accordance with § 353.34(b) and § 355.34(b) of the Department's regulations.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and 19 CFR 353.22(c) (1989) and 355.22(c) (1988).

Dated: January 23, 1991.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 91-2201 Filed 1-29-91; 8:45 am]

BILLING CODE 3510-25-M

[A337-602]

Preliminary Results of Antidumping Duty Administrative Review and Termination in Part; Standard Carnations From Chile

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: In response to requests by producers and exporters from Chile, the Department is conducting an administrative review of the antidumping duty order on standard carnations from Chile. This review covers three producers and exporters of this merchandise to the United States during March 1, 1989 through February 28, 1990. These producers/exporters are Coexflor, Ltda. (Coexflor), Sociedad Agricola Ariztia Vallejos Y Cia, Ltda. (Sociedad Agricola), and Flores de Chile Ltda. (Flores de Chile). The review is being terminated for Florandina, Ltda. and Fernando Massad Abud because they have withdrawn their requests for review.

The review indicates the existence of dumping margins for Coexflor during the period. Flores de Chile had no shipments to the United States during the review period. Interested parties are invited to comment on this preliminary result.

EFFECTIVE DATE: January 30, 1991.

FOR FURTHER INFORMATION CONTACT: Rick Herring, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-3530.

SUPPLEMENTARY INFORMATION:

Background

On March 20, 1987, the Department of Commerce (the Department) published in the **Federal Register** (52 FR 8939) the antidumping duty order on standard carnations from Chile.

On March 27, 1990, certain exporters, in accordance with § 353.22(a) of the Commerce Regulations (19 CFR 353.22(a) (1990)), requested that we conduct an administrative review. We published the notice of initiation for this review on April 27, 1990 (55 FR 17792). The Department is now conducting this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act). The initiation notice stated that we would review entries from five exporters during the period March 1, 1989 through February 28, 1990. However, two exporters, Florandina, Ltda. and Fernando Massad Abud, subsequently withdrew their requests for review on August 3, 1990. Accordingly, the Department is terminating the administrative review for Florandina, Ltda. and Fernando Massad Abud.

Responses to the Department's April 24, 1990 questionnaire were received on July 23, 1990 for Sociedad Agricola and on August 29, 1990 for Coexflor. In a letter dated May 30, 1990, Flores de Chile informed the Department that it had no exports for the period March 1, 1989 through February 28, 1990. Deficiency letters were sent to Coexflor and Sociedad Agricola on November 13, 1990. Deficiency responses were received on January 3, 1991, for Sociedad Agricola and on January 9, 1991, for Coexflor.

Scope of Review

The merchandise covered by this review is standard carnations. During the period of review the merchandise was classifiable under the Harmonized Tariff Schedule (HTS) number 0603.10.90. The HTS item number is provided for convenience and customs purposes. The written description remains dispositive.

This review covers three producers/exporters of standard carnations from Chile to the United States and the period March 1, 1989 through February 28, 1990.

United States Price

We based United States price on exporter's sales price (ESP), in accordance with section 772(c) of the Act. Both Coexflor and Sociedad Agricola sold to unrelated consignees in the United States. Since the prices of these transactions are determined after the date of importation, U.S. price was based on ESP.

For Coexflor, ESP was calculated based on the f.o.b. Santiago, packed prices to unrelated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight, phytosanitary charges, customs fees, and airport cooler fees. We made further deductions, where appropriate, for credit expenses and commissions in accordance with section 772(e) (1) and (2) of the Act. We also adjusted U.S. price by adding the amount of the countervailing duty imposed on the imported merchandise in accordance with section 772(d)(1)(D) of the Act. (See, Standard Carnations From Chile; Final Results of Countervailing Duty Administrative Review, 55 FR 462, January 5, 1990.)

For Sociedad Agricola, we calculated ESP based on c.&f., packed prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, foreign brokerage, air freight, U.S. brokerage, and U.S. duty. We made further deductions, where appropriate, for credit expenses and commissions in accordance with section 772(e) (1) and (2) of the Act. We also adjusted U.S. price by adding the amount of the countervailing duty imposed on the imported merchandise in accordance with section 772(d)(1)(D) of the Act. (See, Standard Carnations From Chile; Final Results of Countervailing Duty Administrative Review, 55 FR 462, January 5, 1990.) We had to calculate U.S. credit expenses because they were not reported in the sales listing submitted by Sociedad Agricola. In the response the company stated that

payment is due within 60 days after the date of shipment. Using that information we calculated the number of days from shipment to payment for each U.S. sale. To calculate the credit expense, we used the interest rate reported in the public response of Coexflor.

All United States prices were weight-averaged on a monthly basis in order to account for the perishability of the product. Unlike nonperishable products, sellers cannot withhold their flowers from the market until they can obtain a desired price. Rather, they accept whatever return they can on certain sales or destroy the merchandise. We believe that averaging United States prices over a relatively short period of time contributes to a fairer and more representative measure of fair value. Accordingly, we continue to calculate a monthly United States price, as was done in the fair value investigation (52 FR 3152, February 2, 1987), as well as in antidumping reviews on flowers from other covered countries (e.g., Certain Fresh Cut Flowers From Colombia; Preliminary Results of Antidumping Duty Administrative Review, 55 FR 456, January 5, 1990; Certain Fresh Cut Flowers From Ecuador; Preliminary Results of Antidumping Duty Administrative Review, 54 FR 47247, November 13, 1989; and Certain Fresh Cut Flowers From Ecuador; Final Results of Antidumping Duty Administrative Review, 55 FR 6671, February 26, 1990).

Foreign Market Value

Foreign market value was calculated based on home market sales or third country sales as appropriate. When comparing foreign market value to United States price, comparisons were made on a grade-specific basis. Foreign market value was calculated on monthly weight-averaged prices.

For Coexflor, foreign market value was based on third country prices because the volume of home market sales represented less than five percent of the aggregate volume of third country sales. Since the home market was not viable, we looked to determine whether there were sufficient sales of the subject merchandise to a third country market to provide a basis for establishing foreign market value. In selecting the appropriate third country market to use for comparison purposes, we first determined which third country markets had "adequate" volumes of sales within the meaning of 19 CFR 353.49(b)(1). We determined that the volume of sales to a third country market was adequate if the sales of such or similar merchandise exceeded or were equal to five percent of the volume sold in the United States. In determining which third country market with an adequate sales volume was the most appropriate for comparison, we selected the third country with the largest volume of sales in accordance with 19 CFR 353.49(b)(2). Therefore, we based foreign market value on Coexflor's sales to Canada. We made deductions, where appropriate, for foreign inland freight, phytosanitary charges, customs fees, and airport cooler fees. We made a deduction for credit expenses. We also made an upward adjustment to foreign market value to reflect export subsidies bestowed on these sales. We deducted third country packing costs and added U.S. packing costs in accordance with section 773(a)(1)(B) of the Act.

For Sociedad Agricola, we based foreign market value on delivered, packed home market prices. We made deductions, where appropriate, for inland freight and brokerage. We also made a deduction, where appropriate, for commissions. We deducted home market packing costs and added U.S. packing costs in accordance with section 773(a)(1)(B) of the Act.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the following margins exist for the period March 1, 1989 through February 28, 1990:

Manufacturer/exporter	Margin (percent)
Coexflor	2.27
Sociedad Agricola	0.00
Flores de Chile	0.04

Pleased note that since Fores de Chile had no shipments during the review period, the margin listed for it is from the last review in which there were shipments.

Interested parties may request disclosure within five days of the date of publication of this notice and may request a hearing within ten days of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first workday thereafter. Prehearing briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments may be filed not later than 37 days after the date of publication. The Department will publish the final result of the administrative review, including the results of its analysis of any written or oral comments.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service upon completion of this administrative review.

Furthermore, as provided by section 751(a)(1) of the Tariff Act, upon publication of the final results of this review: (1) A cash deposit of estimated dumping duties based on the above margin shall be required on shipments of standard carnations by Coexflor; (2) since the margin for Sociedad Agricola is 0.00 percent, the Department shall not require a cash deposit of antidumping duties on entries of carnations from Sociedad Agricola; and (3) since the margin for Flores de Chile is less than 0.5 percent and, therefore, *de minimis* for cash deposit purposes, the Department will not require a cash deposit of antidumping duties on entries of standard carnations from Flores de Chile. The cash deposit rate for any shipments of this merchandise produced or exported by the remaining known producers/exporters not covered in this review will continue to be the rate published in the previous review for the period November 3, 1986 through February 29, 1988 (55 FR 50856, December 11, 1990). The cash deposit rate for any future entries of this merchandise from a new producer and/or exporter, not covered in this administrative review, whose first shipment occurred after February 28, 1990, and who is unrelated to any reviewed firm will be the same as the rate established for Coexflor. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.D. 1675(a)(1)) and 19 CFR 353.22(c)(5).

Dated: January 23, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91-2198 Filed 1-29-91; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-015]

Television Receivers, Monochrome and Color, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative reviews.

SUMMARY: In response to requests by two domestic parties to the proceeding, the Department of Commerce is conducting administrative reviews of the antidumping finding on television receivers, monochrome and color, from Japan. The reviews cover one manufacturer/exporter of this merchandise to the United States, Mitsubishi Electric Corporation, and the periods March 1, 1986 through February 28, 1987, and March 1, 1987 through February 29, 1988. The reviews indicate the existence of dumping margins for this firm during these periods.

As a result of these reviews, the Department of Commerce has preliminarily determined to assess antidumping duties equal to the differences between Unted States price and foreign market value. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 30, 1991.

FOR FURTHER INFORMATION CONTACT: David S. Levy or John R. Kugelman, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–3601.

SUPPLEMENTARY INFORMATION:

Background

On March 13, 1987, and March 8, 1988, the Department of Commerce (the Department) published notices of "Opportunity to Request an Administrative Review" (52 FR 7915 and 53 FR 7383) of the antidumping finding on television receivers, monochrome and color, from Japan (36 FR 4597, March 10, 1971). Two domestic parties to the proceeding, Zenith Electronics Corporation (Zenith) and the Unions (the Independent Radionic Workers of America, the International Brotherhood and Electrical Workers, the International Union of Electrical, Radio, and Machine Workers, and the Industrial Union Department, AFL–CIO), requested that we conduct administrative reviews, in accordance with § 353.22(a) of the Commerce Regulations. We published notices of initiation of these reviews, which cover the periods March 1, 1986 through February 28, 1987, and March 1, 1987 through February 29, 1988, on May 20, 1987, and April 27, 1988 (52 FR 18937 and 53 FR 15083), and are now conducting them pursuant to section 751 of the Tariff Act of 1930 (the Tariff Act). The final results of the most recently completed administrative reviews of this case, covering Sharp Corporation and the periods April 1, through February 28, 1986, were published in the **Federal Register** on September 4, 1990 (55 FR 35916).

Scope of the Reviews

Imports covered by these reviews are shipments of television receiving sets, monochrome and color, from Japan. Television receiving sets include, but are not limited to, units known as projection television, receiver monitors, and kits (containing all parts necessary to receive a broadcast television signal and produce a video image). Not included are certain monitors not capable of receiving a broadcast signal, certain combination units, and certain subassemblies not containing the components essential for receiving a broadcast television signal and producing a video image. During the review periods, television receiving sets, monochrome and color, were classifiable under item numbers 684.9230, 684.9232, 684.9234, 684.9236, 684.9238, 684.9240, 684.9245, 684.9246, 684.9248, 684.9250, 684.9252, 684.9253, 684.9255, 684.9256, 684.9258, 684.9262, 684.9263, 684.9265, 684.9270, 684.9275, 684.9400, and 684.9655 of the Tariff Schedules of the United States Annotated (TSUSA). This merchandise is currently classified under item numbers 8528.10.80 and 8528.20.00 of the Harmonized Tariff Schedule (HTS). The TSUSA and HTS item numbers are provided for convenience and Customs purposes only. The written description remains dispositive.

These reviews cover one manufacturer/exporter of Japanese television receivers, monochrome and color, Mitsubishi Electric Corporation (Mitsubishi), and the periods March 1, 1986 through February 28, 1987, and March 1, 1987 through February 29, 1988.

United States Price

In calculating United States price, the Department used purchase price (PP) or exporter's sales price (ESP), both as defined in section 772 of the Tariff Act, as appropriate. United States price was based on the packed f.o.b., c.i.f., or delivered price to unrelated purchasers in the United States. We made deductions from both PP and ESP for ocean freight, marine insurance, U.S. and Japanese inland freight, U.S. and Japanese brokerage and handling charges, U.S. customs duties, and discounts. We made additional deductions from ESP for rebates, credit expenses, direct and indirect warranty expenses, royalties, advertising and sales promotion expenses, export selling expenses incurred in Japan, U.S. subsidiaries' selling expenses, and inventory carrying expenses. Although Mitsubishi claimed U.S. warranty expenses as direct selling expenses, we considered only the variable portion of these expenses to be direct selling expenses because the warranty services were provided by a related company; we considered the remainder to be indirect selling expenses. We also added an amount to both PP and ESP for the Japanese commodity tax that was not collected by reason of the exportation of the merchandise, as specified in section 772(d)(1)(C) of the Tariff Act. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value (FMV), the Department used home market price, as defined in section 773 of the Tariff Act.

Zenith alleged that Mitsubishi sold televisions in the home market at prices below the cost of production. We considered the allegations sufficient to warrant an investigation of possible sales below the cost of production. As a result of our investigation, we found below-cost sales. When more than 10 percent of the sales of a particular model were determined to be below cost, we excluded those sales from our calculation of FMV.

We made adjustments for inland freight, discounts, royalties, credit, advertising and sales promotion, and differences in commodity taxes, packing, and physical characteristics of the merchandise. In PP comparisons, we added direct U.S. warranty, royalty, and credit expenses to FMV. In ESP comparisons, we deducted indirect selling expenses, inventory carrying costs, and indirect warranty expenses from FMV, not exceeding the amount of U.S. indirect selling expenses. Although Mitsubishi claimed certain home market warranty expenses as direct selling expenses, we considered the entire claim to be an indirect selling expense because the warranty services were provided by a subsidiary company, and because we had no information about which portions of the claimed adjustments represented variable expenses. No other adjustments were claimed or allowed.

Preliminary Results of the Reviews

As a result of our reviews, we preliminarily determine that the following margins exist:

Manufacturer	Review No.	Period of review	Margin (percent)
Mitsubishi.....	8	03/01/86–02/28/87	24.30
Mitsubishi.....	9	03/01/87–02/29/88	3.44

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held as early as is convenient for the parties, but not later than 44 days after the date of publication of this notice, or the first workday thereafter. Interested parties may submit case briefs/written comments not later than 30 days after the date of publication. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than seven days after submission of the case briefs. The Department will publish a notice of the final results of these administrative reviews, which will include the results of its analysis of issues raised in any such written comments or at a hearing.

The Department shall determine, and the Customs Service will assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties of 3.44 percent will be required for Mitsubishi. For any future entries of this merchandise from a new exporter not covered in this or in prior reviews, whose first shipment occurred after February 29, 1988, and who is unrelated to Mitsubishi or any previously reviewed firm, a cash deposit of estimated antidumping duties, equal to the highest non-BIA rate for any firm with shipments during the most recent period, shall be required. These deposit requirements will be effective for all shipments of Japanese television receivers, monochrome or color, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of these administrative reviews.

These administrative reviews and this notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: January 18, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91–2199 Filed 1–29–91; 8:45 am]

BILLING CODE 3510–DS–M

[A–588–015]

Television Receivers, Monochrome and Color, From Japan; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by one domestic party to the proceeding, the Department of Commerce (the Department) has conducted an administrative review of the antidumping finding on television receivers, monochrome and color, from Japan. The review covers one manufacturer/exporter of this merchandise to the United States, the Sharp Corporation (Sharp), and the period March 1, 1987 through February 29, 1988. The review indicates the existence of dumping margins for Sharp during this period.

As a result of this review, the Department has preliminarily determined to assess antidumping duties equal to the differences between United States price and foreign market value.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 30, 1991.

FOR FURTHER INFORMATION CONTACT: Dennis U. Askey or John R. Kugelman, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–3601.

SUPPLEMENTARY INFORMATION:

Background

On March 8, 1988, the Department published a notice of "Opportunity to Request an Administrative Review" (53 FR 7383) of the antidumping finding on television receivers, monochrome and color, from Japan (38 FR 4597, March 10, 1971). A domestic party to the proceeding, Zenith Electronics Corporation (Zenith), requested that we conduct an administrative review, in accordance with § 353.22(a) of the Commerce Regulations. We published a notice of initiation of this review, which covers this period March 1, 1987 through February 29, 1988, on April 27, 1988 (53 FR 15083), and are now conducting it pursuant to section 751 of the Tariff Act of 1930 (the Tariff Act). The final results of the most recently completed administrative reviews of this finding, covering Sharp and the periods April 1, 1981 through February 28, 1986, were published in the **Federal Register** on September 4, 1990 (55 FR 35916).

Scope of the Review

Imports covered by the review are shipments of television receiving sets, monochrome and color, from Japan. Television receiving sets include, but are not limited to, units known as projection televisions, receiver monitors, and kits (containing all parts necessary to receive a broadcast television signal and produce a video image). Not included are certain monitors not capable of receiving a broadcast signal, certain combination units, and certain subassemblies not containing the components essential for receiving a broadcast television signal and producing a video image. During the review period, television receivers, monochrome and color, were classifiable under item numbers 684.9230, 684.9232, 684.9234, 684.9236, 684.9238, 684.9240, 684.9245, 684.9246, 684.9248, 684.9250, 684.9252, 684.9253, 684.9255, 684.9256, 684.9258, 684.9262, 684.9263, 684.9265, 684.9270, 684.9275, 684.9400, and 684.9655 of the Tariff Schedules of the United States Annotated (TSUSA). This merchandise is currently classifiable under item numbers 8528.10.80 and 8528.20.00 of the Harmonized Tariff Schedule (HTS). The TSUSA and HTS item numbers are provided for convenience and Customs purposes only. The written description remains dispositive.

This review covers one manufacturer/exporter of Japanese television receivers, monochrome and color, Sharp, and the period March 1, 1987 through February 29, 1988.

United States Price

In calculating United States price, the Department used purchase price (PP) or exporter's sales price (ESP), both as defined in section 772 of the Tariff Act, as appropriate. United States price was based on the packed f.o.b., c.i.f., or delivered price to unrelated purchasers in the United States. We made deductions from both PP and ESP for ocean freight, marine insurance, U.S. and Japanese inland freight, U.S. brokerage and handling charges, U.S. customs duties, and discounts. We made additional deductions from ESP for rebates, commissions to unrelated parties, credit and warranty expenses, advertising and sales promotion

expenses, export selling expenses incurred in Japan, and U.S. subsidiaries' selling expenses. We also added an amount to both PP and ESP for the Japanese commodity tax that was not collected by reason of the exportation of the merchandise, as specified in section 772(d)(1)(C) of the Tariff Act. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value (FMV), the Department used home market price, or constructed value, as defined in section 773 of the Tariff Act, as appropriate.

Zenith alleged that Sharp sold televisions in the home market at prices below the cost of production. We considered the allegations sufficient to warrant an investigation of possible sales below the cost of production. As a result of our investigation, we found below-cost sales. When more than 10 percent of the sales of a particular model were determined to be below cost, we excluded those sales from our calculation of FMV. When more than 90 percent of the sales of a particular model were determined to be sold below the cost of production, we used constructed value, as defined in section 773 of the Tariff Act. Constructed value includes materials, fabrication, general expenses, profit, and packing. We used: (1) Actual general expenses, since these exceeded the statutory minimum requirement of 10 percent of materials and fabrication, (2) the statutory 8 percent for profit, because actual profit was less than the statutory minimum, and (3) packing costs for merchandise exported to the United States.

We made adjustments for inland freight, brokerage and handling expenses, discounts, rebates, credit, advertising and sales promotion expenses, warranty expenses, and differences in commodity taxes, packing, and physical characteristics of the merchandise. In PP comparisons we added direct U.S. credit, advertising and sales promotion expenses, and warranty expenses. In ESP comparisons we deducted indirect selling expenses from FMV, not exceeding the amount of U.S. indirect selling expenses. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our review, we preliminarily determine the following margin exists:

Manufacturer	Review No.	Period of review	Margin (percent)
Sharp	9	03/01/87–02/29/88	26.57

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held as early as convenient for the parties, but no later than 44 days after the date of publication of this notice, or the first workday thereafter. Interested parties may submit case briefs/written comments not later than 30 days after the date of publication. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 7 days after submission of the case briefs. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any such written comments or at a hearing.

The Department shall determine, and the Customs Service will assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties of 26.57 percent will be required for Sharp. For any future entries of this merchandise from a new exporter not covered in this or in prior reviews, whose first shipments occurred after February 29, 1988, and who is unrelated to Sharp or any previously reviewed firm, a cash deposit of estimated duties of 26.57 percent shall be required. This deposit requirement will be effective for all shipments of Japanese television receivers, monochrome or color, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: January 18, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91–2200 Filed 1–29–91; 8:45 am]

BILLING CODE 3510–DS–M

National Institute of Standards and Technology

[Notice 2]

National Fire Codes; Request for Proposals for Revision of Standards

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of request for proposals.

SUMMARY: The National Fire Protection Association (NFPA) proposes to revise some of its fire safety standards and requests proposals from the public to amend existing NFPA fire safety standards. The purpose of this request is to increase public participation in the system used by NFPA to develop its standards. The publication of this notice of request for proposals by the National Institute of Standards and Technology (NIST) on behalf of NFPA is being undertaken as a public service; NIST does not necessarily endorse, approve, or recommend any of the standards referenced in the notice.

DATES: Interested persons may submit proposals on or before the dates listed with the standards.

ADDRESSES: Arthur E. Cote, P.E., Secretary, Standards Council, NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02269–9101.

FOR FURTHER INFORMATION CONTACT: Arthur E. Cote, P.E., Secretary, Standards Council, at above address, (617) 770–3000.

SUPPLEMENTARY INFORMATION:

Background

The National Fire Protection Association (NFPA) develops fire safety standards which are known collectively as the National Fire Codes. Federal agencies frequently use these standards as the basis for developing Federal regulations concerning fire safety. Often, the Office of the Federal Register approves the incorporation by reference of these standards under 5 U.S.C. 552(a) and 1 CFR part 51.

Request for Proposals

Interested persons may submit amendments, supported by written data, views, or arguments to Arthur E. Cote, P.E., Secretary, Standards Council, NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02269–9101. Proposals should be submitted on forms available from the NFPA Standards Administration Office.

Each person must include his or her name and address, identify the document and give reasons for the proposal. Proposals received before or

by 5:00 p.m. local time on the closing date indicated will be acted on by the Committee. The NFPA will consider any proposal that it receives on or before the date listed with the standard.

At a later date, each NFPA Technical Committee will issue a report which will include a copy of written proposals that have been received and an account of their disposition of each proposal by the NFPA Committee as the Technical Committee Report. Each person who has submitted a written proposal will receive a copy of the report.

Dated: January 23 1991.

John W. Lyons,

Director.

NFPA No.	Title	Proposal closing date
NFPA 13E–1989	Properties Protected by Sprinkler and Standpipe Systems	7/16/93
NFPA 14–1990	Installation of Standpipe & Hose Systems	7/19/91
NFPA 32–1990	Drycleaning Plants	Open
NFPA 33–1989	Spray Application Using Flammable and Combustible Materials	Open
NFPA 34–1989	Dipping and Coating Processes Using Flammable or Combustible Liquids	Open
NFPA 36–1988	Solvent Extraction Plants	3/1/91
NFPA 40E–1986	Pyroxylin Plastic	7/19/91
NFPA 43B–1986	Organic Peroxide Formulations	7/19/91
NFPA 43D–1986	Pesticides in Portable Containers	7/19/91
NFPA 55–Proposed [1]	Storage & Handling of Cylinder Gases	5/18/91
NFPA 68–1988	Venting of Deflagrations	7/19/91
NFPA 71–1989	Signaling Systems for Central Station Service	1/24/92
NFPA 72–1990	Protective Signaling Systems	1/24/92
NFPA 72E–1990	Automatic Fire Detectors	1/24/92
NFPA 72G–1989	Notification Appliances for Protective Signaling Systems	1/24/92
NFPA 72H–1988	Local, Auxiliary, Remote Station, and Proprietary Protective Signaling Systems	1/24/92
NFPA 74–1989	Household Fire Warning Equipment	1/24/92
NFPA 80A–1987	Buildings from Exterior Fire Explosures	7/19/91
NFPA 85H–1989	Combustion Hazards in Atmospheric Fluidized Bed Combustion System Boilers	1/24/92
NFPA 86–1990	Ovens and Furnaces	1/15/93
NFPA 90A–1989	Airconditioning & Ventilating Systems	7/19/91
NFPA 90B–1989	Warm Air Heating & Air Conditioning Systems	7/19/91
NFPA 99–1990	Health Care Facilities	7/1/91
NFPA 105–1989	Smoke Control Door Assemblies	7/17/92
NFPA 110–1988	Emergency and Standby Power Systems	7/19/91
NFPA 110A–1989	Stored Electrical Energy Emergency and Standby Power Systems	7/19/91
NFPA 256–1987	Fire Tests of Roof Coverings	7/19/91
NFPA 259–1987	Potential Heat of Building Materials	7/19/91
NFPA 306–1988	Control of Gas Hazards on Vessels	7/19/91
NFPA 385–1990	Tank Vehicles for Flammable and Combustible Liquids	Open
NFPA 386–1990	Portable Shipping Tanks for Flammable & Combustible Liquids	Open
NFPA 395–1988	Flammable and Combustible Liquids on Farms and Isolated Construction Projects	Open
NFPA 403–1988	Aircraft Rescue & Fire Fighting Services at Airports	7/12/91
NFPA 490–1986	Ammonium Nitrate	7/19/91
NFPA 496–1989	Purged and Pressurized Enclosures for Electrical Equipment	7/19/91
NFPA 802–1988	Nuclear Research Reactors	7/19/91
NFPA 803–1988	Fire Protection for Light Water Nuclear Power Plants	7/19/91
NFPA 1002–1988	Fire Apparatus Driver/Operator Professional Qualifications	1/24/92
NFPA 1003–1987	Airport Fire Fighter Professional Qualifications	7/19/91
NFPA 1031–1987	Professional Qualifications for Fire Inspector	7/19/91
NFPA 1033–1987	Professional Qualifications for Fire Investigator	7/19/91
NFPA 1035–1987	Professional Qualifications for Public Fire Educator	7/19/91
NFPA 1406–Proposed [1]	Outside Live Fire Training	7/19/91
NFPA 1410–1988	Initial Fire Attack	7/17/92
NFPA 1420–Proposed [1]	Pre-Incident Planning for Warehouse Occupancies	7/19/91
NFPA 1452–1988	Dwelling Firesafety Surveys	7/19/91
NFPA 1962–1988	Care, Use & Maintenance of Fire Hose Including Couplings & Nozzles	7/19/91
NFPA 1964–1989	Spray Nozzles (Shut Off & Tip)	7/19/91
NFPA 1973–1988	Gloves for Structural Fire Fighting	7/1/91
NFPA 1975–1990	Station/Work Uniforms for Fire Fighters	7/12/91
NFPA 1977–Proposed	Wildland Fire Fighting Protective Clothing	7/1/91
NFPA 1982–1988	Personal Alert Safety Systems (PASS) for Fire Fighters	7/12/91
NFPA 1984–Proposed	Closed-Circuit SCBA for Fire Fighters	7/1/91

[1] Drafts available at NFPA, Standards Administration Department.

[FR Doc. 91–2097 Filed 1–29–91; 8:45 am]

BILLING CODE 3510–13–M

[Notice 1]

National Fire Codes: Request for Comments on NFPA; Technical Committee Reports

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of request for comments.

SUMMARY: The National Fire Protection Association (NFPA) revises existing standards and adopts new standards twice a year. At its Fall Meeting in November or its Annual Meeting in May, the NFPA acts on

recommendations made by its technical committees.

The purpose of this notice is to request comments on the technical reports which will be presented at NFPA's 1991 Fall Meeting. The publication of this notice by the National Institute of Standards and Technology (NIST) on behalf of NFPA is being undertaken as a public service; NIST does not necessarily endorse, approve, or recommend any of the standards referenced in the notice.

DATES: The Technical Committee Reports are available for distribution on February 1, 1991. Comments received on or before April 12, 1991 will be considered by the respective NFPA Committees before final action is taken on the proposals.

ADDRESSES: The 1991 Fall Technical Committee Reports are available from NFPA, Publication Department, 1 Batterymarch Park, Quincy, Massachusetts 02269–9101. Comments on the reports should be submitted to Arthur E. Cote, P.E., Secretary, Standards Council, NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02269–9101.

FOR FURTHER INFORMATION CONTACT: Arthur E. Cote, P.E., Secretary, Standards Council, at above address, (617) 770-3000.

SUPPLEMENTARY INFORMATION:

Background

Standards developed by the technical committees of the National Fire Protection Association (NFPA) have been used by various Federal Agencies as the basis for Federal regulations concerning fire safety. The NFPA standards are known collectively as the National Fire Codes. Often the Office of the Federal Register approves the incorporation by reference of these standards under 5 U.S.C. 552(a) and 1 CFR part 51.

Revisions of existing standards and adoption of new standards are reported by the technical committees at the NFPA's Fall Meeting in November or at the Annual Meeting in May each year. The NFPA invites public comment on its Technical Committee Reports.

Request for Comments

Interested persons may participate in these revisions by submitting written data, views, or arguments to Arthur E. Cote, P.E., Secretary, Standards Council, NFPA 1 Batterymarch Park, Quincy, Massachusetts 02269–9101. Commentors may use the forms provided for comments in the Technical Committee Reports. Each person submitting a comment should include his or her name and address, identify the notice, and give reasons for any recommendations. Comments received on or before April 12, 1991, will be considered by the NFPA before final action is taken on the proposals.

Copies of all written comments received and the disposition of those comments by the NFPA committees will be published as the Technical Committee Documentation by September 27, 1991, prior to the Fall Meeting.

A copy of the Technical Committee Documentation will be sent automatically to each commentor. Action on the Technical Committee Reports (adoption or rejection) will be taken at the Fall Meeting, November 18–20, 1991 in Montreal, Quebec, Canada by NFPA members.

Dated: January 23, 1991.

John W. Lyons,

Director.

1991 Fall Meeting Technical Committee Reports

[P = Partial revision; W = Withdrawal; R = Reconfirmation; N = New; C = Complete Revision]

NFPA No.	Title	Action
24	Private Fire Service Mains and Their Appurtenances.	P
25	Water-Based Extinguishing Systems.	N
51	Oxygen-Fuel Gas Systems for Welding, Cutting and Allied Processes.	P
58	Storage & Handling of Liquefied Petroleum Gases.	P
59	Liquefied Petroleum Gases at Utility Gas Plants.	P
69	Explosion Prevention Systems	P
91	Exhaust Systems for Air Conveying of Materials.	C
102	Assembly Seating, Tents and Air-Supported Structures.	C
203M	Roof Coverings and Roof Deck Construction.	P
220	Types of Building Construction.	P
318	Protection of Clean Rooms	N
473	EMS Operations at Hazardous Materials Incidents.	N
497A	Classification of Class I Hazardous (Classified) Locations for Electrical Installations in Chemical Process Area.	C
600	Industrial Fire Brigades	C
601	Guard Service in Fire Loss Prevention (Incorporates NFPA 602).	C
703	Fire Retardant Impregnated Wood and Flame Retardant Coatings for Building Materials.	C
820	Wastewater Treatment Plants	P
903M	Fire Reporting Property Survey Guide.	P
904M	Incident Follow-Up Report Guide.	R
921	Fire and Explosion Investigations.	N
1126	Use of Pyrotechnics in the Performing Arts.	N
1402	Building Fire Service Training Centers.	C

1991 Fall Meeting Technical Committee Reports—Continued

[P = Partial revision; W = Withdrawal; R = Reconfirmation; N = New; C = Complete Revision]

NFPA No.	Title	Action
1402	Live Fire Training Evolutions in Structures.	P
1961	Fire Hose	P

[FR Doc. 91–2097 Filed 1–29–91; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

Atlantic Swordfish Fishery

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

ACTION: Notice of extension of comment period.

SUMMARY: NMFS held a public hearing on January 15, 1991, to obtain comments on options for developing a Secretarial Amendment to the Fishery Management Plan for Atlantic Swordfish. A subsequent notice, published January 18, 1991, (56 FR 1983) specified public comments were invited until February 1, 1991. This notice extends the comment period until February 15, 1991.

DATES: Public comments are invited in writing until February 15, 1991.

ADDRESSES: Comments should be mailed to Richard H. Schaefer, Director, Office of Fisheries Conservation and Management (F/CM), National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Richard B. Stone, NMFS, at 301–427–2347.

SUPPLEMENTARY INFORMATION: NMFS published a notice on December 28, 1990, (55 FR 53319) announcing a public hearing on January 15, 1991, to obtain comments on options for developing a Secretarial Amendment to Fishery Management Plan for Atlantic Swordfish. The notice encouraged the public to present comments at the public hearing or in writing. No deadline was indicated for written comments. A notice published January 18, 1991, 56 FR 1983, specified public comments were invited until February 1, 1991. Several commenters at the hearing requested an extension until February 15, 1991. This notice extends the deadline for submitting public comments on the Secretary's management options.

Dated: January 24, 1991.

Richard H. Schaefer,

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

[FR Doc. 91–2137 Filed 1–29–91; 8:45 am]

BILLING CODE 3510-22-M

Taking of Ringed Seals Incidental to On-Ice Seismic Activities

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

ACTION: Notice.

Notice is being given that on January 23, 1991, NMFS issued a Letter of Authorization under the authority of section 101(a)(5) of the Marine Mammal Protection Act and 50 CFR part 228, subpart B—Taking of Ringed Seals Incidental to On-Ice Seismic Activities to Western Geophysical, 351 E. International Airport Road, Anchorage, Alaska 99518.

The Letter of Authorization is valid for 1991 and is subject to the provisions of the MMPA and the regulation governing small takes of marine mammals incidental to specified activities (50 CFR part 228, subparts A and B).

Issuance of the letter is based on a finding by NMFS that the total taking will have a negligible impact on the ringed seal species or stocks and will not have an unmitigable adverse impact on the availability of the species or stock for subsistence use by Alaska natives.

The Letter of Authorization is available for review in the following offices: Office of Protected Resources, NMFS, 1335 East-West Highway, Silver Spring, MD 20910 and Western Alaska Field Office, NMFS, 701 C Street, Anchorage, Alaska 99513.

Dated: January 23, 1991.

Nancy Foster,

Director, Office of Protected Resources.

[FR Doc. 91–2124 Filed 1–29–91; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Prospective Grant of Exclusive Patent License; Thomas A. Permar

This is notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Technical Information Service (NTIS), U.S. Department of Commerce, is contemplating the grant of an exclusive license in the United States to practice the invention embodied in U.S. Patent Application SN 7/351,347, Monoclonal Antibodies Which Discriminate Between Strains of Citrus Tristeza Virus, to Thomas A. Permar, having a place of business at Altamonte Spring, Florida. The patent rights in this invention have been assigned to the United States of America.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The invention relates to murine hybridoma cells lines and monoclonal antibodies produced therefrom which may be used to detect severe forms of the citrus tristeza virus in citrus plant tissue by immunological assay.

The availability of the invention for licensing was published in the **Federal Register** Vol. 54, No. 142, p. 31067, July 26, 1989. A copy of the instant patent application may be purchased from the NTIS Sales Desk by telephoning 703/487–4650 or by writing to Order Department, NTIS, 5285 Port Royal Road, Springfield, VA 22161.

Inquiries, comments and other materials relating to the contemplated license must be submitted to Douglas J. Campion, Center for Utilization of Federal Technology, NTIS, Box 1423, Springfield, VA 22151. Properly filed competing applications received by NTIS in response to this notice will be considered as objections to the grant of the contemplated license.

Douglas J. Campion,

Center for Utilization of Federal Technology, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 91–2106 Filed 1–29–91; 8:45 am]

BILLING CODE 3510-04-M

Prospective Grant of Exclusive Patent License; Univax Biologics, Inc.

This is notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Technical Information Service (NTIS), U.S. Department of Commerce, is contemplating the grant of an exclusive license in the United States, Canada and Japan to practice the invention embodied in U.S. Patent Application Serial Number 7–155,799, "Polysaccharide-Protein Conjugates" to Univax Biologics, Inc., having a place of business at Rockville, MD. The patent rights in this invention have been assigned to the United States of America.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The invention relates to immunoprophylaxis and vaccines; more particularly it relates to Vi capsular polysaccharide-protein conjugates which can be used to elicit immune response by producing serum antibodies in a host.

The availability of the invention for licensing was published in the **Federal Register** Vol. 53, No. 79, p. 13433, April 25, 1988. A copy of the instant patent application may be purchased from the NTIS Sales Desk by telephoning 703/487–4650 or by writing to Order Department, NTIS, 5285 Port Royal Road, Springfield, VA 22161.

Inquiries, comments and other materials relating to the contemplated license must be submitted to Papan Devnani, Center for Utilization of Federal Technology, NTIS, Box 1423, Springfield, VA 22151. Properly filed competing applications received by the NTIS in response to this notice will be considered as objections to the grant of the contemplated license.

Douglas J. Campion,

Center for Utilization of Federal Technology, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 91–2105 Filed 1–29–91; 8:45 am]

BILLING CODE 3510-04-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Ada Board Meeting

ACTION: Notice of meeting.

SUMMARY: A meeting of the Ada Board will be held Friday, February 8, 1991 from 9 a.m. to 5 p.m. at the Institute for Defense Analyses, 2001 North Beauregard Street, Alexandria, Virginia.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Carlson, Ada Information Clearinghouse c/o IIT Research Institute, 4600 Forbes Boulevard, Lanham, Maryland 20706, (703) 685–1477.

Dated: January 25, 1991.

L.M. Bynum,

Office of the Secretary of Defense, Federal Register Liaison Office, Department of Defense.

[FR Doc. 91–2195 Filed 1–29–91; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

Intention To Prepare an Environmental Impact Statement; National Aero-Space Plane

The Department of Defense of the National Aeronautics and Space Administration are conducting a joint National Aero-Space Plane (NASP) research program. The Joint Program Office (JPO) at Wright-Patterson Air Force Base (AFB), Ohio is charged with managing all NASP activities and intends to study the environmental issues associated with the NASP program. As part of that study, JPO will prepare an Environmental Impact Statement (EIS) for use in the decision-making process.

The purpose of the NASP program is to design, build, test and support two X–30 research vehicles that will demonstrate the technologies necessary for airbreathing single-state-to-orbit flight. The X–30 will take off and land horizontally, like an airplane, fly directly to orbit and operate there like a spacecraft. Eighty test flights are planned beginning with verifying low speed handling qualities and progressing to orbital velocity, approximately 25 times the speed of sound.

The NASP Ground Support System Complex is proposed to be located at Edwards AFB, California. Edwards AFB covers 300,000 acres of land and 20,000 square miles of restricted air space. The use of existing or planned Air Force Flight Test Center or NASA Dryden Flight Research Facility assets is under consideration. Construction of support facilities will require 160 acres for the following major activities: Cryogenic production and storage, aircraft assembly and checkout, engine test pads, mission control, data processing, and flight test simulation. Currently, the location of these facilities is being studied. The proposed action would locate these facilities in the south base area of Edwards AFB southeast of the center portion of the 04–22 runway. Alternatives include locating the facilities near the southwest end, mid-southern side or near the southeastern end of the 04–22 runway.

Scoping will be conducted to identify environmental concerns and issues that need to be addressed in the EIS. The EIS will assess site specific issues pertaining to the NASP ground activities and general issues pertaining to flight activities. Alternatives to be considered by the JPO are: (1) No action; and (2) alternative locations for the support facilities at Edwards AFB. National experts in the areas of stratospheric ozone, sonic booms, health and safety and other areas will assist in the analysis of the issues identified during the process. Two public scoping meetings will be held as part of the process (one each in Lancaster, CA and Washington, DC) to determine the environmental issues and concerns that should be addressed. The scoping meetings are tentatively scheduled for February 1991. Notice of the exact time and place of the meeting will be published in the news media.

Public input and comments are solicited concerning the environmental aspects of the proposed program. To assure the JPO will have sufficient time to fully consider public inputs on issues, written comments should be mailed to ensure receipt no later than April 1, 1991. However, the JPO will accept comments at any time during the environmental impact analysis process.

Comments or requests for further information concerning the proposed project or the EIS should be addressed to: Lt. Col. Tom Bartol, Director of Environmental Planning, AFRCE–BMS/DEV, Norton AFB, CA 92409–6448, (714) 382–4891.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 91–2143 Filed 1–29–91; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board's Ad Hoc Committee on the Extension of Dormant Munitions Storage Life and Insensitive High Explosives Research and Development will meet on 20–21 February 1991, from 8 a.m., to 5 p.m. at the ANSER Corp., 1215 S. Jefferson Davis Hwy, Arlington, VA 22202.

The purpose of this meeting is to prepare the final study outbrief and graph report.

The meeting will be closed to the public in accordance with section 552b(c) of Title 5, United States Code, specifically subparagraph (1).

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 91–2144 Filed 1–29–91; 8:45 am]

BILLING CODE 3910–01–M

Corps of Engineers, Department of the Army

Proposed Navigation Project; Compton Creek and Shoal Harbor Belford, Monmouth County, NJ

January 11, 1991.

AGENCY: Corps of Engineers, Army, DOD.

ACTION: Notice of intent to prepare a draft Environmental Impact Statement (DEIS).

SUMMARY: The New York District of the U.S. Army Corps of Engineers plans to begin preparation of a draft Environmental Impact Statement for proposed measures to improve navigation in Compton Creek and Shoal Harbor, Belford, New Jersey. This project is necessary to reduce navigation problems for the commercial fishing fleet which uses the existing channel to serve as their docking and market area. The existing Federal navigation project depth of 12 feet mean low water (MLW) extending from deep water in Sandy Hook Bay to the first bend in Compton Creek then 8 feet MLW to the Main Street Bridge is no longer adequate to support the present fishing fleet.

FOR FURTHER INFORMATION CONTACT: *ATTN:* Bryce Wisemiller, Project Manager, (212) 264–9077, or *ATTN:* Joe Debler, EIS Coordinator, (212) 264–4663, Planning Division, New York District Corps of Engineers, 26 Federal Plaza, New York, New York 10278–0090.

SUPPLEMENTARY INFORMATION: This action was authorized under section 107 of the Continuing Authority Program of the River and Harbor Act of 1960.

1. *Location and Description of Proposed Action:* The project is located on Sandy Hook Bay in Monmouth County, New Jersey. The plan selected during the Reconnaissance phase of the study would be to depend the existing project by 2 feet (14) and (10) and appropriate widening to accommodate the passing vessels and the new depths. A deposition basin to reduce maintenance dredging is also proposed for Compton Creek a short distance upstream of the Main Street Bridge. The Basin would be separated from the navigation channel by a "V"-notched

steel sheeted weir to enhance trapping of the sediment. The plan also provides for continued maintenance of the project for a period of 50 years. Disposal of dredged material could be at the authorized mud dump site or, if the dredged material is suitable, could be used as beach nourishment.

2. *Reasonable Alternative Actions:* The selected plan and alternative plans are currently being evaluated by the New York District. Alternatives under review include structural variations, alternative ports, and the no action plan. Alternative dredging and disposal options will also be reviewed.

3. *Scoping Process:*

a. Public Involvement: Preliminary coordination has been conducted with Federal and State agencies, and is continuing. Additional views from public groups and individuals have been solicited by means of a public scoping letter prepared by the New York District Army Corps of Engineers on December 8, 1990.

b. Significant Issues Requiring In-depth Analysis: Weir and deposition basins impacts, archaeological and cultural resources impacts, aquatic resources impacts, and wetland impacts.

c. Environmenal Review and Consultation: Review will be as outlined in the Council on Environmental Quality regulations dated November 29, (40 CFR parts 1500–1508) and Corps regulation ER 200–2–2 dated March 4, 1988.

4. Scoping Meeting: Will not be held.

5. Estimated date of DEIS statement availability: November 1991.

Bruce A. Bergmann,

Chief, Planning Division.

[FR Doc. 91–2130 Filed 1–29–91; 8:45 am]

BILLING CODE 3710–06–M

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Cancellation of Meeting

AGENCY: National Assessment Governing Board; Education.

ACTION: Cancellation of meeting.

SUMMARY: The National Assessment Governing Board has cancelled the teleconference meeting of the full Board originaly scheduled on January 29, 1991. The meeting was previously announced in the **Federal Register** on January 2, 1991 on page 74, Vol. 56, No. 1.

FOR FURTHER INFORMATION CONTACT: Roy Truby, Executive Director, National Assessment Governing Board, Suite 7322, 1100 L Street, NW., Washington, DC 20005–4013, Telephone: (202) 357–6938.

Dated: January 25, 1991.

Christopher T. Cross,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 91–2232 Filed 1–28–91; 9:14 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

Energy Conservation Program for Consumer Products Representative Average Unit Costs of Energy

AGENCY: Office of Conservation and Renewable Energy, Department of Energy.

ACTION: Notice.

SUMMARY: In this notice, the Department of Energy is forecasting the representative average unit costs of five residential energy sources for the year 1991. The five sources are electricity, natural gas, No. 2 heating oil, propane, and kerosene. The representative unit costs of these energy sources are used in the Energy Conservation Program for Consumer Products established by the Energy Policy and Conservation Act, as amended by the National Energy Conservation Policy Act, by the National Appliance Energy Conservation Act of 1987, and by the National Appliance Energy Conservation Amendments of 1988.

EFFECTIVE DATE: The representative average unit costs of energy contained in this notice will become effective March 1, 1991, and will remain in effect until further notice.

FOR FURTHER INFORMATION CONTACT:

Michael J. McCabe, U.S. Department of Energy, Office of Conservation and Renewable Energy, Forrestal Building, Mail Station CE–43, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9127.

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Forrestal Building, Mail Station GC–41, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9407.

SUPPLEMENTARY INFORMATION: Section 323 of the Energy Policy and Conservation Act (Pub. L. 94–163), as amended by the National Energy Conservation Policy Act (Pub. L. 95–619), by the National Appliance Energy Conservation Act of 1987 (Pub. L. 100–12), and the National Appliance Energy Conservation Amendments of 1988 (Pub. L. 100–357) (Act)[1] requires that the Department of Energy (DOE) prescribe test procedures for the determination of the estimated annual operating cost and other measures of energy consumption for certain consumer products specified in the Act. These test procedures are found in 10 CFR part 430, subpart B.

Section 323(b) of the Act requires that the estimated annual operating costs of a covered product be computed from measurements of energy use in a representative average-use cycle and from representative average unit costs of energy needed to operate such product during such cycle. The section further requires DOE to provide information regarding the representative average unit costs of energy for use wherever such costs are needed to perform calculations in accordance with the test procedures. Most notably, these costs are used under the Federal Trade Commission appliance labeling program established by section 324 of the Act and in connection with advertisements of appliance energy use and energy costs which are covered by section 323(c) of the Act.

DOE last published representative average unit costs of residential energy for use in the Conservation Program for Consumer Products on March 12, 1990 (55 FR 9184). Effective March 1, 1991, the cost figures published on March 12, 1990, will be superseded by the cost figures set forth in this notice.

DOE's Energy Information Administration (EIA) has developed the 1991 representative average unit costs of electricity, natural gas, and heating oil found in this notice. These costs were taken from EIA's fourth quarter 1990 "Short-Term Energy Outlook" ("Outlook"), DOE/EIA–0202 (90/4Q), which forcasts the retail cost of selected energy products based on changes in world oil prices, wellhead natural gas prices, seasonal patterns in retail prices and established trends in margins and operating expenses. The development of these costs is discussed in detail in the fourth quarter 1990 issue of this report, which is EIA's quarterly publication of historical and forecasted energy consumption and prices. The costs appear in Table 6 of EIA's *Outlook*. In the case of residential natural gas, taxes are included in the cost. Copies of this report are available at the National Energy Information Center, Forrestal Building, room 1F–048, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–8800.

[1] References to the "Act" refer to the Energy Policy and Conservation Act, as amended by the National Energy Conservation Policy Act, by the National Appliance Energy Conservation Act of 1987, and by the National Appliance Conservation Amendments of 1988.

In the cases of kerosene and propane, the 1991 representative average unit costs found in this notice were developed by other means since EIA's "Outlook" does not provide a forecast of the retail costs of these fuels. However, historical refiner prices for kerosene and propane are available from another EIA publication, "Petroleum Marketing Monthly" ("PMM"), DOE/EIA-0380. Referring to Table 2 of the July 1990 issue of the "PMM", DOE obtained refiner average sales prices to end users for kerosene and propane for 1989. To forecast 1991 representative average unit costs for kerosene and propane, DOE made the assumption that the percentage change in 1991 from the 1989 annual average (last complete year of available data) for No. 2 heating oil prices to residential customers (which can be calculated from Table 6 of the "Outlook" could be applied to kerosene and propane. Refiner prices to end users for kerosene and propane were used since, of the comparable recent data available, these are believed to be most representative of prices to residential consumers.

The 1991 representative average unit costs stated in Table 1 are provided pursuant to § 323(b)(4) of the Act and will become effective March 1, 1991. They will remain in effect until further notice.

Issued in Washington, DC., January 23, 1991.

J. Michael Davis,

Assistant Secretary, Conservation and Renewable Energy.

TABLE 1.—REPRESENTATIVE AVERAGE UNIT COSTS OF ENERGY FOR FIVE RESIDENTIAL ENERGY SOURCES (1991)

Type of energy	In common terms	As required by test procedure	Dollar per million Btu [1]
Electricity	8.24¢/kWh [2,3]	$0.0824/kWh	$25.15
Natural Gas	60.54¢/therm [4] or $6.23/MCF [5,6]	$0.00000605/Btu	$ 6.05
No. 2 Heating Oil	$1.29/gallon [7]	$0.00000930/Btu	$ 9.30
Propane	$0.89/gallon [8]	$0.00000974/Btu	$ 9.74
Kerosene	$1.02/gallon [9]	$0.00000756/Btu	$ 7.56

[1] Btu stands for British thermal units.
[2] kWh stands for kilowatt hour.
[3] 1 kWh = 3,412 Btu.
[4] 1 therm = 100,000 Btu. Natural gas prices include taxes.
[5] MCF stands for 1,000 cubic feet.
[6] For the purposes of this table, one cubic foot of natural gas has an energy equivalence of 1,029 Btu.
[7] For the purposes of this table, one gallon of No. 2 heating oil has an energy equivalence of 138,690 Btu.
[8] For the purposes of this table, one gallon of liquid propane has an energy equivalence of 91,333 Btu.
[9] For the purposes of this table, one gallon of kerosene has an energy equivalence of 135,000 Btu.

[FR Doc. 91-2171 Filed 1-29-91; 8:45 am]
BILLING CODE 6450-01-M

Office of Energy Research

High Energy Physics Advisory Panel Renewal

Pursuant to section 14(a)(2)(A) of the Federal Advisory Committee Act and in accordance with title 41 CFR subpart 101-6.1015, and following consultation with the Committee Managmement Secretariat, General Services Administration, notice is hereby given that the High Energy Physics Advisory Panel (HEPAP) has been renewed for a 2-year period ending on January 27, 1993. The Panel will continue to provide advice to the Secretary of Energy, through the Director, Office of Energy Research, on long-range planning and priorities in the national high energy physics program.

The Panel membership is selected to maintain an appropriate balance among: areas of technical expertise (theoretical physics, experimental physics, accelerator physics, and general science); various types of institutional affiliation (national laboratory, industry, and university); and geographical location.

The renewal of the HEPAP has been determined essential to the conduct of the Department's business and in the public interest in connection with the performance of duties imposesd upon the Department of Energy by law. The Panel will continue to operate in accordance with the provisions of the Federal Advisory Committee Act, the Department of Energy Organization Act (Pub. L. 95-91), and rules and regulations issued in implementation of those Acts.

Further information regarding this Panel may be obtained from Elinor Donnelly, (202) 586-3448.

Issued in Washington, DC, on January 24, 1991.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 91-2099 Filed 1-29-91; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. GT91-13-000]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

January 23, 1991.

Take notice that Algonquin Gas Transmission Company ("Algonquin"), on December 31, 1990, pursuant to the Commission's regulations governing the electronic submission of tariffs 18 CFR 385.2011(b) (1989), filed six copies of Third Revised Volume No. 1 of Algonquin's FERC Gas Tariff.

Algonquin requests that the Commission allow the proposed tariff revisions to become effective upon notice, as required by 18 CFR 154.22, on February 1, 1991.

The purpose of Third Revised Volume No. 1 is to comply with the Commission's new electronic filing requirements adopted in Order No. 493. These regulations require natural gas pipelines to refile Volume No. 1 of their effective tariffs in electronic form no later than their first general rate proceeding after October 31, 1989.

Algonquin states that copies of the filing were served upon Algonquin's customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene 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 and 385.2110. All motions or protests should be filed on or before January 29, 1991. 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. 91–2122 Filed 1–29–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MT90–5–001]

Canyon Creek Compression Co.; Change in Tariff

January 23, 1991.

Take notice that on December 28, 1990, Canyon Creek Compression Company (Canyon) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the below listed tariff sheets to be effective January 27, 1991:

Third Revised Sheet No. 122
Second Revised Sheet No. 123.

Canyon states that the purpose of the filing is to update the list of shared operating personnel between Canyon and its marketing affiliates in accordance with § 250.16(d)(2) of the Commission's Regulations.

Canyon states that a copy of the filing were mailed to Canyon's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, DC 20426, in accordance with § 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before February 7, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91–2117 Filed 1–29–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ91–1–32–001]

Colorado Interstate Gas Co.; Compliance PGA Filing

January 23, 1991.

Take notice that on January 18, 1991, in compliance with the Federal Energy Regulatory Commission's (Commission's) order issued December 21, 1990 in Docket Nos. TQ91–1–32–000, Colorado Interstate Gas Company (CIG) submitted for filing, as part of its Original Volume No. 1 FERC Gas Tariff, six copies of the following tariff sheets:

Second Sub. Fifth Revised First Revised Sheet No. 7.1
Second Sub. Fifth Revised First Revised Sheet No. 7.2
Second Sub. Fifth Revised First Revised Sheet No. 8.1
Second Sub. Fifth Revised First Revised Sheet No. 8.2

The filing reflects commodity rate treatment for all producer demand charges ("PDC") except for those PDC's under the two producer contracts for which a one-year limited waiver was granted in Docket No. TA91–1–32–001, *et al.* The tariff rates underlying Second Substitute Fifth Revised First Revised Sheet Nos. 7.1 through 8.2 reflect a 0.51 cent/Mcf increase in the commodity rate for the G–1, P–1, SG–1, H–1, F–1, and PS–1 Rate Schedules, and a 5 cent/Mcf decrease in the Demand–1 rate for applicable rate schedules, when compared with CIG's original filing in this docket. The commodity rate is flat, when compared with rates CIG made effective last October 1, 1990, pursuant to Commission order issued on November 30, 1990 in Docket TA91–1–32 and RP90–166 *et al.*

CIG requests that the proposed tariff sheets be made effective on January 1, 1991.

CIG states that copies of this filing are being served on all jurisdictional customers and interested state commissions, and are otherwise available for public inspection at CIG's offices in Colorado Springs, Colorado.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before January 30, 1991. 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. 91–2123 Filed 1–29–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP89–50–016]

Florida Gas Transmission Co.; Compliance Filing

January 23, 1991.

Take notice that on January 17, 1991, Florida Gas Transmission Company (FGT) tendered for filing to become part of its FERC Gas Tariff, the tariff sheets listed on appendix A attached to the filing.

FGT states that it is submitting these tariff sheets in compliance with the Commission's December 18, 1990 "Order Approving Settlement, Denying Requests for Rehearing as Moot, and Granting Request for Clarification" in Docket No. RP89–50, *et al.*, (Remand).

FGT has stated an effective date of February 1, 1991. However, under the provisions of Article VII of the Stipulation and Agreement dated August 15, 1990 ("Settlement") in Docket No. RP89–50, *et al.*, (Remand), the tariff sheets filed herein shall not become effective until the first day of the first month following the date upon which the subject order becomes final and is no longer subject to appeal, unless FGT waives such condition(s). Because FGT has not waived the conditions, FGT will refile the instant tariff sheets to indicate a new proposed effective date in the event that the tariff sheets do not become effective on February 1, 1991.

FGT further states that a copy of its filing has been served on all customers receiving gas under its FERC Gas Tariff, Second Revised Volume No. 1 and interested State commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before January 30, 1991. 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. 91–2113 Filed 1–29–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91-76-000]

Florida Gas Transmission Co.; Petition for Limited Waiver of Tariff Provisions

January 23, 1991.

Take notice that on January 18, 1991, Florida Gas Transmission Company (FGT), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. RP91-76-000 a petition requesting authorization for waiver of the scheduling penalty provisions of Rate Schedules FTS-1, PTS-1 and ITS-1 of FGT's FERC Gas Tariff for penalties incurred during the month of October, 1990.

FGT states that good cause exists to waive the scheduling penalties for October, 1990.

Any person desiring to be heard or to protest to said petition should on or before January 30, 1991 file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or protest in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests 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 must file a motion to intervene in accordance with the Commission's rules.

Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell

Secretary

[FR Doc. 91-2116 Filed 1-29-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. MT90-4-001]

Moraine Pipeline Co.; Change in Tariff

January 23, 1991.

Take notice that on December 28, 1990, Moraine Pipeline Company (Moraine) tendered for filing as part of its FERC Gas Tariff, Orginal Volume No. 1, First Revised Sheet Nos. 119 and 120 to be effective January 27, 1991.

Moraine states that the purpose of the filing is to update the list of shared operating personnel between Moraine and its marketing affiliates in accordance with § 250.16(d)(2) of the Commission's Regulations.

Moraine states that a copy of the filing were mailed to Moraine's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before February 7, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-2114 Filed 1-29-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. MT88-33-004]

Natural Gas Pipeline Company of America; Change in Tariff

January 23, 1991.

Take notice that on December 28, 1990, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1A, Third Revised Sheet Nos. 117 and 117A to be effective January 27, 1991.

Natural states that the purpose of the filing is to update the list of shared operating personnel between Natural and its marketing affiliates in accordance with § 250.16(d)(2) of the Commission's Regulations.

Natural states that a copy of the filing were mailed to Natural's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before February 7, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-2120 Filed 1-29-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ91-3-37-000]

Northwest Pipeline Corp.; Proposed Change in FERC Gas Tariff

January 23, 1991.

Take notice that on January 17, 1991, Northwest Pipeline Corporation ("Northwest") tendered for filing and acceptance the following tariff sheets:

Second Revised Volume No. 1

Fifth Revised Sheet No. 10
Fifth Revised Sheet No. 11

Northwest states that the purpose of this filing is to file an out-of-cycle purchased gas cost adjustment ("PGA"), to become effective January 1, 1991. Such filing is tendered to replace Northwest's last scheduled quarterly PGA, submitted on November 30, 1990 in Docket No. TQ91-2-37-000 and TM91-5-000. The filing is necessary because the commodity price of gas purchased from Westcoast Energy, Inc., Northwest's Canadian supplier, increased from $1.44 per MMBtu, effective October 1, 1990, to $1.75 per MMBtu, effective January 1, 1991. In Northwest's November 30 filing, Northwest used the 1990 fourth quarter rate rather than the 1991 first quarter rate, since the latter rate was not available at the time of filing. The aforementioned adjustment results to an increase of 10.56¢ per MMBtu in the commodity rate for all rate schedules affected by and subject to the PGA. The instant filing also provides for a decrease in the demand components of Northwest's gas sales rates to reflect changes ot the estimates of Canadian demand rates and to reflect a revised Canadian exchange rate factor.

Northwest states that a copy of the filing is being served upon each designated in the official service list compiled by the Secretary in Docket No. TA90-1-37 and upon all jurisdictional sales customers and affected state commissions.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed

on or before January 30, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-2115 Filed 1-29-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. MT88-11-011]

Northwest Pipeline Corp.; Proposed Change in FERC Gas Tariff

January 23, 1991.

Take notice that on December 28, 1990, Northwest Pipeline Corporation ("Northwest") tendered for filing and acceptance First Revised Sheet No. 443, to be part of its FERC Gas Tariff, First Revised Volume No. 1-A. This sheet was revised to reflect a change in the "Transportation Request" form.

Northwest has requested an effective date of January 31, 1991 for the tendered sheet.

Northwest states that a copy of the filing were mailed to Northwest's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before February 7, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-2118 Filed 1-29-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. MT90-6-001]

Stingray Pipeline Co.; Change in Tariff

January 23, 1991.

Take notice that on December 28, 1990, Stingray Pipeline Company (Stingray) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the below listed tariff sheets to be effective January 27, 1991:

Second Revised Sheet No. 98
First Revised Sheet No. 98A
Second Revised Sheet No. 135
First Revised Sheet No. 135A

Stingray states that the purpose of the filing is to update the list of shared operating personnel between Stingray and its marketing affiliates in accordance with 250.16(d)(2) of the Commission's Regulations.

Stingray states that a copy of the filing were mailed to Stingray jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 7, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-2121 Filed 1-29-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. MT90-3-001]

Trailblazer Pipeline Co.; Change in Tariff

Janaury 23, 1991.

Take notice that on December 28, 1990, Trailblazer Pipeline Company (Trailblazer) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, First Revised Sheet Nos. 132 and 133 to be effective January 27, 1991.

Trailblazer states that the purpose of the filing is to update the list of shared operating personnel between Trailblazer and its marketing affiliates in accordance with § 250.16(d)(2) of the Commission's Regulations.

Trailblazer states that a copy of the filing were mailed to Trailblazer jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions of protests must be filed on or before February 7, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-2119 Filed 1-29-91; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed During the Week of December 21 Through December 28, 1990

During the Week of December 21 through December 28, 1990, 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.

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 procedual 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.

Dated: January 23, 1991.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS DURING THE WEEK OF DECEMBER 21 THROUGH DECEMBER 28, 1990

Date	Name and Location of Applicant	Case No.	Type of Submission
Dec. 21, 1990	Texaco/Walker's Texaco Deland, Florida	RR321-45	Request for Modification/Rescission in the Texaco Refund Proceeding. If Granted: The September 13, 1990 Decision and Order (Case Nos. RF321-1992 & RF321-4611) issued to Walker's Texaco would be modified regarding the firm's application submitted in the Texaco refund proceeding.
Dec. 27, 1990	Lewis, King, Krieg & Waldrop Knoxville, Tennessee.	LFA-0093	Appeal of an Information Request Denial. If Granted: The November 21, 1990 Freedom of Information Request Denial issued by the Oak Ridge Operations Office would be rescinded, and Lewis, King, Krieg & Waldrop would receive access to DOE information.

Date Received	Name of Refund Proceeding/ Name of Refund Application	Case Number
12/26/90	United Garage & Service Corp.	RF315-10114
12/27/90	Louisiana Land & Exploration.	RF326-202
12/27/90	Calhoun-Smith Distribution.	RF326-203
12/27/90	Cordova Public Utilities.	RF326-204
12/27/90	Santa Fe Trail Transportation.	RF315-10117
12/27/90	BN Transport, Inc.	RF315-10118
12/21/90 thru 12/28/90.	Crude Oil Refund, Applications Received.	RF272-85415 thru RF272-85638
12/21/90 thru 12/28/90.	Gulf Refund, Applications Received.	RF300-14407 thru RF300-14628
12/21/90 thru 12/21/90.	Texaco Refund, Applications Received.	RF321-12308 thru RF321-12441

[FR Doc. 91-2173 Filed 1-29-91; 8:45 am]
BILLING CODE 6450-01-M

Issuance of Decisions and Orders During the Week of November 5 through November 9, 1990

During the week of November 5 through November 9, 1990, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Barton J. Bernstein, 11/05/90; KFA-0251

Barton J. Berstein filed an Appeal from a determination issued by the Director of the DOE's Executive Secretariat. The Determination denied a Request for Information which Berstein had filed pursuant to the Freedom of Information Act (FOIA). In his Request, Bernstein asked for a copy of Edward Teller's Comments on the Bethe Thermonuclear History, dated August 14, 1952 (Comments). In considering the Appeal, the DOE declassified certain portions of the Comments which had been previously withheld and released those portions to Bernstein. The DOE also determined that the remaining withheld information in the Comments had properly been classified under the Atomic Energy Act of 1954 and that Exemption 3 protected this information from being released pursuant to the FOIA. Accordingly, the Appeal was granted in part.

Refund Applications

Atlantic Richfield Company/Petrosol International LTD., Imperial Oil Limited, 11/09/90; RF304-10438, RF304-10587

The DOE issued a Decision and Order concerning Applications for Refund filed in the Atlantic Richfield Company special refund proceding by Petrosol International Ltd. and Imperial Oil Limited. Both applicants are Candian corporations, that requested refunds based upon purchases of Arco refined petroleum products. The DOE found that Arco's sales of the claimed volumes were export sales, and therefore were specifically exempt from the Mandatory Petroleum Price and Allocation Regulations. Since overcharges could not occur in exempt sales, no refunds to alleviate the impact of Arco's alleged overcharges were warranted. Both Applicants for Refund were therefore denied.

Belridge Oil Company et al./Minnesota, 11/06/90; RM8-234 et al.

The DOE issued a Decision and Order approving the Motion for Modification filed by the State of Minnesota in the Belridge, Vickers, Pennzoil and Amoco II refund proceedings. The DOE granted the State's request to modify the restitutionary program which was approved in *Belridge Oil Company/Minnesota*, 14 DOE ¶ 85,097 (1986). The State proposed to spend $1,568,705 in unspent funds to extend its low-income weatherization program. The DOE found that the proposal was part of a balanced overall program of restitution and would provide restitution to Minnesota citizens by reducing their home energy costs.

Cordova Electric Cooperative, 11/07/90; RF272-7018

The DOE issued a Decision and Order granting an Application for Refund filed by Cordova Electric Cooperative in the subpart V crude oil refund proceeding. The DOE found that the applicant, which is an electric utility, was eligible for a crude oil refund. A consortium of 30 states and 2 territories (the States) filed objections to this application. In their submissions, the States argued that the applicant was not entitled to a refund because it passed through any increased petroleum product prices to its customers. The DOE determined that since the applicant certified that it would pass the refund through to its customers and that it would notify the appropriate regulatory body of its receipt of a refund, a refund of $6,547 should be granted.

Dresser Industries, Inc., 11/05/90; RF272-15859, RD272-15859

The DOE issued a Decision and Order concerning an Application for Refund filed on behalf of Dresser Industries, Inc., in the subpart V crude oil refund proceeding. The DOE determined that the refund claim was meritorious and granted a refund of $249,088. The DOE also denied a Motion for Discovery filed by a consortium of 28 states and 2 territories (the States) and rejected their challenge to the claim. The DOE found that the industry-wide econometric data submitted by the States did not rebut the presumption that the applicant was injured by crude oil overcharges.

Exxon Corporation/Oceana Terminal Corporation, 11/07/90; RF307-9335

The DOE issued a Decision and Order granting an Application for Refund filed

by Oceana Terminal Corporation in the Exxon Corporation special refund proceeding. Oceana was a direct purchaser of Exxon products, and its allocable share is greater than $5,000. The DOE determined that Oceana was eligible to receive a refund equal to 40 percent of its allocable share. The refund granted in this Decision is $10,917 ($8,152 principal plus $2,765 interest).

Exxon Corporation/Sartain's Exxon Service, 11/06/90; RF307–10161

The DOE issued a Supplemental Order in the Exxon Corporation special refund proceeding regarding Sartain's Exxon Service (Sartain's) (Case No. RF307–4476). In *Exxon Corp./Sartain's Exxon Service,* Case No. RF307–4476 *et al.* (September 26, 1990), Sartain's was granted a refund of $1,815 based upon its purchases of Exxon refined petroleum products. However, the Decision was returned as undelivered and the DOE was subsequently unable to obtain a correct address for this applicant. The refund granted to Sartain's was therefore rescinded.

Murphy Oil Corporation/Village Store, Inc. et al., 11/06/90; RF309–428 et al.

The DOE issued a Decision and Order denying nine Applications for Refund in the Murphy Oil Corporation refund proceeding. Each applicant purchased Murphy petroleum products on a sporadic basis and was preliminarily identified as a spot purchaser. Each applicant was given an opportunity to reply to our preliminary spot purchaser finding, but none of the applicants convincingly established that they were regular purchasers of Murphy petroleum products or rebutted the spot purchaser presumption of non-injury. Therefore, their refund application was denied.

Pennzoil Company et al./Arkansas, 11/06/90; RM10–238 et al.

The DOE issued a Decision and Order approving the Motion for Modification filed by the State of Arkansas in the Pennzoil, OKC, Coline, and National Helium refund proceedings. The DOE granted the States' request to modify the restitutionary program which was approved in *Pennzoil Company/Arkansas, 19 DOE ¶ 85,699 (1989). The State proposed to spend $17,000 in interest earned on the funds received in Pennzoil/Arkansas* to create a public televison program promoting residential energy conservation. The DOE found that the proposal would provide restitution to Arkansas citizens by encouraging homeowners to conserve energy and thereby decrease energy costs.

Reynolds Electrical & Engineering Co., Inc., 11/05/90; RF272–507, RD272–507

The DOE issued a Decision and order concerning the refund application of Reynolds Electrical & Engineering Co., Inc. (REECo) in the subpart V crude oil refund proceeding. The applicant was under contract with the DOE to manage the DOE's Nevada Test Site, and purchased petroleum products for the DOE under a cost type contract under which the DOE reimbursed REECo for all fuel costs, including any increased fuel costs. Accordingly, the DOE, not REECo, sustained all fuel cost increases and thus any crude oil overcharges. Therefore, REECo's Application for Refund was denied. In light of the denial, the DOE dismissed the discovery motion filed by a group of states and territories, that had opposed the application.

Shell Oil Company/Army and Air Force Exchange Service, 11/07/90; RF315–5428 et al.

The DOE issued a Decision and Order granting 29 Applications for Refund filed in the Shell Oil Company refund proceeding by the Army and Air Force Exchange Service (AAFES), a non-profit, non-appropriated instrumentality of the Federal Government. The primary responsibility of AAFES is to provide military personnel and their dependents with merchandise and services at a reduced price. All of the profits generated from the sale of merchandise or services at AAFES are used for military morale, welfare, and recreation (MWR) programs. The DOE concluded that because of the unique manner in which AAFES established retail prices at its retail gasoline stations, the WMR program absorbed the full amount of any alleged overcharges. AAFES was therefore found eligible to receive a refund amount equal to its full allocable share, as well as interest accrued on the principal. The total refund granted in this Decision and Order is $81,967 ($62,635 principal plus $19,132 interest).

Shell Oil Company/C & L Shell, 11/08/90; RF315–7074, RF315–10054

The DOE issued a Decision and Order concerning refund applications filed in the Shell Oil Company refund proceeding by Lawrence Totaro and Carmine A. Langone, who were partners in C & L Super Shell, until Totaro bought out Langone. Totaro was granted a $1,349 refund ($1,034 principal and $315 interest) based on one-half of the station's purchases during the time in which it was a partnership and on all of the station's covered purchases when he was its sole proprietor. Langone previously received a refund based on 100% of the station's purchases during the partnership period and some purchases made after he sold his partnership interest and, therefore, was ordered to remit to the DOE the sum of $732, an amount equal to one-half of the refund during the partnership period and the entire refund he received for the period after he sold his interest in the station.

Shell Oil Company/Caveman Oil, 11/08/90; RF315–4002

The DOE issued a Decision and Order denying the application filed in the Shell Oil Company refund proceeding by Hays Oil Co. on behalf of Caveman Oil, a reseller of Shell products. In 1984, the former owner of Caveman sold all of the assets of Caveman to Hays. In instances of a sale of assets, absent contractual terms to the contrary, the right to a potential refund remains with the individual who owned the firm during the consent order period and suffered the alleged overcharges. Accordingly, as nothing in the sales agreement indicated that potential refunds were among the assets being transferred to Hays, the DOE denied the application that Hays had filed on behalf of Caveman.

Shell Oil Company/Edson, Inc., Edson, Inc., 11/06/90; RF315–4554, RF315–4954

The DOE issued a Decision and Order in the Shell Oil Company special refund proceeding granting the application of the present owner of Edson, Inc., a retailer of Shell products, and denying that of the claimant who owned Edson during the consent order period. In 1985, the former owner sold all the stock of Edson to the present owner. In instances of a sale of stock, the refund is considered to be transfered to the new owner. Accordingly, the DOE granted the present owner a refund of $1,653 ($1,267 principal plus $386 interest).

Standard Oil Co. (Indiana)/North Carolina, 11/08/90; RM251–237

The State of North Carolina requested permission to transfer $200,000 in Standard Oil Co. (Indiana) second-stage refunds from an Insulation Rebate Advertising Program to Car Care Clinics, an established program which educates North Carolina motorists in energy-efficient vehicle maintenance and driving techniques. North Carolina's Motion for Modification was approved in full because the clinics will provide restitution to injured consumers of refined petroleum products by increasing the energy efficiency of their vehicles and reducing energy consumption.

State Escrow Distribution, 11/06/90; RF302–9

The DOE ordered the disbursement to the State Governments of $14,550,000 in alleged crude oil violation funds received in eight cases. The use of the crude oil funds by the States is governed by the Stripper Well Settlement Agreement.

Texaco Inc./Golden Meadow Oil Co. Inc. et al., 11/05/90; RF321–3100 et al.

The DOE issued a Decision and Order concerning nine Applications for Refund filed in Texaco Inc. special refund proceeding. Each of the applicants purchased directly from Texaco and was a reseller whose allocable share is greater than $10,000. The DOE found that each applicant had received product volume credits for Texaco "Delivery For Our Account" (DFOA) transactons. Consequently, the DOE determined that the applicants were not injured in those instances and therefore are ineligible to receive a refund for DFOA purchases. Instead of making an injury showing to receive its full allocable share, each applicant elected to limit its claim to the larger of $10,000 or 50 percent of its approved allocable share up to $50,000. The sum of the refunds granted in this Decision is $183,004 ($153,863 principal and $29,141 interest).

Texaco Inc./Hull Oil Company, 11/07/90; RF321–3743, RF321–6731

The DOE issued a Decision and Order concerning two Applications for Refund filed in the Texaco Inc. special refund proceeding. Both Applications were based on the purchases of Texaco products by Hull Oil Company. One application, filed by Dale Fogelman, the current owner of Hull, was denied because the right to a refund was not transferred to Fogelman from the previous owner. The other application, filed by Leslie G. Hull, the owner of Hull during the consent order period, was granted. The refund granted was $11,449 ($9,626 principal plus $1,823 interest).

Winn-Dixie Stores, Inc., 11/09/90; RF273–197, RD272–197

The DOE issued a Decision and Order granting a refund from crude oil overcharges funds to Winn-Dixie Stores, Inc., based on its purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. The applicant, a supermarket chain, demonstrated the volume of its claim by using contemporaneous records and reasonable estimates. The applicant was an end-user of the products it claimed and was therefore presumed injured by the DOE. A group of states and territories (the States) filed objections to the application, contending that the firm was not injured because it was able to pass through to customers any overcharges it suffered due to the elasticities of supply and demand that exist in any industry. The DOE found the States' objections to be without merit. The States also filed a Motion for Discovery in connection with the application, which was denied for reasons discussed in earlier subpart V crude oil Decisions. *See, e.g., Christian Haaland A/S*, 17 DOE ¶ 85,439 (1988).

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Atlantic Richfield Company/ Consumers Cooperative of Walworth County et al.	RF304–2295	11/09/90
Atlantic Richfield Company/ Knorr's Arco et al.	RF304–4098	11/08/90
Browning-Ferris Industries of Elizabeth, NJ, Inc.	RF272–77096	11/08/90
Edward Chickos & Sons Co., Inc.	RF272–59587	11/08/90
Pioneer International, Inc	RF272–59866	
Exxon Corporation/Santos Exxon et al.	RF307–1754	11/07/90
Farmers Union Oil Co. et al	RF272–58025	11/07/90
Gulf Oil Corp./George's Gulf et al.	RF300–11462	11/07/90
Gulf Oil Corp./Interstate Gulf	RF300–10003	11/09/90
Jabes Gulf	RF300–10004	
Modern Gas Service Corporation.	RF300–10098	
Murphy Oil Corp./Foster's Spur on First.	RF309–1401	11/06/90
Nobles County Coop Oil et al.	RF272–60826	11/05/90
Placid Oil Co./Harrell's Starflite Service Station et al.	RF314–77	11/08/90
Shell Oil Company/Bill Morrow's Shell.	RF315–10077	11/08/90
Shell Oil Company/Dugan Oil Company, Inc.	RF315–1405	11/06/90
Shell Oil Company/Napa Valley Petroleum, Inc.	RF315–10075	11/07/90
Shell Oil Company/West End Shell.	RF315–3396	11/08/90
Mike's Shell Service	RF315–3397	
Texaco Inc./Benoit Distributing et al.	RF321–2249	11/08/90
Texaco Inc./Douglass Texaco et al.	RF321–991	11/09/90
Texaco Inc./Henry's Service Station, Inc. et al.	RF321–3901	11/09/90
Texaco Inc./Parrott Oil Corp. et al.	RF321–3558	11/09/90
Texaco Inc./Perkins Road Texaco.	RF321–4187	11/08/90
Perkins Road Texaco	RF321–9639	
Texaco Inc./Roy Kovar Texaco et al.	RF321–1507	11/08/90
Texaco Inc./South May Texaco.	RF321–5611	11/08/90
South May Texaco	RF321–9615	
Texaco Inc./Stratford Marina, Inc. et al.	RF321–2304	11/07/90
The Garden City Co-Op, Inc. et al.	RF272–70488	11/07/90
W.W. & W.B. Gardner Inc	RF272–35457	11/08/90

Dismissals

The following submissions were dismissed:

Name	Case No.
Archercross Roads Gulf	RF300–11221
Barber Gulf Service	RF300–11535
Bell Fuel Corp.	RF300–11183
Bruton's Gulf	RF300–11302
Burton's Gulf Service	RF300–12174
C.W. Griggs Grocery	RF300–12114
Charles A. Malphus	RF272–70063
City Service Station	RF300–12157
City Service Station	RF300–11256
Delorme Gulf Station	RF300–11938
Evans Gulf Service	RF300–11448
Fleming's Gulf Service	RF300–11824
Fortson Store	RF300–11447
Franklin Shell II	RF315–1433
Frisby's Gulf Service	RF300–11899
Gibson's Gulf Service	RF300–13021
Gibson's Holday Gulf	RF300–11604
Grammer's Gulf	RF300–12170
Grosse Pointe Shell	RF315–322
Hakel Oil Co.	RF272–59735
Heil Texaco Service	RF321–362
Hugh's Shell, Inc.	RF315–4604
J.T. Bierden Contractors	RF272–58091
John's Gulf	RF300–12245
Lahey's Gulf	RF300–11505
Laura Scudder's Inc.	RF272–62543
Leader Gulf	RF300–11699
Leonard McDonald Grocery	RF300–11936
Marlboro Shell	RF315–1426
Marvin Matheson	RF300–11773
Medfield Gulf	RF300–11467
Medway Shell Self Service	RF315–1427
Mid-Town Gulf	RF300–12151
Mike's Gulf Service	RF300–12078
Mountain View Gulf	RF300–11453
Natural Resources Defense Council.	LFA–0075
Pittman's Gulf Service	RF300–12236
Presidents Park Gulf	RF300–12090
Ron Lusby Gulf	RF300–11241
S&W Shell	RF315–9930
Stroupe Shell	RF315–9929
Sunny Hill Gulf	RF300–12079
Texas Dept. of Corrections	RF272–16738
The Timken Co.	RF272–497
Tom L. Estes Distributing	RF300–12087
Virginia Avenue Gulf	RF300–12113
Woodward-Granger Community School District.	RF272–81248

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E–234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: January 23, 1991.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 91–2172 Filed 1–29–91 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3900-7]

Prevention of Significant Deterioration of Air Quality (PSD) Final Determinations

AGENCY: United States Environmental Protection Agency.

ACTION: Notice of final actions.

SUMMARY: The purpose of this notice is to announce that between April 1, 1990 and November 30, 1990, the United States Environmental Protection Agency (EPA), Region II Office, issued two final determinations, the New York State Department of Environmental Conservation (NYSDEC) issued sixteen final determinations, and the New Jersey Department of Environmental Protection (NJDEP) issued one final determination pursuant to the Prevention of Significant Deterioration of Air Quality (PSD) regulations codified at 40 CFR 52.21.

DATES: The effective dates for the above determinations are delineated in the following chart (See **SUPPLEMENTARY INFORMATION**).

FOR FURTHER INFORMATION CONTACT: Mr. Steven C. Riva, Chief, Air and Environmental Applications Section, Permits Administration Branch, Office of Policy and Management, U.S. Environmental Protection Agency Region II Office, 26 Federal Plaza, room 505, New York, New York 10278, (212) 264–4711.

SUPPLEMENTARY INFORMATION: Pursuant to the PSD regulations, the EPA Region II, in NYSDEC, and the NJDEP have made final determinations relative to the sources listed below:

Name	Location	Project	Agency	Final action	Date
Manchester Wood	Granville, NY	Wood furniture manufacturing plant including coating and painting lines.	NYSDEC	Non-applicability	April 18, 1990.
Lederle Labs Cogeneration Project.	Pearl River, NY	This project consists of 2 Solar Mars Gas Turbines which will generate 17MW of electricity followed by a supplmentally fired heat recovery steam generator.	NYSDEC	PSD Permit	May 7, 1990.
Jamestown Macadam	Jamestown, NY	Drum mix asphalt plant. Production limited to 1,219,512 tons/year of asphalt.	NYSDEC	Non-applicability	May 16, 1990.
IBM	East Fishkill, NY	Increase in allowable operation of existing steam boilers.	NYSDEC	Non-applicability	May 23, 1990.
Weschester County	White Plains, NY	Replacement of four residual oil-fired boilers with three new residual oil-fired boilers.	NYSDEC	Non-applicability	May 23, 1990.
Algonquin Gas Transmission Company.	Southeast, NY	Addition of 97 MMBTU/hr gas turbine.	NYSDEC	Non-applicability	June 13, 1990.
E.I. DuPont De Nemours	Tonawanda, NY	Addition of Tedlar manufacturing line.	NYSDEC	Non-applicability	June 20, 1990.
Chateaugay Energy Limited Partnership.	Chateaugay, NY	17.8 MW wood fired boiler/power plant.	NYSDEC	PSD Permit	June 21, 1990.
NYSEG	Binghamton, NY	Permit amendment to include the use of elemental emulsified sulfur as an additive in the flue gas desulfurization (FGD) system.	EPA	PSD Permit Amendment	July 5, 1990.
Indeck Oswego L.P.	Oswego, NY	Revision to original PSD permit. Addition of 30 MMBTU/hr duct burner and temporary gas compressor.	NYSDEC	PSD Permit Amendment	August 1, 1990.
Caribbean Petroleum	San Juan, PR.	PSD permit modification to increase the daily feed rate of the fluid catalytic cracking unit from 12,000 barrels/day to 14,200 barrels/day.	EPA	PSD Permit Amendment	August 13, 1990.
Albany Cogeneration Associates.	Albany, NY	Revision of NYSDEC permit. Replacement of proposed two MMBTU/hr auxiliary boilers with two 57 MMBTU/hr units.	NYSDEC	Non-applicability	August 29, 1990.
Binghamton Cogeneration L.P.	Binghamton, NY	50 MM gas turbine combined cycle cogeneration plant.	NYSDEC	PSD Permit	September 12, 1990.
TBG Cogeneration	Bethpage, NY	Amendment to original permit. Clarification of particulate emission limit resulting in a decrease in potential annual emissions.	NYSDEC	PSD Permit Amendment	September 12, 1990.
Dunkirk Cogeneration Facility	Dunkirk, NY	50 MW gas turbine combined cycle cogeneration plant.	NYSDEC	Non-applicability	October 3, 1990.
Cibro Petroleum Company	Albany, NY	Refinery expansions.	NYSDEC	Non-applicability	October 3, 1990.
General Foods Corporation	Bay Shore, NY	5.4 MW internal combustion engine plant.	NYSDEC	Non-applicability	October 10, 1990.
Encogen Four Partners	Buffalo, NY	62 MW gas turbine combined cycle cogeneration plant.	NYSDEC	Non-applicability	October 10, 1990.

Name	Location	Project	Agency	Final action	Date
Union County Resource Recovery Facility.	Rahway, NJ	Construction of a Resource Recovery Facility consisting of three 480 ton/day municipal solid waste incinerators and associated structures and equipment.	NJDEP	PSD Permit	November 28, 1990.

This notice lists only the sources that have received final PSD determinations. Anyone who wishes to review these determinations and related materials should contact the following offices:

EPA Actions

United States Environmental Protection Agency, Region II Office, Permits Administration Branch—room 505, 26 Federal Plaza, New York, New York 10278.

NYSDEC Actions

New York State Department of Environmental Conservation, Division of Air Resources, Source Review and Regional Support Section, 50 Wolf Road, Albany, New York 12233—0001.

NJDEP Actions

New Jersey Department of Environmental Protection, Division of Environmental Quality, Bureau of Engineering and Technology, 401 East State Street, Trenton, New Jersey 08625.

If available pursuant to the Consolidation Permit Regulations (40 CFR 124), judicial review of these determinations under section 307(b)(1) of the Clean Air Act (the Act) may be sought *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days from the date on which these determinations are published in the **Federal Register.** Under section 307(b)(2) of the Act, these determinations shall not be subject to later judicial review in civil or criminal proceedings for enforcement.

Dated: January 8, 1991.

William J. Muszynski,

Acting Regional Administrator.

[FR Doc. 91-2161 Filed 1-29-91; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30310; FRL-3844-1]

W.R. Grace and Co.; Approval of Pesticide Product Registration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of applications submitted by W. R. Grace and Co., to register the pesticide products WRC-AP-1 and WRC-GL-21 containing an active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: Susan Lewis, Product Manager (PM) 21, Registration Division (H7505C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 229, CM #2, Environmental Protection Agency, 1921 Jefferson Davis Hwy, Arlington, VA 22202, (703–557–1900).

SUPPLEMENTARY INFORMATION: EPA received applications from W. R. Grace and Co., 7379 Route 32, Columbia, MD 21044, to register the pesticide products WRC-AP-1 and WRC-GL-21, containing the active ingredient *Gliocladium virens* GL-21 at 12 and 20 percent respectively; an active ingredient not included in any previously registered products. However, since the notice of receipt of applications to register the products as required by section 3(c)(4) of FIFRA, as amended, was not published in the **Federal Register,** interested parties may submit comments within 30 days from the date of publication of this notice.

These applications were approved on November 21, 1990, for WRC-AP-1 for soil application in greenhouses and control of damping-off of ornamentals and food crops (EPA Reg. No. 11688–3) and WRC-GL-21 for manufacturing use only in formulation of fungicides (EPA Reg. No. 11688–4).

The Agency has considered all required data on risks associated with the proposed use of *Gliocladium virens* GL-21, and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health safety determinations which show that use of *Gliocladium virens* GL-21 when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects to the environment.

More detailed information on this registration is contained in a Chemical Fact Sheet on *Gliocladium virens* GL-21.

A copy of this fact sheet, which provides a summary description of the chemical, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the Product Manager. The data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Public Docket, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 246, CM #2, Arlington, VA 22202 (703–557–4456). Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), 401 M St., SW., Washington, DC 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

Dated: January 11, 1991.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 91–2160 Filed 1–29–91; 8:45 am]

BILLING CODE 6560–50–F

[OPP–100083; FRL–3873–8]

Food and Drug Administration, Department of Agriculture, Office of Compliance Monitoring, Planning Research Corporation; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to certain persons who have submitted information to EPA in connection with

pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). The Food and Drug Administration (FDA), U.S. Department of Agriculture (USDA), EPA Office of Compliance Monitoring (OCM) and its subcontractor, the Planning Research Corporation (PRC), under an Interagency Agreement (IAG) will perform work for EPA's Office of Pesticide Programs, and will be provided access to certain information submitted to EPA under FIFRA and the FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to FDA, USDA, OCM and its subcontractor, PRC, consistent with the requirements of 40 CFR 2.209(c), 2.307(h)(3), and 2.308(i)(2). This transfer will enable FDA, USDA, OCM and its subcontractor, PRC, to fulfill the obligations of the IAG, and this notice serves to notify affected persons.

DATES: FDA, USDA, OCM and its subcontractor, PRC, will be given access to this information no sooner than February 11, 1991.

FOR FURTHER INFORMATION CONTACT: By mail: Clare Grubbs, Program Management and Support Division (H7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 212, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 557–4460.

SUPPLEMENTARY INFORMATION:

Under this IAG which supports the Office of Pesticides Programs regulatory efforts, FDA, USDA, OCM and its subcontractor, PRC, compiled a list, set forth below, of canceled and unregistered food-use pesticides (active ingredients) which are manufactured in the U.S. and exported to foreign countries. Manufacturers and manufacturing locations of these pesticides will be identified for proposed tables needed to help EPA, USDA, and FDA quantify unregistered U.S. pesticide exports and estimate the extent of registered or unregistered pesticide exports.

Benzoximate
Bitertanol
Blasticidin-S
BPMC
Buprimate
Buprofezin
Buthidazole
Carbendazin
Cartap
Chloropropylate
Ciometrinilo
Cyprofuram
Cymoxanil
Diclobutrazol
Diclozolinate
Diethylamine
Diethyl urea
Dinoseb acetate
Dimethametryn
Edifenphos
Ethidimuron
Ethiofencarb
Fenaminosulf
Fentin acetate
Flamprop-methyl
Flubenzimine
Fluorodifen
Flutriafol
Haloxyfob-methyl
Hexaconazole
IBP
Ioxynil
Isopropyl 4,4-dichlorobenzilate
Isoprothiolane
Mephosfolan
Mepronil
Methabezthiazuron
Methyl isothiocyanate
Mirex
Nitrothal-isopropyl
Omethoate
Ofurace
Penconazole
Phenothiol
Phenothrin
Phenthoate
Piperophos
Polyoxin
Prochloraz
Procymidone
Pyracarbolid
Slithion
Terbumeton
Tetramethrin
Thiocyclam-hydrogenoxalate
Tiocarbazil
Tokuthion
Kasugamycin

The Office of Pesticide Programs has determined that access to this information is necessary for the performance of this IAG.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of FFDCA.

In accordance with the requirements of 40 CFR 2.209(c), 2.307(h), and 2.308(h)(2), this IAG with FDA, USDA, OCM and its subcontractor, PRC, prohibits use of the information in any form to a third party without prior written approval from the Agency; and requires that each official and employee sign an agreement to protect the information from unauthorized release or compromise and to handle it in accordance with the FIFRA Information Security Manual. No information will be provided until the above requirements have been fully satisfied. Records of information provided under this IAG will be maintained by the Project Officer for each task in the EPA Office of Pesticide Programs.

All information supplied to FDA, USDA, OCM and its subcontractor, PRC, by EPA for use in connection with this IAG will be returned to EPA when FDA, USDA, OCM and its subcontractor have completed their work.

Dated: January 18, 1991.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 91–1935 Filed 1–29–91; 8:45 am]

BILLING CODE 6560–50–F

[OPP–30000/58; FRL–3845–7]

Availability of Docket Indices for Pesticide Special Reviews

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of docket indices for pesticide Special Reviews and provides information on how interested persons may request inclusion on an Agency mailing list to receive such indices.

ADDRESSES: Persons wishing to be included on a mailing list to receive Special Review docket indices should direct their requests to: Public Docket and Freedom of Information Section (H7506C), Public Information Branch, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

The request should include the name of the person wishing to be included on the mailing list, their affiliation (if any), and mailing address. Organizations, groups, and companies are requested not to submit multiple requests under different names, but to designate a primary recipient with the organization. This will help reduce mailing costs and Agency time in administering the mailing list.

In person, bring comments to: Rm. 246, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The public docket is available for public inspection and copying at this address from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: For information on public dockets, their availability, and docket indices, contact Deena Vann, Docket Manager (703–557–2805) in Rm. 246 at the above address.

SUPPLEMENTARY INFORMATION: Special Review is a process whereby the Agency determines whether the use of a pesticide causes unreasonable adverse effects to humans or the environment. In reaching a regulatory decision, the

Agency assesses both the risks and benefits posed by the use of the pesticide. The assessment may result in requirements for submission of data to fully evaluate the safety of the chemical according to contemporary scientific standards.

Current regulations on Special Reviews provide for the establishment and maintenance of a public docket for each pesticide under Special Review. Each docket contains, among other things, materials submitted to the Agency by parties outside of the government, Agency documents made available to persons outside of the government, and memoranda of meetings with persons outside of the government concerning pending Special Reviews.

In accordance with 40 CFR 154.15(f)(3) of the Special Review regulations, the Agency has established a mailing list of persons wishing to receive the Special Review docket indices on a regular basis. Persons on the mailing list will automatically receive the indices (or updates to previous indices) for Special Review open dockets. These will be distributed on a monthly or quarterly basis, as required by the regulations. Persons will be required to renew their requests for inclusion on the mailing list annually.

The purpose of this notice is to inform the public of Special Review dockets which are currently available and that interested persons may request their name be placed on the mailing list. It also serves to provide the public with an opportunity to submit additional data pertinent to these reviews.

The following list contains the Special Review chemicals with docket indices available:

2,4-Dichlorophenoxyacetic acid (2,4-D)
2,4-Dichlorophenoxypropionic acid (2,4-DP)
4-(2,4-Dichlorophenoxy)butyric acid (2,4-DB)
Alachlor
Aldicarb
Amitrole
Bromoxynil
Cadmium
Captan
Captafol
Carbofuran
Carbon tetrachloride
Chlordane
Chlordimeform
Cyanazine
Cyhexatin
Daminozide
Diallate
Diazinon
Dichloropropene
Dichlorvos
Dicofol
Diflubenzuron
Dinocap
Dinoseb
EBDC
O-Ethyl-O-(p-nitrophenyl)phenylphosphonothioate (EPN)
Ethyl parathion
Ethylene dibromide (EDB)
Ethylene oxide
Inorganic arsenicals
Lindane
Linuron
Mercury
Monocrotophos
Oxydemeton-methyl
Pentachlorphenol
Sodium fluoroacetate (Compound 1080)
Strychnine
Tributyltin
Trichlorophenol
Triphenyltin hydroxide (TPTH)
Wood preservatives

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of a comment that does not contain CBI must be submitted for inclusion in the public docket. Information not designated "confidential" may be disclosed publicly by EPA without prior notice to the submitter.

Persons currently on the Agency mailing list for Special Review indices must resubmit requests for continued inclusion on the mailing list at this time.

Dated: January 16, 1991.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 91-1801 Filed 1-29-91; 8:45 am]

BILLING CODE 6560-50-F

[OPP-50709; FRL-3793-8]

Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR part 172, which defines EPA procedures with respect to the use of pesticides for experimental use purposes.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person or by telephone: Contact the product manager at the following address at the office location or telephone number cited in each experimental use permit: 1921 Jefferson Davis Highway, Arlington, VA.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

62128-EUP-9. Issuance. AgriSense, c/o Russell Cook, Phillips Petroleum Company, 13 A3 Phillips Building, Bartlesville, OK 74004. This experimental use permit allows the use of 396 pounds of the pheromone (Z)-11-hexadecenal on 1,000 acres of artichokes and conifers to evaluate the control of artichoke plume moth. The program is authorized only in the States of California, Idaho, and Oregon. The experimental use permit is effective from June 15, 1990 to June 15, 1992. A permanent tolerance for residues of the active ingredient in or on artichokes has been established (40 CFR 180.1069). (Phil Hutton, PM 17, Rm. 201, CM #2, (703-557-4412))

62128-EUP-10. Issuance. AgriSense, c/o Russell Cook, Phillips Petroleum Company, 13 A3 Phillips Building, Bartlesville, OK 74004. This experimental use permit allows the use of 185 pounds of the pheromone (Z)-7-(Z,E)-11-hexadecadien-1-ol on 800 acres of cotton to evaluate the control of the pink bollworm. The program is authorized only in the States of Arizona and California. The experimental use permit is effective from September 1,1990 to September 1,1992. An exemption from the requirement of a tolerance for residues of the active ingredient in or on cotton has been established (40 CFR 180.1043). (Phil Hutton, PM 17, Rm. 201, CM #2, (703-557-4412))

42545-EUP-1. Extension. Agrolinz, Inc., 1755 N. Kirby Parkway, Suite 300, Memphis, TN 38119-4393. This experimental use permit allows the use of 5456.25 pounds of the herbicide O-(6-chloro-3-phenyl-4-pyridazinyl)-S-octyl carbonothioate on 3,500 acres of corn to evaluate the control of broad-spectrum weeds. The program is authorized in the States of Colorado, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, South Dakota, Virginia, Washington, and Wisconsin. The experimental use permit is effective from June 12, 1990 to June 12, 1992. A temporary tolerance for residues of the active ingredient in or on corn has been established. (Robert Taylor, PM 25, Rm. 245, CM #2, (703-557-1800))

42545-EUP-2. Extension. Agrolinz, Inc., 1755 N. Kirby Parkway, Suite 300, Memphis, TN 38119-4393. This experimental use permit allows the use

of 6,750 pounds of the herbicide O-(6-chloro-3-phenyl-4-pyridazinyl)-S-octyl-carbonothioate on 3,600 acres of peanuts to evaluate the control of broad-spectrum weeds. The program is authorized only in the States of Alabama, Florida, Georgia, New Mexico, North Carolina, Oklahoma, South Carolina, Texas, and Virginia. The experimental use permit is effective from June 12, 1990 to June 12, 1992. A temporary tolerance for residues of the active ingredient in or on peanuts has been established. (Robert Taylor, PM 25, Rm. 245, CM #2, (703–557–1800))

7969–EUP–24. Extension. BASF Corporation, Agricultural Chemicals Group, P.O. Box 13528, Research Triangle Park, NC 27709–3528. This experimental use permit allows the use of 360 pounds of the herbicide N,N-dimethylpiperidinium chloride on 1,440 acres of grapes to evaluate the control of various weeds. The program is authorized only in the States of Michigan, Ohio, Pennsylvania, New Jersey, and New York. The experimental use permit is effective from September 14, 1990 to June 30, 1991. Temporary tolerances for residues of the active ingredient in or on grapes, raisins, and raisin waste and pomace (wet and dry) have been established. (Robert Taylor, PM 25, Rm. 245, CM #2, (703–557–1800))

7969–EUP–27. Extension. BASF Corporation, Agricultural Chemicals Group, P.O. Box 13528, Research Triangle Park, NC 27709–3528. This experimental use permit allows the use of the remaining supply of the 535 pounds originally authorized of the herbicide 3,7-dichloro-8-quinolinecarboxylic acid on 112.5 acres of established turf grasses to evaluate the control of various weeds. The program is authorized only in the States of California, Delaware, Georgia, Illinois, Indiana, Kentucky, Maryland, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, and Virginia. The experimental use permit is effective from September 5, 1990 to December 31, 1990. (Robert Taylor, PM 25, Rm. 245, CM #2, (703–557–1800))

53575–EUP–2. Issuance. BioControl Limited, 719 Second St., Suite 12, Davis, CA 95616. This experimental use permit allows the use of the insecticides carbaryl (60 pounds), volatile floral attractants (140 pounds), and *cucurbita foetidissima* root powder (1,000 pounds) on 2,000 acres of field corn to evaluate the control of adult corn rootworms. The program is authorized only in the States of Illinois, Indiana, Iowa, Nebraska, South Dakota, and Texas. The experimental use permit is effective from August 1, 1990 to August 1, 1991. (Phil Hutton, PM 17, Rm. 201, CM #2, (703–557–2690))

100–EUP–90. Extension. Ciba-Geigy Corporation, Agricultural Division, P.O. Box 18300, Greensboro, NC 27419–8300. This experimental use permit allows the use of 55.13 pounds of the herbicide 3-(6-methoxy-4-methyl-1,3,5-triazin-2-yl)-1-[2-(2-chloroethoxy)phenylsulfonyl]urea on 2,100 acres of wheat and barley to evaluate the control of various broadleaf weeds. The program is authorized in the States of Colorado, Delaware, Idaho, Illinois, Indiana, Kansas, Maryland, Michigan, Montana, Nebraska, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Texas, Virginia, Washington, and Wyoming. The experimental use permit is effective from September 14, 1990 to December 31, 1991. A temporary tolerance for residues of the active ingredient in or on wheat and barley (forage, grain, and straw) has been established. (Robert Taylor, PM 25, Rm. 245, CM #2, (703–557–1800))

612–EUP–4. Issuance. Unocal, Unocal Chemicals Division, c/o Delta Management Group, 1414 Fenwick Lane, Silver Spring, MD 20910. This experimental use permit allows the use of 48,870 pounds of the herbicide carbon disulfide on 290 acres of almonds, apricots, peaches, and prunes to evaluate the control of various nematodes. The program is authorized only in the States of Arizona and California. The experimental use permit is effective from April 27, 1990 to December 15, 1990. Temporary tolerances for residues of the active ingredient in or on almonds hulls, apricots, peaches, and plums have been established. (Susan Lewis, PM 21, Rm. 227, CM #2, (703–557–1900)).

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquires concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136.

Dated: November 26, 1990.

Anne E. Lindsay,

Director, Registrtion Division, Office of Pesticide Programs.

[FR Doc. 91–1654 Filed 1–29–91; 8:45 am]

BILLING CODE 6560–50–F

[OPP–180837; FRL–3843–3]

Pesticide Programs Annual Report on Crisis Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice summarizes the number of crisis exemptions declared and the number of crisis exemptions revoked during fiscal years 1989 and 1990. During 1989, State and Federal agencies issued 75 crisis exemptions authorizing unregistered pesticide uses in accordance with the regulations at 40 CFR 166.40 pursuant to section 18 of FIFRA. During this same time period, EPA revoked one crisis exemption. During 1990, State and Federal agencies issued 62 crisis exemptions. During this same time period, EPA revoked one crisis exemption; revoked the authority to utilize the crisis provisions for two pesticide uses; and revoked but later reinstated the authority to utilize the crisis provisons for one pesticide use. EPA also revoked one State's authority to issue crisis exemptions for any pesticide use for a period of 1 year.

FOR FURTHER INFORMATION CONTACT: Rebecca S. Cool, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–5459).

SUPPLEMENTARY INFORMATION: The regulations pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act require the EPA to issue annually a notice for publication in the **Federal Register** which summarizes the number of crisis exemptions declared and the number of crisis exemptions revoked.

Subpart C of 40 CFR part 166 sets forth the regulations pertaining to crisis exemptions. This subpart allows the head of a Federal or State agency to issue a crisis exemption in a situation involving an unpredictable emergency situation when: (1) An emergency condition exists; and (2) the time element with respect to the application of the pesticide is critical, and there is not sufficient time either to request a specific, quarantine, or public health exemption or, if such a request has been submitted, for EPA to complete review of the request. This subpart also provides for EPA review of crisis exemptions and revocation of individual crisis exemptions or the authority of a State or Federal agency to utilize the crisis provisions.

During the fiscal year 1989 (October 1, 1988 through September 30, 1989), a total of 75 crisis exemptions were declared by State and Federal agencies. A breakdown of the FY'89 crisis declarations by State/Federal agencies follows:

State/Federal Agency	No. of crisis exemptions	Pesticide	Site
Arkansas	2	Sodium chlorate	Southern peas
		Sodium chlorate	Wheat
California	4	Zinc phosphide	Sugar beets
		Methyl bromide	Watermelons
		Hexakis	Melons
		Sethoxydim	Dry beans
Colorado	1	Fenvalerate	Small grains
Florida	8	Cyromazine	Carrots
		Iprodione	Cabbage
		Propiconazole	Celery
		Cyromazine	Chrysanthemum
		Vinclozolin	Blueberries
		Avermectin	Tomatoes
		Metalaxyl	Blueberries
		Propiconazole	Sweet corn
Georgia	2	Sodium dinitrocresol	Peach trees
		Permethrin	Southern peas
Hawaii	5	Fosetyl-al	Macadamias
		Chlorpyrifos	Bananas
		Diazinon	Bananas
		Glyphosate	Bananas
		Picloram	Bananas
Illinois	1	Sethoxydim	Peas
Indiana	1	Thiodicarb	Corn
Kansas	3	Fenvalerate	Winter wheat
		Metsulfuron-methyl	Wheat
		Diquat dibromide	Wheat
Louisiana	1	Sodium chlorate	Wheat
Michigan	2	Benomyl	Seed corn
		Avermectin	Pears
Minnesota	4	Fenoxaprop-ethyl	Wheat
		Fenvalerate	Small grains
		Esfenvalerate	Wildlife area
		Mancozeb	Sunflowers
Mississippi	2	Sodium chlorate	Wheat
		Sodium chlorate	Oats
Montana	2	Chlorpyrifos	Wheat
		Esfenvalerate	Small grains
New Mexico	1	Bifenthrin	Corn
North Dakota	3	Benomyl	Canola
		Mancozeb	Sunflowers
		Methyl bromide	Honey bees
Ohio	1	Thiodicarb	Corn
Oklahoma	4	Chlorpyrifos	Wheat
		Metsulfuron-methyl	Wheat
		Diquat dibromide	Wheat
		Propiconazole	Peanuts
Pennsylvania	1	Thiodicarb	Corn
Puerto Rico	1	Triadimefon	Coffee
Texas	13	Sodium chlorate	Pinto beans
		Chlorpyrifos	Wheat, winter
		Fenvalerate	Leafy vegs.
		Bifenthrin	Corn, field
		Chlorothalonil	Mushrooms
		Sodium chlorate	Wheat
		Diquat dibromide	Wheat
		Bifenthrin	Corn, field
		Fenvalerate	Sorghum
		Iprodione	Rice
		Propiconazole	Peanuts
		Fenvalerate	Sorghum
		Cyromazine	Peppers

State/Federal Agency	No. of crisis exemptions	Pesticide	Site
USDA	5	Ethylene oxide	Bird seed
		Ethylene oxide	Sunflowers
		Methyl bromide	Pineapples
		Methyl bromide	Chayote
		Methyl bromide	Plantains/melons
Virginia	1	Lactofen (Cobra)	Peanuts
Washington	3	Chlorpyrifos	Wheat
		Methyl bromide	Watermelons
		Phosphamidon	Hops
Wisconsin	3	Sethoxydim	Peas
		Sethoxydim	Peas
		Propiconazole	Celery
Wyoming	1	Esfenvalerate	Wheat/Barley

During the 1989 fiscal year, EPA revoked Washington's crisis exemption for use of phosphamidon on hops to control the hop aphid.

During the fiscal year 1990 (October 1, 1989 through September 30, 1990), a total of 62 crisis exemptions were declared by State and Federal agencies. A breakdown of the FY'90 crisis declarations by State/Federal agencies follows:

State/Federal Agency	No. of crisis exemptions	Pesticide	Site
Arkansas	2	Bromoxynil	Rice
		Sodium chlorate	Wheat
California	2	Fosetyl-al	Spinach
		Hexakis	Sweet corn
Colorado	2	Chlorpyrifos	Wheat
		Esfenvalerate	Small grains
Florida	5	Avermectin	Celery
		Fosetyl-al	Lettuce
		Iprodione	Cabbage
		Avermectin	Celery
		Chlorothalonil	Mangoes
Idaho	1	Oxydemeton-methyl	Bluegrass
Illinois	4	Thiabendazole	Corn, field
		Dimethoate	Canola
		Oxyfluorfen	Horseradish
		Propiconazole	Corn, field
Indiana	1	Propiconazole	Corn, field
Kansas	4	Esfenvalerate	Small grains
		Chlorpyrifos	Wheat
		Metsulfuron-methyl	Wheat
		Bifenthrin	Corn, field
Louisiana	4	Sodium chlorate	Wheat
		Dicofol	Vetch, seed
		Bromoxynil	Rice
		Esfenvalerate	Sorghum
Maine	1	Na fluoaluminate	Potatoes
Maryland	2	Acephate	Bees
		Clomazone	Cucumbers
Michigan	5	Pendimethalin	Onions
		Avermectin	Pears
		Triadimefon	Asparagus
		Chlorothalonil	Asparagus
		Propiconazole	Corn, field
Mississippi	3	Bromoxynil	Rice
		Sodium chlorate	Wheat
		Sodium chlorate	Oats
Montana	2	Esfenvalerate	Wheat/Barley
		Esfenvalerate	Wheat/Barley
Nebraska	2	Cyfluthrin	Sorghum
		Bifenthrin	Corn, field
New Mexico	1	Bifenthrin	Corn, field
North Dakota	1	Chlorpyrifos	Wheat
Ohio	1	Thiodicarb	Corn, field
Oregon	1	Cyfluthrin	Pears

State/Federal Agency	No. of crisis exemptions	Pesticide	Site
South Carolina	1	Acephate	Tomatoes
South Dakota	2	Esfenvalerate	Wheat
		Chlorpyrifos	Wheat
Texas	8	Cypermethrin	Onions
		Drc-1339	Livestock
		Esfenvalerate	Winter wheat
		Metsulfuron-methyl	Wheat
		Sodium chlorate	Winter wheat
		Triclopyr	Rice
		Bifenthrin	Corn, field
		Chlorothalonil	Chili peppers
USDA	2	Methyl bromide	Oranges
		Methyl bromide	Cucumbers
Washington	2	Cyfluthrin	Pears/Apples
		Paraquat dichloride	Peas/Lentils
Wisconsin	2	Propiconazole	Celery
		Propiconazole	Corn, field
Wyoming	1	Chlorpyrifos	Wheat

During the 1990 fiscal year, EPA revoked North Dakota's crisis exemption for the use of chlorpyrifos on wheat to control grasshoppers. EPA also revoked the authority of Oklahoma to issue crisis exemptions for any pesticide for a period of 1 year; the authority of Illinois, Indiana, Michigan, and Wisconsin to issue crisis exemptions for the use of propiconazole on field corn to control fungal diseases; and the authority of Michigan to issue crisis exemptions for the use of pendimethalin on onions to control broadleaf weeds. EPA revoked but subsequently reinstated the authority of Kansas and Nebraska to issue crisis exemptions for the use of bifenthrin on field corn to control mites.

Authority: 7 U.S.C. 136

Dated: December 26, 1990.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 91–1653 Filed 1–29–91; 8:45 am]

BILLING CODE 6560–50–F

[OPP–100084; FRL–3873–9]

Wilson Hill Associates Inc; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Wilson Hill Associates Inc. has been awarded a contract to perform work for the EPA Office of Pesticide Programs, Special Review and Reregistration Division (SRRD) and will be provided access to certain information submitted to EPA under FIFRA and the FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to Wilson Hill Associates Inc. consistent with the requirements of 40 CFR 2.307(h)(3) and 40 CFR 2.308(i)(2). This action will enable Wilson Hill Associates Inc. to fulfill the obligations of the contract and this notice serves to notify affected persons.

DATES: Wilson Hill Associates Inc. will be given access to this information no sooner than February 4, 1991.

FOR FUTHER INFORMATION CONTACT: By mail: Clare Grubbs, Program Management and Support Division (H7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 212, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 557–4460.

SUPPLEMENTARY INFORMATION: Under Contract No. 68–D8–0009, Wilson Hill Associates Inc. will add to two existing data base tracking systems which presently contains (1) Reregistration information for all active ingredients and keeps an inventory of all data requirements for 350 active ingredients, and (2) tracks all reregistration information for lists B, C, and D active ingredients on all the data call-ins that have been issued within the Office of Pesticide Programs.

The Office of Pesticide Programs has determined that Contract No. 68–D8–0009, involves work that is being conducted in connection with FIFRA, in that pesticide chemicals will be the subject of certain evaluations to be made under this contract. These evaluations may be used in subsequent regulatory decisions under FIFRA.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 6, and 7 of FIFRA and under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(3) and 2.308(i)(2), the contract with Wilson Hill Associates Inc. prohibits use of the information for any purpose other than the purposes specified in the contract; prohibits disclosure of the information in any form to a third party without prior written approval from the Agency or affected business; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In addition, Wilson Hill Associates Inc. is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to this contractor until the above requirements have been fully satisfied. Records of information provided to this contractor will be maintained by the Project Officer for this contract in the EPA Office of Pesticide Programs. All information supplied to Wilson Hill Associates Inc. by EPA for use in connection with this contract will be returned to EPA when Wilson Hill Associates Inc. has completed its work.

Dated: January 18, 1991.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 91-1934 Filed 1-29-91; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10220. Interested parties may submit protests or 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 and protests are found in § 560.602 and/or § 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.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No: 224-200402-002.

Title: Maryland Port Administration/ Puerto Rico Maritime Shipping Authority, Marine Terminal Agreement.

Parties: Maryland Port Administration, Puerto Rico Maritime Shipping Authority.

Filing Party: Brendan W. O'Malley, Executive Director, Maryland Port Administration, The World Trade Center, Baltimore, Maryland 21202-3041.

Synopsis: The Agreement extends the term of the parties' basic Lease Agreement for 90 days, effective February 9, 1991.

Agreement No: 224-010759-002.

Title: Puerto Rico Ports Authority/ Crowley Towing and Transportation Company Marine Terminal Agreement.

Parties:

Puerto Rico Ports Authority (Authority)

Crowley Towing and Transportation Company (Crowley)

Filing Party: Mayra N. Cruz Alvarez, Contracts Supervisor, Puerto Rico Ports Authority, G.P.O. Box 2829, San Juan, PR 00936-2829.

Synopsis: The Agreement provides for temporary relocation of Crowley's operation from Pier 9 to 500 lineal feet of dockage area, located at Isla Grande Dock or to a similar area in another dock.

By Order of the Federal Maritime Commission.

Dated: January 25, 1991.

Joseph C. Polking,

Secretary.

[FR Doc. 91-2159 Filed 1-29-91; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

January 24, 1991.

Background: Notice is hereby given of the final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public)

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Frederick J. Schroeder—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3829)

OMB Desk Officer—Gary Waxman—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202-395-7340)

Final Approval Under OMB Delegated Authority of the Extension, Without Revision, of the Following Reports

1. *Report title:* Domestic Branch Application.

Agency form number: FR 4001.

OMB docket number: 7100-0097.

Frequency: On occasion.

Reporters: State member banks.

Annual reporting hours: 430.

Estimated average hours per response: 1.0.

Number of respondents: 430.

Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. 321) and is not given confidential treatment.

Whenever a state member bank wishes to establish a domestic branch, it must receive the approval of the Federal Reserve by filing a domestic branch application, which is in the form of a letter addressed to the appropriate Federal Reserve Bank.

2. *Report title:* Investment in Bank Premises Application.

Agency form number: FR 4014.

OMB docket number: 7100-0139.

Frequency: On occasion.

Reporters: State member banks.

Annual reporting hours: 70.

Estimated average hours per response: 0.5.

Number of respondents: 140.

Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. 371d) and is not given confidential treatment.

Whenever a new investment in bank premises by a state member bank causes that bank's total dollar investment in bank premises to exceed 100 percent of the bank's capital stock account, the bank is required to send an application to the appropriate Reserve Bank requesting permission from the Federal Reserve to proceed.

3. *Report title:* Notice of Proposed Stock Redemption.

Agency form number: 4008.

OMB docket number: 7100-0131.

Frequency: On occasion.

Reporters: Bank holding companies.

Annual reporting hours: 1,860.

Estimated average hours per response: 15.5.

Number of respondents: 120.

Small businesses are affected.

General description of report: This information is mandatory (12 U.S.C. 1844) and is given confidential treatment (5 U.S.C. 552(b) (4), (6), and (8)).

The filing of this notice is required of a bank holding company proposing to purchase or redeem its shares when the gross consideration to be paid for such purchase or redemption is equal to 10 percent or more of the company's consolidated net worth over any 12-month period.

Final approval under OMB delegated authority of the extension, with revision, of the following reports

1. *Report title:* Application for Prior Approval to Become a Bank Holding Company.

Agency form number: FR Y-1.

OMB docket number: 7100-0119.

Frequency: Event-generated.

Reporters: Corporations seeking to become bank holding companies.

Annual reporting hours: 16,393.

Estimated average hours per response: 48.5.

Number of respondents: 338.

Small businesses are affected.

General description of report: This application provides systematic data on the structure of the proposal on the formation of a bank holding company to

acquire one or more banks, on the financial condition of the applicant, and on the competitive and convenience factors. The information is necessary to enable the Federal Reserve to fulfill its responsibilities under the Bank Holding Company Act. The proposed revisions request information based on risk-based capital guidelines, reflecting revisions made in the Board's capital guidelines, and clarify language in the form and instructions.

This report is required in order to engage in the activity and is authorized by law (12 U.S.C. 1842 section 3(a)(1)). Individual respondent data are available to the public except any portions granted confidential treatment at applicant request (5 U.S.C. 552(b) (4) and (8)).

2. *Report title:* Application for Prior Approval to Become a Bank Holding Company by Any Company Organized Under the Laws of a Foreign Country and Seeking Initial Entry into the United States Through Acquisition of a U.S. Subsidiary Bank.

Agency form number: FR Y–1F.

OMB docket number: 7100–0119.

Frequency: Event-generated.

Reporters: Companies organized under the laws of a foreign country and proposing to become a U.S. bank holding company.

Annual reporting hours: 462 hours.

Estimated average hours per response: 77.

Number of respondents: 6.

Small businesses are affected.

General description of report: This application provides systematic data on the structure of the proposal, on the financial condition of the applicant and its proposed subsidiary (ies), and on competition, and public convenience and needs. The information is required to enable the Federal Reserve to fulfill its responsibilities under the Bank Holding Company Act. The proposed revisions involve clarifications and item changes to conform the application to the FR Y–1 application filed by domestic bank holding companies (including proposed revisions to that application).

This application is required and authorized by law (12 U.S.C. 1842 section 3(a)(1)). Individual respondent information is available to the public except those portions granted confidential treatment at applicant request (5 U.S.C. 552(b)(4)).

3. *Report title:* Application for Prior Approval for a Bank Holding Company to Acquire an Additional Bank or Bank Holding Company.

Agency form number: FR Y–2.

OMB docket number: 7100–0171.

Frequency: Event-generated.

Reporters: Bank holding companies and state chartered banks that are members of the Federal Reserve System.

Annual reporting hours: 22,337.

Estimated average hours per response: Section 3: 59.0; Section 18(c): 39.0.

Number of respondents: Pursuant to section 3: 331; pursuant to section 18(c): 72.

Small businesses are affected.

General description of report: This report is an application for prior approval of the acquisition of direct or indirect ownership, control, or power to vote a certain percentage of the voting shares of a bank, and requests financial and managerial information on the applicant, and data on competition, public convenience and needs. The proposed revisions include the incorporation of the Bank Merger Application (FR 2070; OMB No. 7100–0045) requirements, the incorporation of risk-based capital guidelines, and the insertion of clarifying language in the form and instructions. The item requesting information on capital notes has been deleted.

This report is required and is authorized by law (12 U.S.C. 1842 section 3(a)(3)). Individual respondent data are available to the public except any portions which have been granted confidential treatment at applicant request (5 U.S.C. 552(b) (4) and (8)).

4. *Report title:* Application for Prior Approval to Engage Directly or Indirectly in Certain Nonbanking Activities.

Agency form number: FR Y–4.

OMB docket number: 7100–0121.

Frequency: Event-generated.

Reporters: Bank holding companies.

Annual reporting hours: 13,266.

Estimated average hours per response: Applications: 59.0; Notifications: 1.5.

Number of respondents: Applications 219; Notifications: 230.

Small businesses are affected.

General description of report: This form is completed by a bank holding company seeking prior approval to acquire or retain the assets or shares of a nonbank company. The proposed revisions request more information on debt instruments and intangible assets, on any debt incurred in connection with the proposed transaction, and the source of funding for any proposed leveraged activity.

This report is required and authorized by law (12 U.S.C. 1843 section 4(c)(8)). Individual respondent data are available to the public except any portions granted confidential treatment at applicant request (5 U.S.C. 552(b) (4) and (8)).

5. *Report title:* Monthly Survey of Industrial Electricity Use.

Agency form number: FR 2009A, B.

OMB docket number: 7100–0057.

Frequency: Monthly.

Reporters: Public and privately-owned electric utilities and self-generators.

Annual reporting hours: 4,914.

Estimated average hours per response: FR 2009A: 1.1; FR 2009B: 0.5.

Number of respondents: FR 2009A: 235; FR 2009B: 302.

Small businesses are not affected.

General description of report: This information collection is voluntary and is given confidential treatment (5 U.S.C. 552(b)(4)).

The report collects information on the volume of electric power sold to mining or manufacturing establishments or generated by such establishments for their own use. Survey results are used as a proxy for physical production measures in certain categories of the Industrial Production Index.

A sizeable increase is proposed in the reporting panel to reflect adequately the growth that has occurred over the years in cogenerator facilities; i.e., mining and manufacturing establishments that generate electric power for their own use.

Final Approval under OMB Delegated Authority of the Discontinuance of the Following Report

1. *Report title:* Application for Prior Written Consent to Effect a Merger.

Agency form number: FR 2070.

OMB docket number: 7100–0045.

Frequency: On occasion.

Reporters: State chartered banks that are members of the Federal Reserve System.

Annual reporting hours: 2,808.

Estimated average hours per reponse: 39.0.

Number of respondents: 72.

Small businesses are affected.

General description of report: This report is required by law (12 U.S.C. 1828(c)). Parts may be given confidential treatment at applicant's request (5 U.S.C. 552(b)(4)).

This form provides information on the pro forma financial condition of the applicant, a description of the proposed merger and the advantages it offers to the public's needs and convenience. The form is used by the Federal Reserve to evaluate the proposed merger as to financial soundness, competitive acceptability and consistency with the public interest.

The proposed revisions to the FR Y–2 application to acquire an additional bank (OMB No. 7100–0171) incorporate the requirements of this application. In

light of this factor, the Federal Reserve proposes that this separate application be discontinued.

Board of Governors of the Federal Reserve System, January 24, 1991.

William W. Wiles,

Secretary of the Board.

[FR Doc. 91–2135 Filed 1–29–91; 8:45 am]

BILLING CODE 6210–01–M

CB&T Financial Corp.;

Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 20, 1991.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. CB&T Financial Corp, Fairmont, West Virginia; to engage *de novo* through its subsidiary CB&T Operations Company, Inc., Fairmont, West Virginia, in the provision of data processing, proof and transit, bookkeeping and statement rendering, and reconcilement services to affiliated banks together with limited data processing services to non–affiliated banks, pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 24, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91–2131 Filed 1–29–91; 8:45 am]

BILLING CODE 6210–01–F

First American Financial Corporation;

Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under § 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application 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.

Comments regarding this application must be received not later than February 20, 1991.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. First American Financial Corporation, Sulphur Springs, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First American Bank of Sulphur Springs, N.A., Sulphur Springs, Texas.

Board of Governors of the Federal Reserve System, January 24, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91–2132 Filed 1–29–91; 8:45 am]

BILLING CODE 6210–01–F

Grenada Sunburst System Corporation;

Acquisition of Company Engaged in Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a) or (f) of the Board's Regulation Y (12 CFR 225.23(a) or (f)) for the Board's approval under § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 20, 1991.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Grenada Sunburst System Corporation, Grenada, Mississippi; to acquire Sunburst Financial Group, Inc., Jackson, Mississippi. Sunburst Financial Group, Inc., a wholly owned subsidiary

of Grenada Sunburst System Corporation, proposes to engage *de novo* in full-service brokerage activities, including investment advisory services to both institutional and retail customers (*Barnett Banks, Inc.*, 75 Federal Reserve Bulletin 190 (1989); *Bank of New England Corporation*, 74 Federal Reserve Bulletin 700 (1988); and *National Westminster Bank PLC*, 72 Federal Reserve Bulletin 584 (1986)). Sunburst Financial Group, Inc. also proposes to engage in riskless principal activities (*Bankers Trust New York Corp.*, 75 Federal Reserve Bulletin 829 (1989)).

Board of Governors of the Federal Reserve System, January 24, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-2133 Filed 1-29-91; 8:45 am]

BILLING CODE 6210-01-F

Norwest Corporation;

Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 20, 1991.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Norwest Corporation, Minneapolis, Minnesota; to acquire UBC Investment Corp. Denver, Colorado, and thereby engage in providing securities brokerage services pursuant to § 225.25(b)(15) of the Board's Regulation Y; and underwriting or dealing in government obligations and money market instruments pursuant to § 225.25(b)(16) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 24, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-2134 Filed 1-29-91; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

[File No. 911 0032]

American Stair-Glide Corp., et al.; Proposed Consent Agreement with Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, American Stair-Glide to grant a non-exclusive perpetual license to Cheney's technology involved in the production of curved stairway lifts, straight stairway lifts, and vertical wheelchair lifts, and a perpetual exclusive license to sell such products under the Cheney name and certain trade names, to a Commission-approved licensee, pursuant to a Commission-approved licensing agreement.

DATES: Comments must be received on or before April 1, 1991.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Steven Newborn, FTC/S-2308, Washington, DC 20580. (202) 326-2682.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order

In the matter of American Stair-Glide Corporation, a corporation; Access Industries, Inc., a corporation; and the Cheney Company, Inc., a corporation.

The Federal Trade Commission (the "Commission"), having initiated an investigation of the acquisition of the voting securities of The Cheney Company, Inc. by Access Industries, Inc., which is owned and controlled by American Stair-Glide Corporation (collectively the "Proposed Respondents"), and it now appearing the Proposed Respondents are willing to enter into an agreement containing an order requiring Proposed Respondents to make available through license certain technology, know-how and trade names, to cease and desist from certain acts, and providing for other relief,

It Is Hereby Agreed by and between Proposed Respondents, by their duly authorized officers and attorneys, and counsel for the Commission that:

1. Proposed Respondent American Stair-Glide Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri with its principal executive offices located at 4001 East 138th Street, Grandview, Missouri 64030.

2. Proposed Respondent Access Industries, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its principal executive offices located at 4650 College Boulevard, Suite 300, P.O. Box 7933, Overland Park, Kansas 66207.

3. Proposed Respondent The Cheney Company, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Wisconsin, with its principal

executive offices located at 2445 S. Calhoun Road, New Berlin, Wisconsin 53151.

4. Proposed Respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

5. Proposed Respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

6. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information with respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify Proposed Respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

7. This agreement is for settlement purposes only and does not constitute an admission by Proposed Respondents that the law has been violated as alleged in the draft of complaint here attached.

8. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to Proposed Respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following Order to license certain technology and know-how, and trade names, cease and desist from certain acts, and providing for other relief in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the Order shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to Order to Proposed Respondents' or their counsel's addresses, as stated in this Agreement, shall constitute service. Proposed Respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the Order, and no agreement, understanding, representation, or interpretation not contained in the Order or the agreement may be used to vary or contradict the terms of the Order.

9. Proposed Respondents have read the proposed complaint and Order contemplated hereby. They understand that once the Order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the Order. Proposed Respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final.

Order

I

As used in this Order, the following definitions shall apply:

A. "Stair-Glide" means American Stair-Glide Corporation, a Missouri corporation, and its directors, officers, employees, agents and representatives, its predecessors, successors, subsidiaries, divisions, groups, and any other coporations, partnerships, joint ventures, companies and affiliates that Stair-Glide controls, directly or indirectly, and their respective directors, officers, employees, agents and representatives, and their respective successors and assigns.

B. "Access" means Access Industries, Inc., a Missouri corporation, and its directors, officers, employees, agents and representatives, its predecessors, successors, subsidiaries, divisions, groups, and any other corporations, partnerships, joint ventures, companies and affiliates that Access controls, directly or indirectly, and their respective directors, officers, employees, agents and representatives, and their respective successors and assigns.

C. "Cheney" means The Cheney Company, Inc., a Wisconsin corporation, and its directors, officers, employees, agents and representatives, its predecessors, successors, subsidiaries, divisions, groups, and any other corporations, partnerships, joint ventures, companies and affiliates that Cheney controls, directly or indirectly, and their respective directors, officers, employees, agents and representatives, and their respective successors and assigns.

D. "Respondents" means Stair-Glide, Access, and Cheney.

E. "Cheney Name" shall mean the use of the name "Cheney" in conjunction with the Trade Names, as defined herein, and does not include use of the corporate name.

F. "Commission" means the Federal Trade Commission;

G. "Stairway lift" means any device that carries a person seated on a chair from one level to another on an incline up and down a stairway, and includes devices meeting Section 2002 of the ASME/ANSI (American Society of Mechanical Engineers/Americans National Standards Institute) A17.1 Code.

H. "Straight stairway lift" means any stairway lift designed for straight stairways.

I. "Curved stairway lift" means any stairway lift designed for stairways with landings, bends, or curves, and spiral stairways.

J. "Vertical wheelchair lift" means any device that carries a person in a wheelchair or standing, on a platform, vertically from one level to another, and includes devices meeting Section 2000 of the ASME/ANSI (American Society of Mechanical Engineers/American National Standards Institute) A17.1 Code.

K. "Stairway Lift Technology and Know-how" means all of Cheney's drawings, blueprints, patents, specifications, tests and other documentation, and all information contained therein or available to Cheney personnel relating to the design, and the production methods, processes and systems used by Cheney in the production, of curved stairway lifts and straight stairway lifts.

L. "Stairway Lift Trade Names" means all trademarks, registered names and trade names used by Cheney in the sale of curved stairway lifts and straight stairway lifts, including Liberty LX, Liberty LT, Liberty II, Liberty I, and Liberty Special.

M. "Vertical Wheelchair Lift Technology and Know-how" means all of Cheney's drawings, blueprints, patents, specifications, tests and other documentation, and all information contained therein or available to Cheney personnel relating to the design, and the production methods, processes and systems used by Cheney in the production, of vertical wheelchair lifts.

N. "Vertical Wheelchair Lift Trade Names" means all trademarks, registered names and trade names used by Cheney in the sale of vertical wheelchair lifts, including Handi-Lift, Handi Home Lift and Handi-enclosure.

O. "Technology and Know-how" means Stairway Lift Technology and Know-how and Vertical Wheelchair Lift Technology and Know-how.

P. "Trade Names" means Stairway Lift Trade Names and Vertical Wheelchair Lift Trade Names.

II.

It is ordered: A. Within twelve (12) months after the date this Order becomes final, Respondents shall grant to a licensee a perpetual non-exclusive license of the Technology and Know-how, and a perpetual exclusive license to sell curved stairway lifts, straight stairway lifts, and vertical wheelchair lifts in the United States under the Trade Names and under the Cheney Name, for a fixed sum without a royalty based on future sales. Respondents shall grant the license only to a licensee that receives the prior approval of the Commission and only pursuant to a licensing agreement that receives the prior approval of the Commission. The purpose of the licensing shall be to remedy the lessening of competition alleged in the Commission's complaint.

B. Respondents shall make available to the licensee such Cheney personnel, assistance and training at its facility in New Berlin, Wisconsin as the licensee might reasonably need to transfer the Technology and Know-how and shall continue providing such personnel, assistance and training at no additional cost for a period of time sufficient to satisfy the licensee's management that its personnel are appropriately trained in the Technology and Know-how. However, Cheney shall not be required to continue providing such personnel, assistance and training for more than six (6) months after the execution of the license agreement.

C. Respondents shall provide the licensee with lists of Cheney's suppliers of components and of its distributors of curved stairway lifts, straight stairway lifts, and vertical wheelchair lifts.

D. For a period of five (5) years, Respondents shall not enter into any sales or distribution agreement with any distributor exceeding one (1) year in duration for the sale of curved stairway lifts, straight stairway lifts, or vertical wheelchair lifts; shall not enter any exclusive agreement with any distributor limiting directly or indirectly the distributor's ability to sell curved stairway lifts, straight stairway lifts, or vertical wheelchair lifts of any other manufacturer; and shall not seek to prevent any distributor from selling curved stairway lifts, straight stairway lifts, or vertical wheelchair lifts of any other manufacturer by conditioning the sale of Respondents' products or the provision of any services on any distributor not selling curved stairway lifts, straight stairway lifts, or vertical wheelchair lifts of any other manufacturer.

E. Notwithstanding the foregoing, Respondents may submit for approval, and the Commission may in its sole discretion approve, separate licensees and licensing agreements (1) for the Stairway Lift Technology and Know-How and the Stairway Lift Trade Names, and (2) for the Vertical Wheelchair Lift Technology and Know-how and Vertical Wheelchair Lift trade names. In the event the Respondents submit for approval separate licensees and licensing agreements, the Commission may in its sole discretion approve one licensing agreement which does not include the right to sell under the Cheney Name.

F. Except as provided in Paragraph IV., and except during any transition period under a license agreement approved by the Commission, Respondents shall not use the Cheney Name in connection with any product sold in the United States. Provided, however, that Respondents shall not be required to change the corporate name of Cheney or to authorize the use of the Cheney Name for any purposes other than in connection with the sale of curved stairway lifts, straight stairway lifts, and vertical wheelchair lifts in the United States.

III

It is Further Ordered That: A. If Respondents have not licensed the Technology and Know-how, the Trade Names, and the Cheney Name, absolutely and in good faith and with the Commission's approval, as provided in Paragraph II, within twelve (12) months of the date this Order becomes final, Respondents shall consent to the appointment by the Commission of a trustee to license the Technology and know-how, the Trade Names, and the Cheney Name, and to provide to the licensee lists of Cheney's suppliers of components and of Cheney's distributors of curved stairway lifts, straight stairway lifts and vertical wheelchair lifts. Provided, however, if the Commission has not approved or disapproved a proposed license agreement within 120 days of the date the application for approval of such license agreement has been put on the public record, the running of the twelve (12) month period shall be tolled until the Commission approves or disapproves the license agreement. In the event the Commission or the Attorney General brings an action pursuant to section 5(1) of the Federal Trade Commission Act, 15 U.S.C. 45(1), or any other statute enforced by the Commission, Respondents shall consent to the appointment of a trustee in such action. Neither the appointment of a trustee nor a decision not to appoint a trustee under this Paragraph shall preclude the Commission or the Attorney General from seeking civil penalties or any other reflief available to it, including a court-appointed trustee, pursuant to Section 5(1) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by Respondents to comply with this Order.

B. If a trustee is appointed by the Commission or a court pursuant to Paragraph III.A of this Order, Respondents shall consent to the following terms and conditions regarding the trustee's powers, authorities, duties and responsibilities:

1. The Commission shall select the trustee, subject to the consent of Respondents, which consent shall not be unreasonably withheld.

2. The trustee shall, subject to the prior approval of the Commission, have the exclusive power and authority to license the Technology and know-how, the Trade Names, and the Cheney Name, and to provide to such licensee lists of Cheney's suppliers of components and of Cheney's distributors of curved stairway lifts, straight stairway lifts and vertical wheelchair lifts, as provided in Paragraph II.

3. The trustee shall have eighteen (18) months from the date of appointment to license the Technology and know-how, the Trade Names, and the Cheney Name. If, however, at the end of the eighteen-month period the trustee has submitted a plan of licensing or believes that licensing can be accomplished within a reasonable time, the period within which the trustee may license the Technology and know-how, the Trade Names, and the Cheney Name may be extended by the Commission. Provided, however, the Commission may only extend this period two (2) times.

4. The trustee shall have full and complete access to the personnel, books, records and facilities of Cheney related to the Technology and know-how, the Trade Names, and the Cheney Name, as the trustee may reasonably request. Respondents shall develop such financial or other information as such trustee may reasonably request and shall cooperate with any reasonable request of the trustee. Respondents shall take no action to interfere with or impede the trustee's efforts to license. Any delays in licensing caused by

Respondents shall extend the time for executing a license agreement under this Paragraph in an amount equal to the delay, as determined by the Commission or the court for a court-appointed trustee.

5. Subject to the Responsents' absolute and unconditional obligation to license at no minimum price and the purpose of licensing as stated in Paragraph II.A. of this Order, the trustee shall use his or her best efforts to negotiate the most favorable price and terms available for the Technology and know-how, the Trade Names, and the Cheney Name. The license shall be made in the manner set out in Paragraph II, provided, however, if the trustee receives bona fide offers from more than one prospective licensees, and if the Commission determines to approve more than one such licensee, the trustee shall grant a license to the licensee or licensees selected by Respondents from among those approved by the Commission.

6. The trustee shall serve, without bond or other security, at the cost and expense of Respondents, on such reasonable and customary terms and conditions as the Commission or a court may set. The trustee shall have authority to employ, at the cost and expense of Respondents, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are reasonably necessary to carry out the trustee's duties and responsibilities. The trustee shall account for all monies derived from the license and all expenses incurred. After approval by the Commission and, in the case of a court-appointed trustee, by the court, of the account of the trustee, including fees for his or her services, all remaining monies shall be paid at the direction of Respondents and the trustee's power shall be terminated. The trustee's compensation shall be based at least in significant part on a commission arrangement contingent on the trustee's licensing the Technology and Know-how, the Trade Names, and the Cheney Name.

7. Respondents shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, or liabilities arising in any manner out of, or in connection with, the trustee's duties under this Order.

8. Within sixty (60) days after appointment of the trustee, and subject to the prior approval of the Commission and, in the case of a court-appointed trustee, of the court, Respondents shall execute a trust agreement that transfers to the trustee all rights and powers necessary to permit the trustee to effect the license required by this Order.

9. If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner as provided in Paragraph III.A of this Order.

10. The Commission and, in the case of a court-appointed trustee, the court may on its own initiative or at the request of the trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the license required by this Order.

11. The trustee shall have no obligation or authority to operate or maintain the Technology and Know-how, the Trade Names, and the Cheney Name.

12. The trustee shall report in writing to Respondents and to the Commission every sixty (60) days concerning the trustee's efforts to license.

IV

It is further ordered: That pending the license agreement for the Technology and Know-how, Trade Names, and the Cheney Name:

A. Respondents shall maintain, preserve and promote all of the Technology and Know-how, Trade Names, and the Cheney Name so that such Technology and Know-how, Trade Names, and the Cheney Name can be licensed effectively and viably in accordance with the requirements of this Order. Respondents shall take such action as is necessary to maintain the viability, competitiveness, and marketability of Technology and Know-how, Trade Names and the Cheney Name.

B. Respondents shall refrain from taking any actions that may cause any material adverse change in the Technology and Know-how, Trade Names, and the Cheney Name.

V

It is further ordered: That Respondents shall remain in compliance with the license agreement entered pursuant to Paragraph II of this Order until the date at which all of the obligations under the license cease, and shall not, without the prior approval of the Commission, make or agree to any modifications, directly or indirectly, of any of the terms of such license agreement approved by the Commission, or make or agree to any other agreements with the licensee relating to curved stairway lifts, straight stairway lifts or vertical wheelchair lifts.

VI

It is further ordered: That, for a period commencing on the date this Order becomes final and continuing for ten (10) years, Respondents shall cease and desist from acquiring, without the prior approval of the Commission, directly or indirectly, through subsidiaries or otherwise any assets, any interest in, or the stock or share capital of any entity that owns or operates assets, engaged in the production, distribution or sale in or to the United States of any curved stairway lift, straight stairway lift, or vertical wheelchair lift.

VII

It is further ordered: That: A. Within sixty (60) days after the date this Order becomes final and every sixty (60) days thereafter until the Respondents have fully complied with the provisions of Paragraph II and III of this Order, Respondents shall submit to the Commission a verified written report setting forth in detail the manner and form in which Respondents intend to comply, are complying, or have complied with those provisions. Respondents shall include in their compliance reports, among other things reasonably required from time to time, a full description of substantive contacts or negotiations for the license specified in Paragraph II of this Order, including the identity of all parties contacted. Respondents also shall include in their compliance reports copies of all written communications to and from such parties, all internal memoranda, and reports and recommendations concerning the licensing.

B. One year from the date this Order becomes final and annually for nine years thereafter, Respondents shall file with the Commission a verified written report of its compliance with this Order.

VIII

It is further ordered: That, for the purpose of determining or securing compliance with this Order, and subject to any legally recognized privilege, upon written request and on reasonable notice to Respondents made to Stair Glide's principal office, Respondents shall permit duly authorized representatives of the Commission:

A. Access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of Respondents relating to any matters contained in this Order: and

B. Upon five days notice to Respondents and without restraint or

interference from Respondents, to interview officers or employees of Respondents, who may have counsel present, regarding such matters.

IX

It is further ordered: That, For a period of ten (10) years from the date this Order becomes final, Respondents shall notify the Commission at least thirty (30) days prior to any proposed change in any Respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation, dissolution or sale of subsidiaries or any other change that may affect compliance obligations arising out of the Order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted subject to final approval, an agreement containing a proposed consent order from American Stair-Glide Corporation ("Stair-Glide"), Access Industries, Inc. ("Access"), and the Cheney Company, Inc. ("Cheney").

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Commission's investigation of this matter concerned a consummated acquisition by Stair-Glide, through its subsidiary, Access, of Cheney. Stair-Glide, Access, and Cheney entered an Agreement to Hold Separate with the Commission upon consummation of the acquisition, pending the Commission investigation. Stair-Glide is a Grandview, Missouri-based manufacturer of curved stairway lifts, straight stairway lifts, vertical wheelchair lifts, and other accessibility equipment designed to assist the elderly and disabled in moving from one level to another of residential and commercial buildings. Cheney is a Milwaukee, Wisconsin-based manufacturer of similar products. Access was created by Stair-Glide for the sole purpose of acquiring Cheney, and is owned by Stair-Glide and the officers and directors of Stair-Glide. Stair-Glide and Cheney sell their products through accessibility contractors, durable medical equipment dealers, and elevator service companies.

The Commission has reason to believe that Stair-Glide's acquisition of Cheney may substantially lessen competition in the United States markets for curved stairway lifts, straight stairway lifts, and vertical wheelchair lifts, in violation of section 7 of the Clayton Act and section 5 of the Federal Trade Commission Act. Stair-Glide and Cheney are the only two manufacturers in the United States of curved stairway lifts and are the two largest United States manufacturers of straight stairway lifts and vertical wheelchair lifts; the combination of the two companies creates a dominant firm in each market. The Commission's proposed complaint alleges that the markets for curved stairway lifts, straight stairway lifts, and vertical wheelchair lifts are characterized by substantial barriers to entry because of the need to design and develop products, develop distribution, and build a reputation.

The agreement and order provides that Stair-Glide, Access, and Cheney must grant a non-exclusive perpetual license to Cheney's technology involved in the production of curved stairway lifts, straight stairway lifts, and vertical wheelchair lifts, to a licensee approved by the Commission. The proposed order would also require Cheney to provide technological assistance to the licensee.

The agreement and order also provides that Stair-Glide, Access, and Cheney must grant an exclusive license to sell curved stairway lifts, straight stairway lifts, and vertical wheelchair lifts in the United States under Cheney's trade names and the Cheney name. Stair-Glide, Access, and Cheney will be prohibited from marketing products under the Cheney name in the United States.

Cheney must license to a Commission approved licensee within one year. If a license has not been granted within one year, the Commission may appoint a trustee to license the technology and tradenames.

For five years, under the proposed order, Stair-Glide, Access, and Cheney will not be permitted to enter into long-term sales or distribution agreements; will not be able to enter into exclusive agreements limiting distributors' ability to sell curved stairway lifts, straight stairway lifts, or vertical wheelchair lifts of any other manufacturer; and will not be able to condition the sale of products or the provision of services on any distributor not selling curved stairway lifts, straight stairway lifts, or vertical wheelchair lifts of any other manufacturer.

The proposed order also would provide that for a period of ten years Stair-Glide, Access, and Cheney may not acquire, without the prior approval of the Commission, any assets used in or any interest in any other firm manufacturing or selling curved stairway lifts, straight stairway lifts, and vertical wheelchair lifts in the United States.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

Dissenting Statement of Commissioner Mary L. Azcuenaga in American Stair-Glide Corporation, File No. 911–0032

I disagree with the majority that a remedy is warranted in this case. I see no basis for finding reason to believe that the acquisition is unlawful, unless we rely solely on market share and concentration data in the alleged product markets. The likelihood of anticompetitive effect is doubtful because of the absence of any barriers or impediments to entry.

The products can be designed and assembled well within the two-year benchmark against which we usually assess entry conditions. The additional alleged impediments to entry, the need to develop distribution and build a reputation, are nothing more than inertia. Consumers—here, the distributors that resell and install the products—will continue to deal with a supplier that has an established record for quality and service, unless someone offers them a better deal. Nothing bars an aspirant from offering a quality product at a competitive price, either through existing distributors or through, for example, durable medical equipment dealers.

Even if we assume that the need to build a reputation for quality and service is sufficient to delay entry for more than two years, the proposed consent order offers little prospect for relief. A firm without such a reputation cannot acquire it simply by using the name "Cheney." Instead, any licensee under the proposed consent order will have to develop its own reputation for quality and reliability. The proposed order is unlikely to provide relief from any potential anticompetitive effects stemming from the impediments to entry alleged in the complaint. At the same time, the proposed order imposes substantial compliance costs on the respondents, the Commission and, ultimately, the public.

I dissent.

[FR Doc. 91–2158 Filed 1–29–91; 8:45 am]

BILLING CODE 6750–01–M

[Docket No. C-3318]

Fertility Institute of Western Maasschusetts, et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a Springfield, Ma., fertility institute and its proprietor from misrepresenting: the number or percentage of patients that achieve success in overcoming infertility, including the number or percentage of patients that give birth or achieve pregnancy; the success rate of any infertility procedure, without competent and reliable scientific evidence to substantiate the claims; or the cost or expense of any infertility test or precedure. The order also prohibits respondents from misrepresenting their qualifications or ability to provide infertility treatments, and any beneficial or therapeutic aspects of any test or procedure relating to the treatment of infertility.

DATES: Complaint and Order issued December 31, 1990.[1]

FOR FURTHER INFORMATION CONTACT: Sara Greenberg, Boston Regional Office, Federal Trade Commission, 10 Causeway St., room 1184, Boston, MA. 02222–1073; (617) 565–7240.

SUPPLEMENTARY INFORMATION: On Friday, October 19, 1990, there was published in the **Federal Register**, 55 FR 42479, a proposed consent agreement with analysis In the Matter of Fertility Institute of Western Massachusetts, et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

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

Donald S. Clark,

Secretary.

[FR Doc. 91–2155 Filed 1–29–91; 8:45 am]

BILLING CODE 6750–01–M

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

[Docket No. C-3319]

IVF Australia, Ltd., et al; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a Connecticut based corporation and its two subsidiaries, all of whom are major providers of infertility services, especially *in vitro* fertilization, from misrepresenting in its advertising, promotion, or sale the success rate in achieving pregnancies or births.

DATES: Complaint and Order issued December 31, 1990.[1]

FOR FURTHER INFORMATION CONTACT: Michael Katz, FTC/H–200, Washington, DC 20580. (202) 326–3123.

SUPPLEMENTARY INFORMATION: On Friday, September 14, 1990, there was published in the **Federal Register**, 55 FR 37960, (*correction*, 55 FR 41881) a proposed consent agreement with analysis in the Matter of IVF Australia, Ltd., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

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

Donald S. Clark,

Secretary.

[FR Doc. 91–2156 Filed 1–29–91; 8:45 am]

BILLING CODE 6750–01–M

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

[Dkt. C-3317]

NME Hospitals, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a corporation based in Santa Monica, Ca., that owns a medical center in Boca Raton, Fla., that operates an infertility clinic, to possess a reasonable basis for any future success rate claims for its *in vitro* fertilization procedures, and for claims of success in terms of either live births or pregnancies achieved through any of its infertility treatments.

DATES: Complaint and Order issued December 31, 1990.[1]

FOR FURTHER INFORMATION CONTACT: Michael Katz, FTC/H–200, Washington, DC 20580; (202) 326–3123.

SUPPLEMENTARY INFORMATION: On Friday, September 14, 1990, there was published in the **Federal Register**, 55 FR 37962, (*correction*, 55 FR 41881) a proposed consent agreement with analysis In the Matter of NME Hospitals, Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

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

Donald S. Clark,

Secretary.

[FR Doc. 91–2157 Filed 1–29–91; 8:45 am]

BILLING CODE 6750–01–M

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. 90F-0285 and 90P-0289]

Food Additive Petition; Butylated Hydroxyanisole (BHA)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending the comment period for the submission of comments in response to the notice of filing of a food additive petition and a citizen petition on butylated hydroxyanisole (BHA). This extension responds to two comments which requested that the comment period be extended to allow additional time to compile the data FDA requested in the notice.

DATES: The new final date for the submission of comments on this proceeding is April 29, 1991.

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

FOR FURTHER INFORMATION CONTACT: Lawrence J. Lin, Center for Food Safety and Applied Nutrition (HFF-330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: In the Federal Register of November 29, 1990 (55 FR 49576), FDA published a notice of filing of a food additive petition and a citizen petition, submitted by Glenn Scott, M.D., requesting that the food additive regulations, the generally recognized as safe (GRAS) regulations, and the prior sanction regulations be amended to prohibit the use of BHA in food. In the notice, the agency requested comments on the availability of substitutes to BHA, the potential economic impact of prohibiting use of BHA, the animal studies contained in the submission and their relevance to humans, the petitioner's conclusions based on these studies, the need for a peer review and any other scientific or legal issues raised by the submission. The comment period specified in the notice ended on January 28, 1991.

Two comments requested that the comment period be extended. One comment from the Grocery Manufacturers of America, Inc., stated that at least an additional 30 days were needed to compile the information that was requested by the agency. The other comment from the Institute of Shortening and Edible Oils, Inc., requested a 90-day extension for the submission of the requested information. The agency is attempting to gain additional information on the animal feeding studies submitted with the petition and is organizing all relevant safety information in preparation for a possible peer review. The agency expects that it will not be able to reach a decision within 90 days and such an extension will not cause further delay in the review of the petition. The agency is, therefore, extending the comment period to provide for the submission of comments until April 29, 1991, as requested.

Any person who is interested in providing comments on the issues identified above or any other scientific or legal issues raised by the submission involving BHA, may at any time on or before April 29, 1991, file with the Dockets Management Branch (address above) written comments. Three copies of all comments and/or documents shall be submitted and shall be identified with the docket numbers found in brackets in the heading of this document. Any comments received in response to the notice may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 25, 1991.

L. Robert Lake,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 91-2259 Filed 1-28-91; 11:33 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Medicare and Medicaid Programs; Meeting of the Advisory Council on Social Security

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of public hearing.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces a hearing of the Advisory Council on Social Security.

DATES: The hearing will be open to the public on February 14, 1991 from 10 a.m. to 7:30 p.m.

ADDRESSES: County Administration Center, Supervisors Chambers, room 310, 1600 Pacific Highway, San Diego, California 920-2472, or

FOR FURTHER INFORMATION CONTACT: Arta Mahboubi, Advisory Council on Social Security, room 638 G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, 202-245-0217.

SUPPLEMENTARY INFORMATION:

I. Purpose

Under section 706 of the Social Security Act (the Act), the Secretary of Health and Human Services (the Secretary) appoints the Council every four years. The Council examines issues affecting the Social Security retirement, disability, and survivors insurance programs, as well as the Medicare and Medicaid programs, which were created under the Act.

In addition, the Secretary has asked the Council specifically to address the following:

- The adequacy of the Medicare program to meet the health and long-term care needs of our aged and disabled populations, the impact on Medicaid of the current financing structure for long-term care, and the need for more stable health care financing for the aged, the disabled, the poor, and the uninsured;
- Major Old-Age, Survivors, and Disability Insurance (OASDI) financing issues, including the long-range financial status of the program, relationship of OASDI income and outgo to budget-deficit reduction efforts under the Balanced Budget and Emergency Deficit Control Act of 1985, and projected buildups in the OASDI trust funds; and
- Broad policy issues in Social Security, such as the role of Social Security in overall U.S. retirement income policy.

The Council is composed of 12 members: G. Lawrence Atkins, Robert M. Ball, Philip Briggs, Lonnie R. Bristow, Theodore Cooper, John T. Dunlop, Karen Ignagni, James R. Jones, Paul O'Neill, A.L. "Pete" Singleton, John J. Sweeney, and Don C. Wegmiller. The chairperson is Deborah Steelman.

The Council is to report to the Secretary and Congress by Spring 1991.

II. Agenda

The Council will hear testimony on the interim report on Social Security and its relationship to the Federal budget; other aspects of the social security programs; and issues and options related to health care financing reforms; including long term care.

The agenda items are subject to change as priorities dictate.

[Catalog of Federal Domestic Assistance Programs Nos. 93.714 Medical Assistance Programs; 93.733 Medicare-Hospital Insurance; 93.774 Medicare-Supplementary Medical Insurance; 93.802, Social Security-Disability Insurance; 13.803 Social Security-

Retirement Insurance; 93.805 Social Security-Survivor's Insurance]

Dated: Dated January 25, 1991.

Ann D. LaBelle,

Executive Director, Advisory Council on Social Security.

[FR Doc. 91–2179 Filed 1–29–91; 8:45 am]

BILLING CODE 4120–01–M

Public Health Service

President's Council on Physical Fitness and Sports; Meeting, Correction

AGENCY: Office of the Assistant Secretary for Health, PHS, HHS.

ACTION: Notice of meeting; correction.

SUMMARY: This notice corrects the address of a forthcoming meeting of the President's Council on Physical Fitness and Sports scheduled to be held February 4, 1991—9 a.m.–4 p.m.

ADDRESSES: Longworth House Office Building, House Agriculture Committee Hearing Room—Room 1302, Independence Avenue between C & South Capitol Sts., SE., Washington, DC 20515.

Dated: January 25, 1991.

Wilmer D. Mizell,

Executive Director, President's Council on Physical Fitness and Sports.

[FR Doc. 91–2107 Filed 1–29–91; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Reestablishment of the Royalty Management Advisory Committee

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice reestablishment.

SUMMARY: The Secretary of the Interior (Secretary) is reestablishing the Royalty Management Advisory Committee (RMAC) Charter, which expired September 16, 1989. The new Charter will terminate in 2 years. This reestablishment is required to allow RMAC to continue its work relative to the various royalty management policies and procedures. This Notice is published in accordance with 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), and this reestablishment action has been reviewed and concurred with by the Administrator of the General Services Administration.

FOR FURTHER INFORMATION CONTACT: Deborah Gibbs, Minerals Management Service, Royalty Management Program, Staff Services, Denver Federal Center, Building 85, P.O. Box 25165, Mail Stop 3060, Denver, Colorado, 80225, telephone number (303) 231–3410, (FTS) 326–3410.

SUPPLEMENTARY INFORMATION: The RMAC was established for a 2-year period by the Secretary in August 1985 and reestablished September 16, 1987, to provide advice and recommendations on differrent elements of the Royalty Management Program that have been and are of continuing interest to States, Indian tribes, Indian allottees, and industry. The RMAC consists of members representing the diversified interests of these groups. The RMAC has ensured that the Department of the Interior has a mechanism for soliciting the viewpoints of organizations most affected by royalty-related policies. The Department has no other capabilities to meet these objectives through other organizations or committees.

CERTIFICATION: I hereby certify that the Royalty Management Advisory Committee is in the public interest in connection with the performance of duties imposed on the Department of the Interior by numerous legislative requirements, most recently by the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.). Significant and continuing statutory requirements can also be found in the Allotted Lands Indian Leasing Act of March 3, 1909 (25 U.S.C. 396 et seq.), the Tribal Lands Leasing Act of May 11, 1938 (25 U.S.C. 396a et seq.), the Indian Mineral Development Act of December 22, 1982 (25, U.S.C. 2101 et seq.), the Mineral Lands Leasing Act of February 25, 1920 (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands of August 7, 1947 (30 U.S.C. 351 et seq.), the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.), the Submerged Lands Act of 1953 (43 U.S.C. 11301 et seq.), and the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331 et seq.), as amended in 1978 (43 U.S.C. 1801 et seq.), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711).

Dated: October 3, 1990.

Manuel Lujan,

Secretary of the Interior.

[FR Doc. 91–2182 Filed 1–29–91; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 15, 1991. 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 February 14, 1991.

Carol D. Shull,

Chief of Registration, National Register.

COLORADO

Delta County

First Methodist Episcopal Church of Delta, 199 E. Fifth St., Delta, 91000069

Denver County

Boettcher School for Crippled Children, 1900 Downing St., Denver, 91000070

LOUISIANA

Caddo Parish

Louisiana State Exhibit Building, 3015 Greenwood Rd., Shreveport, 91000071

Steere, A.C., Elementary School, 4009 Youree Dr., Shreveport, 91000074

East Baton Rouge Parish

Cushman House, 1606 Main St., Baker, 91000072

NORTH DAKOTA

Wells County

Wells County Fairgrounds, Jct. of US 52 and ND 15, Fessenden, 91000073

OREGON

Clackamas County

Black, Dr. Walter, House, 1125 Maple St., Lake Oswego, 91000045

Boutwell, W.S. and Gladys, House,, 920 SW Fairway Rd., Lake Oswego, 91000052

Sherrard—Fenton House, 13100 SW Riverside Dr., Lake Oswego vicinity, 91000051

Clatsop County

Erickson—Larsen Ensemble, 3025–3027 Marine Dr., Astoria, 91000055

Flavel, George C. and Winona, House, 818 Grand Ave., Astoria, 91000054

Union Fishermen's Cooperative Packing Company Alderbrook Station, 4900 Ash St., Astoria, 91000053

Coos County

Coke, J.S., Building, 150 Central Ave., Coos Bay, 91000048

Jackson County

Ashland Depot Hotel, South Wing, 624 A St., Ashland, 91000047

Corning Court Ensemble, 5–16 Corning Ct., Medford 91000043

Gates, C.E. "Pop", House, 1307 Queen Anne Ave., Medford, 91000042

Gold Hill High School, 806 6th Ave., Gold Hill, 91000046

Reames, Alfred Evan, House, 816 W. Tenth St., Medford, 91000049

Lake County

Eskelin, Ed, Ranch Complex, HC 61, Fort Rock Valley, Silver Lake vicinity, 91000062

Linn County

Ross—Averill House, 420 Averill St., Brownsville, 91000061

Marion County

Fawk, Henry, House, 310 Lincoln St. S., Salem, 91000060

Multnomah County

Biltmore Apartments, 2014 NW Glisan St., Portland, 91000041
Bretnor Apartments, 931 NW Twentieth Ave., Portland, 91000067
Del Rey Apartments, 2555 NE Glisan St., Portland, 91000040
Elm Street Apartments, 1825–1837 SW Elm St., Portland, 91000056
King's Hill Historic District, Bounded by W. Burnside St., SW Canyon Rd, SW 21st St. and Washington Park, Portland, 91000039
New Houston Hotel, 230 NW Sixth Ave., Portland, 91000058
Olds, Wortman and King Department Store, 921 SW Morrison St., Portland, 91000057
Regent Apartments, 1975 NW Everett St., Portland, 91000044
Sprouse, John A., Jr., House (Architecture of Ellis F. Lawrence MPS), 2826 NW Cumberland Rd., Portland, 91000068

Sherman County

Columbia Southern Railroad Passenger Station and Freight Warehouse, Jct. of Clark and Fulton Sts., Wasco, 91000059

Tillamook County

Doyle, A.E., Cottage, 37480 2nd St., Neahkahnie Beach, Nehalem vicinity, 91000066
Isom, Mary Frances, Cottage, 37465 Beulah Reed Rd., Nehkahnie Beach, Nehalem vicinity, 91000065

Wasco County

Glenn, Hugh, House, 100 W. Ninth St., The Dalles, 91000064
Van Dellen, John and Murta, House, 400 E. Eighth St., The Dalles, 91000063

[FR Doc. 91–2125 Filed 1–29–91; 8:45 am]
BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

Agency Form Submitted for OMB Review

AGENCY: U.S. International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget (OMB) for review.

SUMMARY OF INFORMATION COLLECTION: The proposed information collection is for use by the Commission in connection with investigation No. 332–304, Red Tart Cherries: Economic and Competitive Factors Affecting the U.S. Industry, instituted under the authority of section 332 of the Tariff Act of 1930 (19 U.S.C. 1332).

SUMMARY OF PROPOSAL:

(1) *Number of forms submitted:* Three.

(2) *Title of form:* Red Tart Cherries: Economic and Competitive Factors Affecting the U.S. Industry—Questionnaires for U.S. (1) Growers, (2) Processors, and (3) Importers.

(3) *Type of request:* New.

(4) *Frequency of use:* Nonrecurring.

(5) *Description of respondents:* Firms which grow, process, or import red tart cherries or red tart cherry products.

(6) *Estimated number of respondents:* Growers: 100, based on an estimated response rate of 50 percent. Processors: 45, based on an estimated response rate of 60 percent. Importers: 30, based on an estimated response rate of 50 percent.

(7) *Estimated total number of hours to compelte the forms:* The Commission estimates a response time of 30 hours per questionnaire.

(8) Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

ADDITIONAL INFORMATION OR COMMENT: Copies of the proposed form and supporting documents may be obtained from David L. Ingersoll (USITC tel. no. (202) 252–1309). Comments about the proposal should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Attention: Marshall Mills, Desk Officer for U.S. International Trade Commission. Any comments should be specific, indicating which part of the questionnarie or study plan is objectionable, describing the problem in detail, and including specific suggested revisions or language changes.

SUBMISSION OF COMMENTS: Comments should be submitted to OMB within 2 weeks of the date this notice appears in the **Federal Register**. If you are unable to submit them promptly you should advise OMB within the 2 weeks period of your intent to comment on the proposal. Mr. Mill's telephone number is (202) 395–3176. Copies of any comments should be provided to Charles Ervin (United States International Trade Commission, 500 E Street SW., Washington, DC 20436).

Hearing impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 252–1810.

Dated: January 22, 1991.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 91–2170 Filed 1–29–91; 8:45 am]
BILLING CODE 7020–02–M

Industrial Phosphoric Acid from Israel; Dismissal of Request for Institution of a Section 751(b) Review Investigation

AGENCY: United States International Trade Commission.

ACTION: Dismissal of a request to institute a section 751(b) review investigation concerning the Commission's affirmative determinations in investigations Nos. 701–TA–286 (Final) and 731–TA–366 (Final), Industrial Phosphoric Acid from Israel.

SUMMARY: The Commission determines, pursuant to section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)) and Commission rule 207.45 (19 CFR 207.45), that the subject request does not show changed circumstances sufficient to warrant institution of an investigation to review the Commission's affirmative determinations in investigations Nos. 701–TA–286 (Final) and 731–TA–366 (Final), regarding industrial phosphoric acid (IPA) from Israel.[1]

FOR FURTHER INFORMATION CONTACT: Tedford Briggs (202–252–1181), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–252–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–252–1000.

SUPPLEMENTARY INFORMATION: On August 19, 1987, the Commission published in the **Federal Register** its determinations in investigations Nos. 701–TA–286 (Final) and 731–TA–366 (Final), Industrial Phosphoric Acid from Israel (52 FR 31094). The Commission determined that an industry in the United States was materially injured by reason of imports from Israel of IPA which had been found by the Department of Commerce to be subsidized by the Government of Israel. The Commission also determined that an industry in the United States was

[1] Industrial phosphoric acid is provided for in subheading 2809.20.00 of the Harmonized Tariff Schedule of the United States.

materially injured by reason of imports from Israel of IPA which had been found by the Department of Commerce to be sold in the United States at less than fair value. On August 19, 1987, the Department of Commerce issued countervailing duty and antidumping duty orders, notices of which were published in the **Federal Register** (52 FR 31057).

On November 1, 1990, the Commission received a request to review its affirmative determinations in investigations Nos. 701–TA–286 (Final) and 731–TA–366 (Final) pursuant to section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)). The request was filed by counsel on behalf of Negev Phosphates Ltd. (Negev), Yeruham, Israel, a producer of IPA in Israel. The petitioner contends that circumstances have changed sufficiently since the original determinations to warrant a review. Specifically, Negev noted five circumstances that allegedly had changed and warranted review. Those alleged changes are (1) the passage of amendments to the cumulation provision in 1988, the application of which, petitioner contends, would lead to revocation of the order as to imports from Israel, (2) the adoption of the lower cost purified wet-process method of production in a new plant in North Carolina that not only increases domestic capacity, but involves agricultural acid producers in a joint venture with industrial acid producers for the first time, (3) the construction of another wet-process method plant by Rhone-Poulenc, a French producer, in Louisiana, (4) alleged "restructuring" of the domestic industry as the result of the adoption of the wet-process method and the Rhone-Poulenc acquisition, as well as the alleged tightening of the supply of elemental phosphorus, the basic raw material used in the production of IPA, and (5) the abandonment of the U.S. market by the Belgian exporter following the imposition of the antidumping order.

On November 21, 1990, the Commission published a request for comments concerning the institution of a section 751(b) review investigation on IPA from Israel and specifying the five allegations of changed circumstances. 55 FR 48702 (Nov. 21, 1990). In response to the Commission's request for comments, a statement in opposition to the institution of a review investigation was filed by counsel on behalf of FMC Corporation and Monsanto Company, petitioners in the investigations that led to the issuance of the antidumping and countervailing duty orders. Comments were also received from the other three domestic producers of IPA—Albright and Wilson Company, Occidental Chemical Corporation, and Rhone-Poulenc Basic Chemicals Company—opposing the institution of a review investigation.

Decision of the Commission

After consideration of the request for review and the responses to the notice inviting comments, the Commission has determined, pursuant to section 751(b) of the Act (19 U.S.C. 1675(b)) and Commission rule 207.45 (19 CFR 207.45), that the information of record, including the petitioner's request, does not show changed circumstances sufficient to warrant institution of an investigation to review the Commission's affirmative determinations in investigations Nos. 701–TA–286 (Final) and 731–TA–366 (Final), regarding IPA from Israel.

In order for a review investigation to be instituted, the information available to the Commission, after notice and comment from all interested parties, must be sufficient to persuade the Commission: (1) That there have been significant changed circumstances from those in existence at time of the original investigation, (2) those changed circumstances are not the natural and direct result of the imposition of the antidumping or countervailing duty order, and (3) that the changed circumstances, allegedly indicating that the domestic industry would not be materially injured should the order be revoked warrant a full investigation. *See A. Hirsh, Inc.* v. *United States*, 737 F. Supp. 1186 (CIT 1990); *Avesta AB* v. *United States*, 724 F. Sup. 974 (CIT 1989), *aff'd* 914 F.2d 232 (Fed. Cir. 1990); *Avesta AB* v. *United States*, 689 F. Supp. 1173 (CIT 1988). Once instituted, the petitioner must persuade the Commission, after full investigation and a hearing, that the domestic industry would not, in fact, be injured or threatened with injury if the order were revoked. *See Citizen Watch Co.* v. *United States*, 733 F. Supp. 333 (CIT 1990). The alleged changed circumstances contained in the petition, after consideration of all information available on the record, fail to persuade the Commission that a full investigation is warranted.

1. Changes in the Statute: The 1988 Cumulation Amendments

The allegation that the amendments to the cumulation provision in the Omnibus Trade and Competitiveness Act of 1988 should be applied retroactively to the 1987 determination of injury by reason of imports from Israel is misplaced. Those amendments permit the Commission not to cumulate imports from Israel, in certain circumstances, in countervailing and antidumping duty investigations and to allow the exclusion of negligible imports from cumulation. The 1988 Act is clear, however, that the new cumulation provisions do not apply to reviews of original investigations initiated on or before the effective date of the 1988 Act (i.e., August 23, 1988). Thus, the petitioner's arguments that the cumulation provisions can be applied retroactively to the original investigation on IPA from Israel by means of a section 751 review are directly contrary to the applicable statute. *See* Omnibus Trade and Competitiveness Act of 1988, Public Law 100–418, section 1337 (1988).

2. Alleged Changes in the Underlying Facts

With respect to the factual allegations of changed circumstances presented in the petition requesting a section 751(b) review, the evidence available to the Commission does not persuade the Commission that a full review is warranted.

a. The New Plant in North Carolina. Production of IPA by the wet-process method in the new plant in North Carolina replaces production in an older facility in Newfoundland. In their comments on the request for review, Albright & Wilson (A&W), one of the operators of the plant, stated that its investment in the new plant "was made possible in large measure because of protection from unfair trade practices" of Negev Phosphates "afforded to A&W under the outstanding antidumping and countervailing duty orders" and that its "actions were a natural consequence of those orders." Letter from A&W, dated December 19, 1990 at 2.

Petitioner's allegation that the production facility in North Carolina constitutes an increase in domestic capacity may be correct, since it replaces a facility in Newfoundland. However, it is apparent in the record that the expansion was made possible primarily by the existence of the outstanding orders. Further, petitioner has introduced no argument or supporting evidence that suggests that the domestic industry would be any less vulnerable to injury as the result of the addition of this new plant. The Commission is not persuaded that the apparent increase in the domestic industry's production capacity subsequent to the imposition of the orders constitutes a changed circumstance warranting review.

With reference to the use of new wet-process technology, this technology was in existence at the time of the original

orders and was used by the foreign producers, including Negev Phosphates. The Commission determined in the original investigation that domestic thermal-process IPA was like the imported wet-process IPA. Both types were "essentially substitutable and interchangeable in the market." *Industrial Phosphoric Acid from Israel*, Inv. Nos. 701–TA–286 and 731–TA–366 (Final), USITC Pub. 2000 at A–7 (1987). The use of this wet-process technology in the United States is not a changed circumstance warranting review; if anything, it means that domestic and imported IPA are more directly competitive than at the time of the original order. Therefore, to the extent the adoption of the wet-process method may be considered a "changed circumstance," it is not a change reducing the likelihood that revocation of the order would lead to material injury to the domestic industry. A changed circumstance that leaves the domestic industry no less vulnerable to dumped import does not warrant a full review.

Finally, the allegation that the plant in North Carolina constitutes a changed circumstance because it is the first instance to a joint venture between agricultural and industrial phosphoric acid producers is also deficient. The existence of an interrelationship between producers of agricultural and industrial grade phosphoric acid is not new; it existed at the time of the original investigation. Furthermore, even if such a relationship were a changed circumstance, petitioner has failed to make any plausible argument or provide positive evidence that such a change indicates that the domestic industry producing industrial phosphoric acid would no longer be injured by dumped or subsidized imports. Petitioner merely asserts that it would be easier for certain producers using the wet-process method for production of industrial phosphoric acid to exist the industry and produce only agricultural grade phosphoric acid, once dumped and subsidized imports are allowed to resume unchecked. This provides no basis for believing that revocation of the orders would not lead to the recurrence of material injury to the domestic industry producing industrial phosphoric acid.

b. The New Plant in Louisiana. The allegation rgarding the new plant in Louisiana are similar to those made regarding the new plant in North Carolina. The use of the wet-process method in the Louisiana plant is not a changed circumstance warranting review for the same reasons detailed above. The new plant will not increase domestic capacity, but merely updates that capacity technologically. The owner, Rhone-Poulenc, stated that the Louisiana plant will replace capacity that will be phased out elsewhere in the United States. Further, Rhone-Poulenc stated that "we have relied upon the protection offered by these [countervailing duty and antidumping] orders in deciding to go forward with our investment in this new facility." Letter rom Rhone-Poulenc, dated December 19, 1990, at 2. Thus the Commission is not persuaded that the investment in the new Louisiana plant is anything other than the direct result of the countervailing and antidumping orders. Further, a previously noted, the Commission is not persuaded that the reported increase in capacity provides sufficient reason to believe that the domestic industry would not be injured if the orders were revoked.

c. The Alleged "Restructuring" of the Industry. The alleged "restructuring" of the domestic IPA industry is limited to investment in new facilities by existing U.S. producers that use the wet-process method, already considered and rejected; the acquisition of a domestic producer by Rhone-Poulenc; and a tightening of the supply of elemental phosphorous. Rhone-Poulenc's acquisition of domestic facilities cannot be fairly termed a "restructuring" of an industry. All the major producers in existence at the time of the original orders are still in operation, although one of the producers is now owned by Rhone-Poulenc, and all oppose the petitioner's request for a review.

With regard to the tight supply of raw materials, petitioners argument is based upon a source dated May 1989. No recent evidence is provided. Further, petitioner does not argue that any "tight supply" in raw materials has led to the inability of the domestic industry to meet demand or has otherwise had any significant impact on the domestic industry. Furthermore, Commerce Department statistics indicate a decline in one of the principal end use markets for IPA, the market for sodium tripolyphosphates. Thus this alleged changed circumstance fails to persuade the Commission that a review investigation is needed because it lacks factual support and no connection is provided between the alleged changed circumstance and any reduction in the domestic industry's vulnerability to unfair imports subject to the outstanding orders.

d. The Cessation of Belgian Imports. Petitioner's argument that the Belgian exporter's decision to cease shipments to the U.S. produce is also unpersuasive. Petitioner contends that the decision to cease shipment to the U.S. was unrelated to the imposition of additional duties on those shipments. Specifically, petitioner asserts that the Belgian exporter ceased shipments because of its inability to consummate an agreement that would lead to the shifting of its production facilities to the United States.

The position is contradicted by the statements of the Belgian exporter to its U.S. clients which referred to the effects of the "duty burden" in explaining its decision to cease shipments. Further, the existence of the outstanding orders would naturally lead the Belgian exporter to consider shifting production facilities to the United States as an alternative method of supplying the U.S. market. Failing such a shift of production facilities, the only other choices were to continue shipments and pay the applicable duties, or to cease shipments because of the "duty burden." Thus, petitioner has failed to persuade the Commission that the actions of the Belgian exporter are anything other than the natural consequence of the imposition of the orders.

In light of the foregoing, the Commission has determined, based on the information of record, including the petitioner's request, that the alleged changed circumstances, both individually and collectively, are not sufficient to warrant institution of an investigation to review the Commission's affirmative determination in investigations Nos. 701–TA–286 (Final) and 731–TA–366 (Final), regarding IPA from Israel.

Issued: January 23, 1991.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 91–2167 Filed 1–29–91; 8:45 am]

BILLING CODE 7020–01–M

Certain Monoclonal Antibodies Used for Therapeutically Treating Humans Having Gram Negative Bacterial Infections; Investigation

AGENCY: U.S. International Trade Commission

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on December 20, 1990, under section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, on behalf of Xoma Corporation, 2910 Seventh Street, Berkeley, California

94710. The complaint was amended on January 9, 1991 and two supplements were filed on January 14, 1991. The complaint, as amended, alleges violations of subsection (a)(1)(B)(i) of section 337 in the importation into and distribution in the United States of certain monclonal antibodies used for therapeutically treating humans having gram negative bacterial infections, by reason of induced and contributory infringement of claims 6 and 7, of U. S. Letters Patent 4,918,163, and alleges that there exists an industry in the United States as required by subsection (a)(2) of section 337.

The complaint requests that the Commission institute an investigation and, after a full investigation, issue a permanent exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint, except for confidential business information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., room 112, Washington, DC 20436, telephone 202–252–1802. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–252–1810.

FOR FURTHER INFORMATION CONTACT: James M. Gould, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–252–1578.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in § 210.12 of the Commission's Interim Rules of Practice and Procedure, 19 CFR 210.12.

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on January 22, 1991, *Ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B)(i) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain monclonal antibodies used for therapeutically treating humans having gram negative bacterial infections by reason of alleged induced or contributory infringement of claims 6 or 7 of U.S. Letters Patent 4,918,163, and whether there exists an industry in the United States as required by subsection (a)(2) of section 337.

(2) Pursuant to Interim Rule 210.58(b)(1), 19 CFR 210.58(b)(1), the presiding administrative law judge shall take evidence or other information and hear arguments from the parties and other interested persons with respect to the public interest in this investigation, as appropriate, and provide the Commission with findings of fact on this issue.

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this Notice of Investigation shall be served:

(a) The complainant is:

Xoma Corporatin, 2910 Seventh Street, Berkeley, California 94710

(b) The respondents are the following entities alleged to be in violation of section 337:

Centocor, Inc., 244 Great Valley Pkwy., Malvern, Pennsylvania 19355

Centocor Partners II, L.P., 244 Great Valley Pkwy., Malvern, Pennsylvania 19355

Centocor, B.V., P.O. Box 251, 2300 AG Leiden, The Netherlands.

(c) James M. Gould, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., room 4011, Washington, DC 20436, shall be the Commission investigative attorney, party to this investigation; and

(4) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding administrative law judge.

Responses to the complaint and the Notice of Investigation must be submitted by the named respondents in accordance with § 210.21 of the Commission's Interim Rules of Practice and Procedure, 19 CFR 210.21. Pursuant to §§ 201.16(d) and 210.21(a) of the Commission's Rules, 19 CFR 201.21(d) and 210.21(a), such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint and this Notice of Investigation. Extensions of time for submitting responses to the complaint and Notice of Investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this Notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this Notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this Notice, and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order, or a cease and desist order, or both, directed against such respondent.

Issued: January 23, 1991.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 91–2168 Filed 1–29–91; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–497 (Preliminary)]

Tungsten Ore Concentrates From the People's Republic of China

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731–TA–497 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded by reason of imports from the People's Republic of China of tungsten ore concentrates, provided for in subheading 2611.00.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by March 11, 1991.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR part 207), and part 201, subparts A through E (19 CFR part 201).

EFFECTIVE DATE: January 23, 1991.

FOR FURTHER INFORMATION CONTACT: Mary Trimble (202–252–1193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–252–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–252–1000.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on January 23, 1991, by U.S. Tungsten Corp., Danbury, CT.

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry

Public Service List

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each public document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the public service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Limited Disclosure of Business Proprietary Information Under a Protective Order and Business Proprietary Information Service List

Pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)), the Secretary will make available business proprietary information gathered in this preliminary investigation to authorized applicants under a protective order, provided that the application be made not later than seven (7) days after publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive business proprietary information under a protective order. The Secretary will not accept any submission by parties containing business proprietary information without a certificate of service indicating that it has been served on all the parties that are authorized to receive such information under a protective order.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m. on February 14, 1991, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Mary Trimble (202–252–1193) not later than February 12, 1991 to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written submissions

Any person may submit to the Commission on or before February 19, 1991, a written brief containing information and arguments pertinent to the subject matter of the investigation, as provided in section 207.15 of the Commission's rules (19 CFR 207.15). If briefs contain business proprietary information, a nonbusiness proprietary version is due February 20, 1991. A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the rules (19 CFR 201.8). All written submissions except for business proprietary data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Business Proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules (19 CFR 201.6 and 207.7).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)) may comment on such information in their written brief, and may also file additional written comments on such information no later than February 22, 1991. Such additional comments must be limited to comments on business proprietary information received in or after the written briefs. A nonbusiness proprietary version of such additional comments is due February 25, 1991.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: January 25, 1991.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 91–2271 Filed 1–29–91; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31818]

Huron and Eastern Railway Company, Inc.; Trackage Rights Exemption; Siginaw Valley Railway Company, Inc.

Siginaw Valley Railway Company, Inc. (Saginaw) has agreed to grant local and overhead trackage rights to Huron and Eastern Railway Company, Inc. (Huron) over a line approximately 10.4 miles long, between former mileport 4.6, at Harger, MI, and milepost 9.46, at Denmark Jct., MI.[1]

This notice is filed under 49 CFR 1180.2(d)(7)[2] Petitioners to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: John D. Heffner, Gerst, Heffner, Carpenter & Podgorsky, suite 1107, 1700 K Street, NW., Washington, DC 20006.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: January 24, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91–2180 Filed 1–29–91; 8:45 am]

BILLING CODE 7035–01–M

[1] Siginaw intends to grant these trackage rights upon its acquisition of the line in Finance Docket No. 31814, *Saginaw Valley Railway Company, Inc.—Acquisition and Operation Exemption—Tuscola & Saginaw Bay Railway Company, Inc.* (not printed), served January 9, 1991.

[2] Huron filed this notice on January 8, 1991. Also on January 8, 1991, Huron filed a notice to operate lines owned by the State of Michigan, in Finance Docket No. 31815, *Huron and Eastern Railway Company, Inc. Modified Rail Cerificate*. Huron intends to connect with those lines at Denmark Jct. via the trackage rights sought in this notice.

[Finance Docket No. 31815]

Huron and Eastern Railway Co.; Modified Rail Certificate

On January 8, 1991, Huron And Eastern Railway Company, Inc. (Huron) filed a notice (styled an "application") for a modified certificate of public convenience and necessity, under 49 CFR 1150.23, to operate over a group of abandoned lines owned by the State of Michigan, Department of Transportation, consisting of 44.8 miles of track in six segments:

(1) 8.6 miles, between milepost 13.8, at Caro, and milepost 22.4, at Colling [USRA Line 438];

(2) 13.4 miles, between milepost 0.4, at Vassar, and milepost 13.8, at Caro [USRA Line 438a];

(3) 10.0 miles, between milepost 91.1, at Denmark Jct., and milepost 101.1, at Munger [USRA Line 444];

(4) 4.9 miles, between milepost 86.2, at Vassar, and milepost 91.1, at Denmark Jct. [USSR 444a];

(5) 6.9 miles, between milepost 79.3, at Millington, and milepost 86.2, at Vassar [USRA Line 445];

(6) 1 mile, between mileposts V5 and V6, at Denmark Jct. [USRA Line 446a].

Formerly owned by the Trustees of the Penn Central Transportation Company but not transferred to Consolidated Rail Corporation, these lines were abandoned in 1976 in accordance with section 308(b) of the Regional Rail Reorganization Act of 1973, 45 U.S.C. 744(b), and sold to the state. The state initially designated Tuscola & Saginaw Bay Railway Company, Inc. (TSBY) to operate the lines: [1] now, through a third party agreement dated December 19, 1990, the State has authorized Huron to operate them in lieu of TSBY, for an initial term from approximately January 15, 1991, through September 30, 1993.[2] Huron will connect with the following lines in Michigan: with the Saginaw Valley Railway Company, Inc., at Denmark Jct.; [3] with its own line at Reese; with CSX Transportation, Inc., at Vassar; and with Central Michigan Railway Company at Saginaw.

This notice must be served on the Association of American Railroads (Car Service Division) as agent of all railroads subscribing to the car-service and car-hire agreement, and on the American Short Line Railroad Association.

Dated: January 23, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-2181 Filed 1-29-91; 8:45 am]

BILLING CODE 7035-10-M

[1] Huron's notice states that TSBY never sought a modified certificate or an exemption from 49 U.S.C 10901 after the state purchased the lines for continued service because it believed its designated operator certificate continued to convey operating authority.

[2] TSBY will continue to have the right and obligation to provide service under its contract with the state in the event that Huron is unable to operate.

[3] Huron will operate between Harger, MI and Denmark Jct. via trackage rights over the Saginaw Valley Railway Company, Inc., under a notice that it has filed simultaneously in Finance Docket No. 31818, *Huron and Eastern Railway Company, Inc.—Trackage Rights Exemption—Saginaw Valley Railway Company, Inc.*

NATIONAL COMMISSION ON MIGRANT EDUCATION

Meeting

SUMMARY: The National Commission on Migrant Education will hold its eighth meeting on February 14 and 15, 1991, for the purpose of holding a hearing and business session. The Commission was established by Public Law 100-297, April 28, 1988.

DATE, TIME, AND PLACE: Thursday, February 14, 8:30 a.m. to 5:30 p.m., Embassy Rooms I and II; Friday, February 15, 1991, 8:30 a.m. to 5 p.m., Embassy Room II; Ramada Inn, 8400 Wisconsin Avenue, Bethesda, Maryland.

STATUS: Open—public hearing and meeting.

AGENDA:

Thursday, February 14

8:30 a.m.-5:30 p.m.—Scheduled witnesses will provide testimony on the Migrant Student Record Transfer System (MSRTS), state migrant program administration, and migrant program governance.

Friday, February 15

8:30 a.m.-5 p.m.—Business session.

FOR ADDITIONAL INFORMATION: Contact Elizabeth Skiles (301) 492-5336, National Commission on Migrant Education, 8120 Woodmont Avenue, Fifth Floor, Bethesda, Maryland 20814.

Linda Chavez,

Chairman.

[FR Doc. 91-2203 Filed 1-29-91; 8:45 am]

BILLING CODE 6820-DE-M

NATIONAL SCIENCE FOUNDATION

Permit Application Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit Application Received Under the Antarctic Conservation Act of 1978, Public Law 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at Title 45 part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by March 1, 1991. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, room 627, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357-7817.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Public Law 95-541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest.

The application received is as follows:

1. Applicant

Jeannette E. Zamon, 3 Kirk Road, Freeville, NY 13068.

Activity for Which Permit Requested

Taking, Import into U.S.A. The applicant is conducting a study of spatial and temporal distribution, physiological condition, and diet of individual Antarctic birds at sea. She seeks permission to collect specimens of foraging birds, analyze stomach contents, and determine age and sex of up to 50 individual bird speciments (not more than 10 of any one species). She also proposes to import bird samples for further analysis. The samples to be taken will be returned to a laboratory at Cornell University. This research is

being conducted in conjunction with the National Oceanic and Atmospheric Administration's Southwest Fisheries Science Center, California.

Dates

February—March 1991.

Charles E. Myers,

Permit Office, Division of Polar Programs.

[FR Doc. 91-2102 Filed 1-29-91; 8:45 am]

BILLING CODE 7555-01-M

Division of Atmospheric Sciences Special Emphasis Panel; Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate proposals and provide advice and recommendations as part of the selection process for awards. Because the proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C., 552b(c), Government in the Sunshine Act.

Name: Special Emphasis Panel in Atomspheric Sciences.

Date: February 19, 20, and 21, 1991.

Time: 1 p.m. to 5 p.m. on February 19, 1991; 9 a.m. to 5 p.m. on February 29 and 21, 1991.

Place: National Science Foundation, 1800 G Street, NW., Washington, DC.

Room 1242—February 19, 1991

Room 540B—Fedruary 20 and 21, 1991.

Type of meeting: Closed.

Agenda: Review and evaluation of UNIDATA Applications.

Contact: Dr. Clifford A. Jacobs, Program Manager, Centers and Facilities Section, Division of Atmospheric Sciences, National Science Foundation, Washington, DC, (202) 357-9889.

Dated: January 25, 1991.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91-2204 Filed 1-29-91; 8:45 am]

BILLING CODE 7555-01-M

Proposal Review Panels; Meeting of the Advisory Panel for Engineering Research Centers

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to provide advice and recommendations to the National Science Foundation concerning the support of research, engineering, and science education. The agenda is to review and evaluate proposals as part of the selection process for awards. The entire meeting is closed to the public because the panels are reviewing proposals that include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

CONTACT PERSON: M. Rebecca Winkler, Committee Management Officer, room 208, 357-7363.

Dated: January 25, 1991.

NATIONAL SCIENCE FOUNDATION

Committee name	Street address	Room	Times	Date(s)
Advisory Panel or Engineering Research Centers (nee Advisory Review Panel/Eng. Res. Ctrs.).	1143 New Hampshire Avenue, NW., Washington, DC.	.....	8:30 am-5:00 pm	02/20/91
			8:30 am-5:00 pm	02/21/91
			8:30 am-5:00 pm	02/22/92

Agenda: IUC/State Panel Meeting.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91-2205 Filed 1-29-91; 8:45 am]

BILLING CODE 7555-01-M

Proposal Review Panel, Meeting of the Advisory Panel for Experimental Programs to Stimulate Competitive Research

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate and provide advice and recommendations as part of the selection process for awards. Because the proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Name: Advisory Panel for Experimental Programs to Stimulate Competitive Research (EPSCoR).

Dates: February 20-22, 1991.

Times: 7 p.m.-9 p.m., February 20, 1991; 8 a.m.-5 p.m., February 21-22, 1991.

Place: Old Colony Inn, 625 First Street, Alexandria, Virginia 22314.

Type of meeting: Closed.

Agenda: Review and evaluate Infrastructure Improvement Proposals submitted to the EPSCoR Advanced Development Competition.

Contact: Dr. Richard J. Anderson, Program Manager, Office of Experimental Programs, National Science Foundation, room 1228, Washington, DC 20550 (202) 357-7560.

Dated: January 25, 1991.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91-2206 Filed 1-29-91; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Studies, Evaluation, and Dissemination; Meeting

Name: Advisory Panel for Studies, Evaluation, and Dissemination.

Date and time: February 14, 1991, 9 a.m. to 5 p.m.

Type of meeting: Open.

Contact person: Dr. Kenneth J. Travers, Office Head, Office of Studies and Program Assessment, Directorate for Education and Human Resources, National Science Foundation, Washington, DC 20550 (202) 786-9498.

Purpose of meeting: To advise on Statewide System Initiatives.

Agenda: Update on the Statewide System Initiatives awards process; overview of evaluation strategies; and devise overall evaluation plan for Statewide System Initiatives.

Dated: January 25, 1991.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91-2207 Filed 1-30-91; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguard Working Session on Containment Systems; Meeting

Some ACRS members and consultants will hold a Working Session on January 31, 1991, at the Hilton O'Hare International Airport, Chicago, IL.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, January 31, 1991—8:30 a.m. until the conclusion of business.

The Working Session will meet to further develop a proposed report for future ACRS consideration on containment design criteria for future plants.

During the meeting, any members and consultants may exchange views regarding this matter.

Further information regarding this meeting such as, whether the meeting has been cancelled or rescheduled, can be obtained by a prepaid telephone call to the cognizant ACRS staff engineer, Mr. Dean Houston (telephone 301/492-9521) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: January 24, 1991.

Gary R. Quittschreiber,

Chief, Nuclear Reactors Branch.

[FR Doc. 91-2148 Filed 1-29-91; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Improved Light Water Reactors; Meeting

The Subcommittee on Improved Light Water Reactors will hold a meeting on February 12, 1991, room P-110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, February 12, 1991—8:30 a.m. until the conclusion of business.

The Subcommittee will review NRC staff's Draft Safety Evaluation Reports corresponding to chapters 6-13 of the EPRI-ALWR Requirements Document for the Evolutionary Designs.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the Designated Federal Official, Mr. Medhat El-Zeftawy (telephone 301/492-9901) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: January 24, 1991.

Gary R. Quittschreiber,

Chief, Nuclear Reactors Branch.

[FR Doc. 91-2149 Filed 1-29-90; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Human Factors; Cancellation of Meeting

Notice of an open meeting of the ACRS Subcommittee on Human Factors to be held on Tuesday, January 29, 1991, Room P-110, 7920 Norfolk Avenue, Bethesda, MD was published in the **Federal Register** on Thursday, January 17, 1991 (56 FR 1829). Since the documents scheduled for review at this meeting are not available, this meeting is cancelled. The meeting will be rescheduled for a later date, and notice of the meeting will be published in the **Federal Register** at the appropriate time.

For further information contact: Mr. Herman Alderman, ACRS Staff Engineer (telephone 301/492-7750) between 7:30 a.m. and 4:15 p.m.

Dated: January 24, 1991.

Gary R. Quittschreiber,

Chief, Nuclear Reactors Branch.

[FR Doc. 91-2150 Filed 1-29-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 70-00270 and 30-02278-MLA; ASLBP No. 90-613-02-MLA]

The University of Missouri; Designation of Substitute Special Assistant to the Presiding Officer

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, Administrative Judge Peter B. Bloch was designated to rule on petitions for leave to intervene and/or requests for hearing and, if necessary, to serve as the presiding officer to conduct the hearing in the event that an informal adjudicatory hearing is ordered in the following Materials Licensing proceeding (55 FR 22874 (June 4, 1990)).

The University of Missouri; Special Nuclear Materials License No. SNM-247; Byproduct Materials License No. 24-00513-32

Pursuant to the provisions of 10 CFR 2.722, Administrative Judge Gustave A. Linenberger, Jr., was appointed to assist the Presiding Officer in taking evidence and in preparing a suitable record for review. On January 17, 1991, Administrative Judge Linenberger advised the Panel Chairman that he was resigning his position as an Administrative Judge on the Atomic Safety and Licensing Board Panel.

Following consultation with the Panel Chairman, the Presiding Officer has appointed Administrative Judge Peter S. Lam as Special Assistant in place of Administrative Judge Linenberger. Administrative Judge Lam's address is Administrative Judge Peter S. Lam, Special Assistant, Atomic Safety and Licensing Board Panel, U.S. Nuclear

Regulatory Commission, Washington, DC 20555.

Issued at Bethesda, Maryland, this 22nd day of January 1991.

Robert M. Lazo,

Acting Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 91-2151 Filed 1-29-91; 8:45 am]

BILLING CODE 7590-01-M

POSTAL SERVICE

International Postal Rates and Fees; Implementation of Changes

AGENCY: Postal Service.

ACTION: Notice of changes in international postal rates and fees.

SUMMARY: The Postal Service, following consideration of comments submitted in response to its request for comments on proposed changes in international postal rates and fees, 55 FR 50903, hereby gives notice that it is implementing changes in international postal rates and fees effective simultaneously with the implementation of changes in domestic postal rates and fees.

EFFECTIVE DATE: 12:01 a.m., February 3, 1991.

FOR FURTHER INFORMATION CONTACT: John F. Alepa (202) 268-2650.

SUPPLEMENTARY INFORMATION: On December 11, 1990, the Postal Service published in the **Federal Register**, 55 FR 50903, a notice of proposed changes in international postal rates and fees. The notice requested comments by January 1, 1991. The comment period was subsequently extended to January 7, 1991.

Sixteen comments were received on or before January 7, 1991. Thirteen were from publishers or publishers' associations supporting the proposed rates, particularly the proposed publishers' periodicals rates. Four of these commenters supported what they perceived to be a shift from "weight-based" to "piece-based" rate determinants. Six commenters specifically supported the creation of separate publishers' periodicals rates to Canada. Other commenters noted that the rate increases proposed were generally modest. No comments were received which opposed the proposed publishers' periodicals rates. Accordingly, the Postal Service has decided to adopt these rates as proposed.

Two comments were received in support of the proposed bulk letter rate to Canada. Both stated that the proposed rate would assist American businesses in marketing products in that country. No comments were received which opposed the proposed bulk letter rate. Accordingly, the Postal Service has decided to adopt this rate as proposed.

One commenter opposed the proposed increases in post card rates to Canada and Mexico on the ground that the increases were excessive. Another commenter opposed the proposed rate changes generally, and particularly opposed the increase in letter rates to Canada and Mexico as not fair and reasonable.

Under the Postal Reogranization Act, the Postal Service is generally requiired to be self supporting. In addition, international postage rates are required (1) to be fair and reasonable, (2) to be not unduly or unreasonably discriminatory or preferential, (3) to apportion the costs of the service to mailers on a fair and equitable basis, and (4) not to apportion the costs of the service so as to impair the overall value of the service to the users. See generally 53 FR 12628. One of the criteria that the Postal Service uses to determine whether rates meet these requirements is that, as a general rule, no category of mail should have rates that are lower than costs unless specifically authorized by law or postal convention. The increases in letter rates to Canada and Mexico reflect increased costs, particularly in terminal dues expense for letters to Mexico, and are necessary to ensure that the revenues cover costs. It is therefore not possible to reduce the proposed post card and letters rates. Accordingly, the Postal Service adopts these rates as proposed.

No comments were received on any other proposed rates or fees, including the proposal that certain fees be the same as the fees for comparable domestic services. Some of the domestic fees that will take effect on February 3, 1991, are different from those that were set forth in the December 11, 1990, proposal. The fees that we adopt herein are therefore modified to conform to the domestic fee schedule where they differ from the fees initially proposed.

Two commenters proposed that the Federal Service establish a separate air AO rate for books and journals mailed to countries other than Canada and Mexico. The reason given was that many mailers did not have volumes large enough to take advantage of International Surface Air Lift service, but needed faster service than was available for surface mail and lower rates than the proposed air AO rates. The Postal Service does not have sufficient information on the costs or demand for such rates to adopt this proposal at this time. The Postal Service nonetheless appreciates this suggestion and will give it further consideration.

Based on consideration of all the comments and the statutory requirements applicable to international mail, the Postal Service hereby adopts the international rates and fees set forth in the schedules set forth below. These rates and fees shall take effect at 12:01 a.m. on February 3, 1991.

Stanley F. Mires,

Assistant General Counsel, Legislative Division.

I. Letters and Letter Packages

A. Canada and Mexico (Air) [1]

Weight steps not over		Canada [1]	Mexico
Lbs.	Ozs.		
0	.5	$0.40	$0.035
0	1	0.40	0.45
0	1.5	0.63	0.55
0	2	0.63	0.65
0	3	0.86	0.90
0	4	1.09	1.15
0	5	1.32	1.40
0	6	1.55	1.65
0	7	1.78	1.90
0	8	2.01	2.15
0	9	2.24	2.40
0	10	2.47	2.65
0	11	2.70	2.90
0	12	2.93	3.15
1	0	3.25	4.15
1	8	3.85	6.15
2	0	4.45	8.15
2	8	5.38	10.15
3	0	6.31	12.15
3	8	7.24	14.15
4	0	8.17	16.15

[1] A 4 pound maximum applies except for registered items sent to Canada, which may weigh up to 66 pounds. For Canada-bound registered items weighing over 4 pounds, the rate is $1.86 for each additional pound up to a 66-pound limit.

B. Countries Other than Canada or Mexico (Surface)

Weight steps [1] not over		All countries (other than Canada and Mexico)
Lbs.	Ozs.	
0	1 [2]	.70
0	2	.95
0	3	1.20
0	4	1.45
0	5	1.70
0	6	1.95
0	7	2.20
0	8	2.45
0	12	3.95
1	0	5.55
1	8	7.65
2	0	9.75
2	8	11.85
3	0	13.95
3	8	16.05

[1] Mail paid at these rates receives First-Class service in the U.S. and airmail service in Canada and Mexico.

Weight steps [1] not over		All countries (other than Canada and Mexico)
Lbs.	Ozs.	
4	0	18.15

[1] A 4-pound maximum applies.
[2] Pieces weighing one-half ounce or less will be accepted at the Air LC rate of 50 cents and accorded air service.

C. Countries Other than Canada or Mexico (Air)

Ounces (up to and including)	All countries (other than Canada and Mexico)
.5	$0.50
1.0	.95
1.5	1.34

Rate is 39 cents for each additional .5 ounce up to and including 32 ounces; then 39 cents per additional ounce over 32 ounces. Maximum weight is 64 ounces.

D. Bulk Rate (to Canada only)

38 cents per piece. Applies only to letters weighing 1 ounce or less. Mailers must present a minimum quantity of 500 pieces. All mail must bear the appropriate Canadian post code. Mail must be trayed and labeled to the destination specified by the Postal Service. (Detailed requirements will be published in IMM.)

II. Post/Postal Cards and Aerogrammes

A. Canada and Mexico

(1) Post/Postal Cards: 30 cents each.
(2) Aerogrammes: 45 cents each.

B. All Countries Other than Canada and Mexico

(1) Post/Postal Cards
Surface: 35 cents each.
Air: 40 cents each.
(2) Aerogrammes: 45 cents each.

III. Other Articles (AO)

A. Regular Printed Matter and Small Packets (Surface)

Weight Steps	Canada	Mexico	All other countries
Not over (oz.):			
1	$0.36	$0.35	$0.48
2	0.58	0.51	0.70
3	0.80	0.66	0.92
4	1.02	0.86	1.14
6	1.26	1.06	1.45
8	1.50	1.26	1.80
10	1.74	1.46	2.07
12	1.98	1.66	2.38
14	2.22	1.91	2.69
16	2.46	2.16	3.20
18	2.68	2.41	3.26
20	2.86	2.66	3.52
22	3.06	2.91	3.78
24	3.26	3.16	4.04
26	3.46	3.46	4.30
28	3.66	3.76	4.56
30	3.86	4.06	4.82
32	4.06	4.36	5.08
Not over (lbs.):			
3	5.26	5.86	6.73
4	6.46	7.36	8.38
Each addl. 1 lb.	1.20	1.50	1.65
Maximum weight:[1]			
M-Bag Rate [2]			
Per pound or fraction	.96	1.20	1.32

[1] a. For regular printed matter maximum weight is 22 pounds to Mexico; 4 pounds to Canada and most other countries.
b. For Small Packets, maximum weight is 32 ounces to Canada and Mexico; 4 pounds to most other countries.
[2] Direct sacks to one addressee. Minimum weight 15 lbs. Maximum weight 66 lbs.

B. Publishers' Periodicals (Surface)

Weight steps [1]	Canada	All other countries
Not over (oz.):		
1	$0.30	$0.30
2	0.34	0.38
3	0.44	0.46
4	0.54	0.54
6	0.65	0.68
8	0.76	0.82
10	0.87	0.96
12	0.98	1.10
14	1.09	1.24
16	1.20	1.36
18	1.31	1.48
20	1.42	1.60
22	1.53	1.72
24	1.64	1.84
26	1.75	1.96
28	1.86	2.08
30	1.97	2.20
32	2.08	2.32
Not over (lbs.):		
3	2.88	3.22
4	3.68	4.12
Each additional 1 lb.	0.80	0.90
M-Bag Rate [2]		
Per pound or fraction	0.64	0.72

[1] Weight limit is 4 pounds to most countries; 22 pounds to some other countries. If mailed by publisher or news agent, weight limit is 30 pounds to Canada.
[2] Direct sacks to one addressee. Minimum weight 15 lbs. Maximum weight 66 lbs.

C. Books and Sheet Music (Surface)

Weight steps [1]	Canada	All other countries
Not over (lbs.)		
1	$1.20	1.36
2	2.08	2.32
3	2.88	3.22
4	3.68	4.12
5	4.48	5.02
6	5.28	5.92
7	6.08	6.82
8	6.88	7.72
9	7.68	8.62
10	8.48	9.52
11	9.28	10.42
Each additional 1 lb.	0.80	0.90
M-Bag Rate [2]		
Per pound or fraction	0.64	0.72

[1] Weight limit is 11 pounds to most countries; 22 pounds to some other countries.
[2] Direct sacks to one addressee. Minimum weight 15 lbs. Maximum weight 66 lbs.

D. 1. Printed Matter, Matter for the Blind, and Small Packets (Air) (Canada and Mexico)

Weight steps [1]	Canada	Mexico
Not over (oz.):		
.5	$0.38	$0.35
1	0.38	0.40
1.5	0.60	0.53
2	0.60	0.63
3	0.82	0.85
4	1.04	1.07
5	1.26	1.29
6	1.48	1.51
7	1.70	1.73
8	1.92	1.95
9	2.14	2.17
10	2.36	2.39
11	2.58	2.61
12	2.80	2.83
16	3.12	3.55
24	3.72	4.40
32	4.32	5.25
Not over (lbs.):		
2.5	5.12	6.10
3.0	5.92	6.95
3.5	6.72	7.80
4.0	7.52	8.65
Each additional ½ lb. over 4 lbs.		0.85
M-Bag Rate [2]		
Per pound or fraction	1.28	1.36

[1] Maximum weight is 4 pounds to Canada; 22 pounds to Mexico.
[2] Direct sack to one addressee. Minimum weight 15 lbs. Maximum weight 66 lbs.

D. 2. Printed Matter, Matter for the Blind, and Small Packets (Air) (Countries Other than Canada and Mexico)

AIR AO POSTAL RATE GROUPS [1]

Weight steps [2]	Western Hemisphere except Canada/Mexico	Europe	Asia/Africa	Pacific Rim
Not over (oz.):				
1	$0.70	$0.85	$0.93	$0.95

AIR AO POSTAL RATE GROUPS [1]—Continued

Weight steps [2]	Western Hemisphere except Canada/Mexico	Europe	Asia/Africa	Pacific Rim
2	1.07	1.35	1.57	1.61
3	1.44	1.85	2.21	2.27
4	1.81	2.35	2.85	2.93
6	2.18	3.01	3.76	3.85
8	2.55	3.67	4.67	4.77
10	2.92	4.33	5.58	5.69
12	3.29	4.99	6.49	6.61
14	3.66	5.65	7.40	7.53
16	4.03	6.31	8.31	8.45
18	4.40	6.97	9.22	9.37
20	4.77	7.63	10.13	10.29
22	5.14	8.29	11.04	11.21
24	5.51	8.95	11.95	12.13
26	5.88	9.61	12.86	13.05
28	6.25	10.27	13.77	13.97
30	6.62	10.93	14.68	14.89
32	6.99	11.59	15.59	15.81
Not over (lbs.):				
2.5	8.39	14.09	19.14	19.41
3.0	9.79	16.59	22.69	23.01
3.5	11.19	19.09	26.24	26.61
4.0	12.59	21.59	29.79	30.21
Each addl. ½ lb. over 4 lbs	1.40	2.50	3.55	3.60
M-Bag Rate [3]				
Per pound or fraction	2.24	4.00	5.68	5.76

[1] See section III.D.3.
[2] Weight limit is 4 pounds to most countries; 22 pounds to some other countries. If mailed by publisher or news agent, weight limit is 30 pounds to Canada.
[3] Direct sack to one addressee. Minimum weight 15 lbs. Maximum weight 66 lbs.

D.3. Air AO Postal Rate Groups

Pacific Rim Group	European Group	Asian/African Group	Asian/African Group	Western Hemisphere Group (except Canada & Mexico)
Australia	Albania	Afghanistan	MaLawi	Antigua & Barbuda
China	Andorra	Algeria	Maldives	Anguilla
Fiji	Austria	Angola	Mali	Argentina
Hong Kong	Azores	Ascension	Malta	Aruba
Indonesia	Belgium	Bahrain	Mauritania	Bahamas
Japan	Bulgaria	Bangladesh	Mauritius	Barbados
Korea, Democratic People Rep	Corsica	Benin	Mongolia	Belize
Korea, Republic of (South)	Czechoslovakia	Bhutan	Morocco	Bermuda
Lao	Denmark	Botswana	Mazambique	Bolivia
Macao	Estonia	Brunei	Nauru	Brazil
Malaysia	Faroe Islands	Burkina Faso	Nepal	British Virgin Islands
New Zealand	Finland	Burma	New Caledonia	Cayman Islands
Papua New Guinea	France	Burundi	Niger	Chile
Philippines	Germany, Federal Republic of	Cameroon	Nigeria	Colombia
Singapore	Gibraltar	Cape Verde	Oman	Costa Rica
Taiwan	Great Britain & No. Ireland	Central African Republic	Pakistan	Cuba
Thailand	Greece	Chad	Pitcairn Islands	Dominica
Vietnam	Greenland	Comoros	Qatar	Dominican Republic
	Hungary	Congo	Reunion	Ecuador
	Iceland	Cote D'ivoire (Ivory Coast)	Rwanda	El Salvador
	Ireland	Cyprus	Sao Tome & Principle	Falkland Islands
	Italy	Djibouti	St. Helena	French Guiana
	Latvia	East Timor	Saudi Arabia	Grenada
	Liechtenstein	Egypt	Senegal	Guadaloupe
	Lithuania	Equatorial Guinea	Seychelles	Guatemala
	Luxembourg	Ethiopia	Sierra Leone	Guyana
	Madeira Islands	French Polynesia	Solomon Islands	Haiti
	Monaco	Gabon	Somalia	Honduras
	Netherlands	Gambia	South Africa	Jamaica
	Norway	Ghana	Sri Lanka	Martinique
	Poland	Guinea	Sudan	Montserrat
	Portgual	Guinea Bissau	Swaziland	Netherlands Antilles
	Romania	India	Syria	Nicaragua
	San Marino	Iran	Tanzania	Panama
	Spain	Iraq	Togo	Paraguay
	Sweden	Israel	Tonga	Peru
	Switzerland	Jordan	Tristan Da Cunha	Saint Christopher & Nevis
	Turkey	Kampuchea	Tunisia	Saint Lucia
	USSR	Kenya	Tuvalu	St. Pierre & Miquelon
	Vatican City State	Kiribati	Uganda	Saint Vincent & The Grenadines
	Yugoslavia	Kuwait	United Arab Emirates	Suriname

Pacific Rim Group	European Group	Asian/African Group	Asian/African Group	Western Hemisphere Group (except Canada & Mexico)
		Lebanon Lesotho Liberia Libya Madagascar	Vanuatu Wallis & Futuna Islands Western Samoa Yemen, Rep. of Zaire Zambia Zimbabwe	Trinidad and Tobago Turks & Caicos Islands Uruguay Venezuela

IV. Parcel Post

A. 1 Canada (Surface)

Rate is $4.85 for up to 2 pounds; then $1.45 for each additional pound or fraction. Maximum weight is 66 pounds. Minimum weight is 1 pound.

A. 2. Countries Other Than Canada (Surface)

	Bahamas, Bermuda, Caribbean Islands, Central America, Mexico, and St. Pierre & Miquelon	All other countries
Pounds [1] (up to and including):		
2	$6.00	$6.55
3	7.85	8.65
4	9.70	10.75
5	11.55	12.85
6	13.40	14.95
7	15.25	17.05
8	17.10	19.15
9	18.95	21.25
10	20.80	23.35
Each additional lb. or fraction over 10 lbs	1.85	2.10

[1] Weight limits vary by country.

B. 1. Canada (Air)

Rate is $5.00 for up to 2 pounds; then $1.40 for each additional pound or fraction. Maximum weight is 66 pounds, except 22 pounds to Canadian Armed Forces. Minimum weight is 1 pound.

B. 1. Countries Other than Canada (Air)

Weight Steps	Parcel Post [1] Rate Groups				
	A	B	C	D	E
First 1 lb	$6.00	$7.75	$9.25	$10.70	$12.30
Each additional lb. or fraction up to 5 lbs	3.00	4.25	5.00	6.00	7.00
Each additional lb or fraction over 5 lbs	2.00	3.00	4.00	5.00	6.00

[1] See section IV.B.2. Air Parcel Post Rate Groups.

B. 2. Parcel Post Rate Groups:

Country	Rate group	Maximum weight limits for air parcel post
Afghanistan	D	44
Albania	C	44
Algeria	D	44
Andorra	B	44
Angola	E	22
Anguilla	A	22
Antigua and Barbuda	A	22
Argentina	D	44
Aruba	A	44
Ascension	(1)	
Australia	D	44
Austria	B	44
Azores	C	44
Bahamas	A	22
Bahrain	D	22
Bangladesh	E	22
Barbados	B	44
Belgium	D	44
Belize	A	44
Benin	C	44
Bermuda	A	44
Bhutan	E	22
Bolivia	B	44
Botswana	E	22
Brazil	E	44
British Virgin Islands	A	44
Brunei	D	44
Bulgaria	D	44
Burkina Faso	D	44
Burma	D	22
Burundi	E	44
Cameroon	D	44
Canada	(2)	
Cape Verde	D	22
Cayman Islands	A	44
Central African Republic	E	44
Chad	D	44
Chile	D	22
China (Peoples Republic of	D	44
Colombia	B	44
Camoros	E	44
Congo	D	44
Corsica	E	44
Costa Rico	A	44
Cote d'Ivoire (Ivory Coast)	D	44
Cuba	(3)	
Cyprus	C	44
Czechoslovakia	C	33
Denmark	C	44
Djibouti	D	44
Dominica	A	22
Dominican Republic	A	44
East Timor	(3)	
Ecuador	C	44
Egypt	D	44
El Salvador	B	44
Equatorial Guinea	D	44
Estonia	E	22
Ethiopia	D	44
Falkland Islands	D	44
Faroe Islands	C	44
Fiji	B	44
Finland	D	44
France	E	44
French Guiana	C	44
French Polynesia	D	44
Gabon	D	44
Gambia	B	22
Germany, Republic of	C	44
Ghana	D	22
Gibraltar	C	44
Great Britain and Northern Ireland.	C	66
Greece	C	44
Greenland	D	44
Grenada	A	44
Guadeloupe	A	44
Guatemala	A	44
Guinea	B	44
Guinea-Bissau	B	22
Guyana	B	44
Haiti	A	44

Country	Rate group	Maximum weight limits for air parcel post
Honduras	B	44
Hong Kong	C	44
Hungary	C	44
Iceland	C	44
India	D	44
Indonesia	E	22
Iran	D	44
Iraq	D	44
Ireland (Eire)	C	50
Israel	C	33
Italy (including San Marino)	C	44
Jamaica	A	22
Japan	E	44
Jordan	C	44
Kampuchea	(3)	
Kenya	D	44
Kirabati	B	44
Korea, Democratic People's Republic.	(3)	
Korea, Republic of (South)	C	44
Kuwait	C	44
Lao	E	44
Latvia	E	22
Lebanon	C	11
Lesotho	E	22
Liberia	C	22
Libya	D	44
Liechtenstein	B	44
Lithuania	E	22
Luxembourg	B	44
Macao	C	44
Madagascar	E	44
Madeira Islands	B	44
Malawi	D	22
Malysia	D	22
Maldives	D	22
Mali	C	44
Malta	C	22
Martinique	A	44
Mauritania	D	44
Mauritius	E	22
Mexico	A	44
Monaco	E	44
Mongolia	(2)	
Montserrat	A	44
Morocco	C	44
Mozambique	E	22
Nauru	C	44
Nepal	D	44
Netherlands	C	44
Netherlands Antilles	A	44
New Caledonia	D	44
New Zealand	D	44
Nicaragua	B	44
Niger	D	44
Nigeria	C	44
Norway	D	44
Oman	D	22
Pakistan	D	22
Panama	A	44
Papua New Guinea	D	44
Paraguay	D	44
Peru	B	44
Philippines	D	44
Pitcairn Islands	B	22
Poland	B	33
Portugal	C	44
Qatar	C	44
Reunion	E	44
Romania	C	44
Rwanda	D	44
Saint Christoper & Nevis	A	44
Saint Helena	C	44
Saint Lucia	A	44
Saint Pierre & Miquelon	A	44
Saint Vincent & the Grenadines.	A	22
San Marino	C	44
Sao Tome & Principe	D	44
Saudi Arabia	D	44
Senegal	D	44
Seychelles	D	22
Sierre Leone	D	44
Singapore	D	22
Solomon Islands	C	44
Somalia	D	44
South Africa (including South West Africa & Namibia).	D	22
Spain	C	44
Sri Lanka	D	44
Sudan	D	44
Suriname	B	44
Swaziland	D	44
Sweden	D	44
Switzerland	B	44
Syria	C	44
Taiwan	C	44
Tanzania	E	22
Thailand	D	44
Togo	D	44
Tonga	B	22
Trinidad & Tobago	B	22
Tristan da Cunha	E	22
Tunisia	C	44
Turkey	C	44
Turks & Caicos Islands	A	22
Tuvalu	B	44
Uganda	D	44
Union of Soviet Socialist Republic.	E	22
United Arab Emirates	D	44
Uruguary	B	44
Vanuatu	B	44
Vatican City State	C	44
Venezuela	B	44
Vietnam	(3)	
Wallis & Futuna Islands	D	44
Western Samoa	B	22
Yemen, Republic of Yugoslavia.	C	33
Zaire	E	44
Zambia	E	44
Zimbabwe	E	44

(1) No Air Service.
(2) Separate Rate Group.
(3) No Parcel Post Service

V. Fees for Special Mail Services

Note: Fees marked with an asterisk (*) are the same as the corresponding fees for domestic mail.

A. Nonstandard Surcharge

1. Letters (weighing one ounce or less): 10* cents
2. Regular Printed Matter (weighing one ounce or less): 10* cents

B. Customs Clearance and Delivery Fee: $3.40

*C. Inquiry Fees: $600**

*D. Return Receipt (requested at time of mailing): $1.00**

E. Registered Mail

Limit of Indemnity	Fee
1. Canada:	
$000.00 to $100	$4.50*
$100.01 to $500	4.85*
$500.01 to $1,000	5.25*
2. All other countries:	
$32.35	$4.40

F. Insured Mail

Limit of Indemnity [1].

Not over	Fees	
	Canada	All other countries
50	$0.75*	$1.60
100	1.60*	2.40
200	2.40*	3.50
300	3.50*	4.60
400	4.60*	5.40
500	5.40*	6.20
600	6.20*	6.60
700		6.90
800		7.20
900		7.50
1,000		7.80
1,100		8.10
1,200		8.40

G. Money Orders

1. Orders Issued on Domestic Form [1].

Amount of money order	Fee
$0.01 to $700	$.75*

2. Orders Issued on International Form (including the Dominican Republic, Japan, Mexico, Ecuador, Nigeria, and Sierra Leone): $3.00 per money order.

3. Charge for a photostat of a paid money order issued on a domestic form or pursuant to an international authorization form: $2.50*

H. Special Handling

Weight	Fee
Not more than 10 lbs.	$1.80*
More than 10 lbs.	2.50*

[1] Limits vary by country.

I. Special Delivery

Class of mail	Not over 2 pounds	Over 2 pounds
1. Letters	$7.65*	$7.95*
2. Post cards	7.65*	7.95*
3. Other articles	8.05*	8.65*

*J. Restricted Delivery $250**

K. Recorded Delivery $1.00

L. Certificates of Mailing

	Fee
1. Piece Mailings:	
a. Basic Service (Form 3817)	$0.50*
b. Firm Book Mailing (Form 3877)	0.20*
2. Bulk Mailings:	
a. Up to 1,000 identical pieces	2.50*
b. Each additional 1,000 pieces	0.30*
3. Duplicate Copy	0.50*

M. Return Charges

For returned publishers' periodicals originally mailed to Canada by publishers or registered news agents (IMM 781.5a).

Weight [1] not over	Charges
Ounce:	
1	$0.29*
2	0.52*
3	0.75*
4	0.98*
6	1.21*
8	1.33*
10	1.44*
12	1.56*
14	1.67*
16	1.79*

[1] For weights over 1 pound, use the domestic 8th zone fourth-class rate.

N. International Reply Coupons

Selling price for U.S. issued coupons: $0.95.

O. International Business Reply

1. Envelopes (up to 2 ozs.)	$0.95
2. Cards	0.50

[FR Doc. 91-2096 Filed 1-29-91; 8:45 am]

BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-28813; File No. SR-Amex-90-37]

Self-Regulatory Organizations; Filing of Proposed Rule Change by American Stock Exchange, Incorporated Relating To Its Post Execution Reporting System and Its Options Switching System to Increase the Size of Eligible Market and Limit Orders

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on November 6, 1990, the American Stock Exchange, Inc. ("Amex") filed with the Securities and Exchange Commission the proposed rule change as described in Item 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 Amex determined to expand its Post Execution Reporting ("PER") system and its Options Switching ("AMOS") system to increase the size of eligible market and limit orders.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) Purpose. The PER and AMOS systems provide member firms with the means to electronically transmit equity and option orders directly to the specialist's post on the Exchange floor. Equity orders are either executed immediately by the specialist (market and marketable limit orders) or placed upon the specialist's book (limit orders). Options orders are either executed automatically through the Auto-Ex system (market and marketable limit orders) or placed upon the specialist's book (limit orders). Once the PER or AMOS order is executed the system transmits the execution report directly back to the member firm.

Since its implementation in the late 1970's, the Exchange has increased the order parameters for both the PER and AMOS systems in response to the operational needs of member firms, in recognition of the cost efficiencies gained through expanded use of automation, and to remain competitive with other exchanges' automated systems. Currently, the PER system accepts market and limit orders of up to 2,000 shares and the AMOS system accepts market and limit orders of up to 20 option contracts.

The Exchange proposes to again increase the order parameters for both PER and AMOS. Specifically, PER market orders will be increased from 2,000 to 3,000 shares (and may be increased to 5,000 shares after six months at the discretion of the Exchange), PER limit orders will be increased from 2,000 to 5,000 shares and AMOS market and limit orders will be increased from 20 to 30 option contracts.

The Exchange has over the years accompanied the increases in the PER and AMOS order parameters with significant enhancements to its overall systems. The use of touch-screen technology for the display, execution and reporting of orders and the dissemination of quotes, automatic execution for all equity and index options in designated series, the automatic reporting of sales to the Market Data System, and the submission of clearance input for all PER transactions and automatically executed AMOS orders, have greatly improved the ability of member firms and our specialists to handle increases in volume and order flow. Based on a survey of member firms, the Exchange expects this expansion to increase the number of orders sent through the PER and AMOS systems by approximately 200 orders per day. As the current capacity of these systems is far in excess of what our survey indicates can be anticipated from the expansion, it is clear that no capacity problems are presented by the proposed expansion of the PER and AMOS order parameters.

(2) Basis. The proposed rule change is consistent with section 6(b) of the Act in general and furthers the objective of section 6(b)(5) in particular in that it will foster cooperation and coordination with persons engaged in facilitating transactions in securities, and will also result in more efficient and effective

market operations, consistent with section 11A(a)(1)(B).

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will create no burden on competition given that use of the PER and AMOS systems is optional, and those firms that use PER and AMOS can achieve more efficient handling of their respective orders. The proposed rule change will also enhance the Exchange's competitive status in providing efficient, fast and accurate order-delivery systems.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commiesion 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 filings will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by February 20, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. 17 CFR 200.30-3(a)(12).

Dated: January 23, 1991.

Margaret H. McFarland,

Depty Secretary

[FR Doc. 91-2100 Filed 1-29-91 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc

January 24, 1991.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Allied Irisk Banks, American Depositary Shares (File No. 7-6518)
Catellus Development Corp., Common Stock, $0.01 Par Value (File No. 7-6519
EQK Green Acres L.P., Common Stock, No Par Value (File No. 7-6520)
European Warrant Fund, Inc., Common Stock, $0.001 Par Value (File No. 7-6521)
IMCERA Group, Inc., Common Stock, $5.00 Par Value (File No. 7-6522)
Nuveen California Investment Quality Fund, Common Stock, $0.01 Par Value (File No. 7-6523)
Nuveen New York Investmant Quality Fund, Common Stock $0.01 Par Value (File No. 7-6524)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 14, 1991 written data, views and arguments concerning to above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-2189 Filed 1-29-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 28819; File No. SR-DTC-90-12]

Self-Regulatory Organizations; Depository Trust Co.; Order Approving a Proposed Rule Change Relating to Automated Due-Bill Processing of Deliver Order Fails

January 24, 1991.

On November 14, 1990, the Depository Trust Company ("DTC") filed a proposed rule change with the Securities and Exchange Commission ("Commission") pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act").[1] Notice of DTC's proposal was published in the **Federal Register** on January 14, 1991, to solicit comments from interested persons.[2] No comments were received.[3] As discussed below, the Commission is approving DTC's proposal.

I. Description

DTC's intends to offer a new service to facilitate the redemption of certain due-bills [4] associated with securities trades that fail to settle on their original settlement date. The new service will permit a DTC participant that is a deliverer of securities to instruct DTC to allocate automatically cash from its account to the receiving participant's account where the delivering participant's failure to deliver the securities on the original settlement date creates the need for a due-bill.[5]

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[1] 15 U.S.C. 78s(b).

[2] Securities Exchange Act Release No. 28745 (January 7, 1991), 56 FR 1425.

[3] DTC previously submitted its proposal to its participants for comment. Although most commentators favored the proposed rule change, they also desired to retain the flexibility to use DTC's current procedures for processing due-bills fails (described below). Their comments have been incorporated into DTC's proposal.

[4] A "due bill" is an instrument which evidences the transfer of title to any dividend, interest, or rights pertaining to securities for which a sales contract has been executed. *See, e.g.*, New York Stock Exchange Rule 255 and National Association of Securities Dealers Uniform Practice Code, Section 48.

[5] In general, when a purchaser buys a security five days or more before the record date for that security, the purchase price includes the distribution. If the seller delivers the security in a timely manner, the purchaser will be the owner of the security on the record date and will receive the distribution from the issuer or its agent. If, on the

Continued

Under the proposal, a delivering participant whose failure to deliver a security on the scheduled settlement date creates the need for a due-bill may supply DTC with settlement date information in their deliver order [6] instructions. DTC will maintain the settlement dates in its data base and will capture those failed deliveries for which due-bills would be required. DTC will accomplish this by comparing dividend announcements made within the past six months to trades with failed deliveries where the settlement date entered on the deliver order matches or precedes the announcement's settlement date. Once a fail to deliver is captured, DTC will generate automatically cash dividend or interest adjustments for delivering and receiving participants and will notify them of the amounts to be debited from or credited to their accounts. DTC will transmit the notice over its Participant Terminal System [7] on the morning of the day their accounts are to be debited and credited.

Cash or interest due on failed transactions captured between the record date and the payment date will be maintained in a pending file and will be settled on the afternoon of the payment date. Cash or interest due on failed transactions captured on or after the payment date will be settled on the afternoon of the business day following the date the delivering participant inputs deliver order instructions containing settlement date information. These amounts will not be netted with the delivering and receiving participants' other money settlement obligations for that day. In addition, receiving participants that receive failed deliveries pursuant to this service will not be permitted to reclaim (*e.g.*, return) deliveries on the grounds that cash or interest due did not accompany the delivery of the security.

DTC's proposal will not apply to free, interdepository,[8] or continuous net settlement deliver orders and initially will not apply to due-bills relating to stock distributions.

II. Rationale for the Purposal

DTC believes that the proposed rule change is consistent with Section 17A of the Act because it offers DTC's participants an efficient, automated procedure that can be used in place of its current manual-intensive procedures for processing due-bills arising out of the failed deliveries. Accordingly, DTC believes that its proposal will promote the prompt and accurate clearance and settlement of securities transactions.

III. Discussion

The Commission believes that DTC's proposal is consistent with the Act and, in particular, with Section 17A of the Act. The Commission notes, as a general matter, that the goal of prompt and efficient clearance and settlement of securities transactions and the use of automated systems in pursuit of this goal are expressly contemplated in section 17A(a)(1) of the Act.[9] Congress stated in that Section that inefficient procedures for the clearance and settlement of securities transaction impose unnecessary costs on investors and that prompt and accurate clearance and settlement are necessary for investor protection.

The Commission notes that DTC's current procedures for processing due-bills arising out of fails to deliver are cumbersome and inefficient. Under DTC's current procedures, a seller that fails to delivery a security for which a distribution is scheduled to be made on the settlement date must make the delivery by issuing a deliver order to DTC using a reason code 70.[10] This reason code is an acknowledgement from the seller to the purchaser that the seller owes the purchaser the distribution pertaining to the security delivered. Once the purchaser receives such a deliver order, the purchaser may: (1) Issue a securities payment order [11] to DTC instructing DTC to debit the seller's money settlement account and credit the purchaser's money settlement account; (2) reclaim (*i.e.*, return) the security to the seller; or (3) demand payment from the seller outside DTC.

As described above, DTC's proposal will alter the current procedures by permitting delivering participants to code their deliver orders with settlement information that allows DTC to track failed deliveries that create the need for due-bills and to debit and credit automatically the delivering and receiving participants on or after the payment dates for the cash or interest due. The Commission believes that this system will enhance the efficient processing of securities transactions in two respects. First, a receiving participant will not be required to take any action in response to a failed delivery for which a due-bill would ordinarily be required. Instead, delivering participants making failed deliveries may include in their deliver orders settlement date information that DTC will use to capture those fails for which a due-bill would ordinarily be required and to allocate automatically any dividend or interest due. Second, a receiving participant will not be permitted to reclaim (*i.e.*, return) the late delivery of the security on the grounds that no distribution proceeds accompanied the delivery.[12] This will increase the finality of DTC's securities settlement process and will reduce the likelihood that participants will be required to make multiple deliveries through DTC merely to satisfy a failed delivery obligation. Accordingly, because DTC's proposal will increase the efficiency of its securities processing operations, the Commission believes that it is consistent with Section 17A of the Act.

Finally, the Commission notes that DTC can not extend its service to interdepository deliveries until such time as other securities depositories offer comparable services to their participants. The Commission believes that the extension of DTC's service to interdepository deliveries would promote the prompt and efficient processing of securities transactions and urges other securities depositories to consider offering comparable services to their participants.

IV. Conclusion

For the reason stated above, the Commission finds that the proposed rule change is consistent with Section 17A of the Act.

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other hand, the seller fails to deliver the security on the settlement date, the purchaser will not be the owner of the security on the record date and will not receivethe distribution. In such a case, the seller must deliver a "due-bill" to the purchaser.

[6] A "deliver order" is an instruction from a participant directing DTC to debit its securities account and credit the securities account of another participant.

[7] DTC's Participant Terminal System is a network of computer terminals located in participant offices that are linked directly to DTC's computers. Participants use this system to send instructions, inquiries, and other messages to DTC and to receive depository messages and reports.

[8] DTC has informed the Commission that other securities depositories do not offer a service similar to the one to be offered by DTC and that it can not extend its service to interdepository deliveries until such time as other securities depositories institute a service comparable to DTC's. Telephone conversation between Anthony DiMurro, Director, Dividend Department, DTC, and Ross Pazzol, Attorney, Division of Market Regulation, Commission, on January 11, 1991.

[9] 15 U.S.C. 78q–1(a)(1).

[10] A reason code is a code entered into the Participant Terminal System by participants to provide DTC with notice of the underlying purpose of its participants' instructions.

[11] A "securities payment order" is an instruction directing DTC to debit the account of a participant and credit the account of the participant issuing the instruction.

[12] Under DTC's current procedures, a participant may reclaim a delivery of securities on the grounds that the delivery of securities does not include the dividend or interest payment required by the sales contract. DTC Procedures, Section C.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[18] that the proposed rule change (SR–DTC–90–12) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–2183 Filed 1–29–91; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

January 24, 1991.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Blackstone Strategic Term Trust Incorporated, Common Stock, $.01 Par Value (File No. 7–6525)

Wheeling Pittsburgh Corporation, Common Stock, $.01 Par Value (File No. 7–6526)

DRCA Medical Corporation, Common Stock, $.001 Par Value (File No. 7–6527)

Laurentian Capital Corporation, Common Stock, $.05 Par Value (File No. 7–6528)

Todd Shipyards Corporation, Common Stock, $10.00 Par Value (File No. 7–6529)

Brooke Group Ltd. Contingent Value Rights (File No. 7–6530)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 14, 1991, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

[18] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91–2190 Filed 1–29–91; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–28812; File No. SR–NASD–90–66]

Self-Regulatory Organizations; Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Issuer Hearing Fees

Pursuant to section 19(b)(1) of the Securities Exchange At of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 4, 1990, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items, I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD has proposed an amendment to Part IV of Schedule D of the Association's By-Laws establishing a hearing fee for issuers that apply for exceptions to the inclusion requirements of the NASDAQ System set forth in Parts II and III of Schedule D of the NASDA By-Laws. Below is the text of the proposed rule change. Proposed new language is in italics, proposed deletions are in brackets.

Part IV

ISSUER [LISTING] FEES

ISSUER HEARING FEE

E. Hearing Fee

1. Each issuer that applies for an exception under Article IX of the Code of Procedure to the requirements of Parts II or III of Schedule D to the By-Laws shall pay a fee to the Corporation to cover the cost of considering such application as follows:

(a) Where the application is to be considered on the basis of written submissions from the issuer, $500; or

(b) Where the application is to be considered on the basis of an oral hearing, whether in person or by telephone, $1,000.

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 NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments to received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The NASD is proposing to add a new Section E to Part IV of Schedule D to the By-Laws to provide for an issuer hearing fee to help defray the costs associated with the consideration of applications for exceptions. The proposed new Section E will require an issuer to pay a fee for the consideration of any application for an exception from the requirements of Parts II or III of Schedule D. The fee to be imposed under proposed new Section E will be $500 for applications where the issuer makes only written submissions and $1,000 where the issuer asks to be heard orally, whether in person or by telephone.

Article II and III of Schedule D to the NASD's By-Laws set forth the requirements for initial and continued inclusion in the NASDAQ System and the National Market System, respectively. An issuer that fails to meet or maintain the requirements for initial or continued inclusion may apply for an exception from the requirements pursuant to Article IX of the Code of Procedure, which application will be considered by a committee of the Board of Governors. Applications for exceptions may be made in anticipation of or after the issuance of a qualification decision.

Because of the significant staff and committee resources devoted to the processing and consideration of these applications for exception, the NASD believes that it would be more equitable to impose the costs associated with the processing and consideration of such applications on the issuers seeking exceptions. The NASD does not believe that it is fair or equitable to distribute these costs among all issuers included in the NASD does not believe that it is fair or equitable to distribute these costs

among all issuers included in the NASDAQ System and, in effect, subsidize issuers seeking exceptions, by funding the exception application process out of the entry and annual fees assessed on all NASDAQ issuers. The proposed rule change will shift the cost of exception proceedings to the issuers seeking exceptions.

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act, which requires that the rules of the Association provide for the equitable allocation of reasonable dues, fees, and other charges among issuers and other persons using any facility or system which the Association operates or controls.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of 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 statement with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by February 20, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: January 23, 1991.

[FR Doc. 91-2184 Filed 1-29-91; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-28815; File No. SR-NASD-91-3]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Service Charges for SelectNet and Small Order Execution System

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 16, 1991, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The NASD has designated this proposal as one establishing or changing a fee under section 19(b)(3)(A)(ii) of the Act, which renders the rule effective upon the Commission's receipt of this filing. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing an amendment to part IX of Schedule D of the By-Laws to add a $25 monthly emergency market conditions service charge for Nasdaq Level 2/3 subscribers capable of receiving SelectNet and the Small Order Execution System ("SOES") services and $4 per side per transaction fee for SelectNet trades.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Association is proposing an emergency market conditions fee of $25 per month to be assessed on every Nasdaq Workstation™ and authorized Digital Interface Service terminal capable of receiving the SelectNet and SOES services. Following the market break of 1987, the NASD implemented the Order Confirmation Transaction Service (now renamed "SelectNet") as a screen-based communication system to negotiate transactions in replacement of telephone contact. Additionally, SOES was enhanced to require mandatory participation by market makers and to implement certain size requirements for executions in National Market System securities. Both SOES and SelectNet operate in the same computer facility, and the NASD has recently enhanced each service: in SOES a Limit Order File with potential for matching orders between the inside spread has been implemented, and SelectNet has been enhanced to facilitate broadcasting of orders to a wider audience and to permit faster and easier negotiations between participants.

These system changes since 1987 have been implemented in part to offer Nasdaq subscribers alternative avenues for trade executions outside of traditional telephone contact in the event of emergency market conditions. The NASD is proposing to charge a monthly $25 fee for each subscriber to Nasdaq Workstation™ and Digital Interface Service that is capable of utilizing the SOES or SelectNet services in order to recover the cost associated with enhancing the systems and of maintaining the excess computer capacity to utilize them in extreme market conditions. The annual revenues to be derived from this emergency systems fee will offset continuing development and operational expenses associated with the system.

Additionally, the NASD is proposing service charges for the SelectNet screen-based trading service [1] of $4.00 per side

[1] See Release No. 34-28638 (November 21, 1990), 55 FR 49752 (November 30, 1990).

per transaction. Modifications to the service were approved by the Commission in November, 1990, and since their implementation, the SelectNet service has been used by members to facilitate screen-based negotiations and locked-in executions for transmission to clearing. The service charge is calculated to recover the costs of developing the SelectNet modifications and to support continued operation of the system. Costs include: hardware acquisition and software development (depreciated over a five year period); computer operations in the primary site at Trumbull, Connecticut will full redundancy in the back-up site at Rockville, Maryland; SelectNet utilization of the Nasdaq network; software development and leases; market surveillance system development; and personnel expenses associated with supporting the computer facilities and members' operational concerns. The $4/side transaction fee was derived based on average executions per day (1,800) projected over a five year operational cycle. The NASD polled its members on the rate formula to be used, share-based versus transaction-based, and the membership responded favorably to a transaction-based formula. Therefore, the NASD calculated the transaction charge in response to members' feedback, in line with full cost recovery for development over five years together with annual service operating cost. Additionally, the NASD has undertaken to review the fee schedule as experience with SelectNet warrants, and to adjust the fees in the future depending on utilization of the service and cost of future enhancements and operational support.

The NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(5) of the Act. Section 15A(b)(5) requires that the rules of the Association "provide for the equitable allocation of reasonable dues, fees and other charges among issuers and other persons using any facility or system which the Association operates or controls." The monthly service charge for SelectNet and SOES availability has been established in order to maintain effective order delivery and execution systems with emergency market capability, and the SelectNet fees have been established to recover development and operational costs associated with the service.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act and subparagraph (e) of Rule 19b–4 thereunder, because the NASD has designated the proposal as one establishing or changing a due, fee or other charge imposed by the self-regulatory organization. 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by [insert date 21 days from the date of publication].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Dated: January 24, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–2185 Filed 1–29–91; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–28816; File No. SR–NASD–90–58]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Written Notification of Employer Members and Executing Members by Associated Person Regarding With Each Member

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, 1990, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of section 19(b)(1) under the Act, the NASD is herewith filing a proposed rule change to Article III, section 28(c) of the NASD Rules of Fair Practice. The NASD proposed to amend section 28 to require an associated person to provide the following notice in writing: (1) To his or her employer prior to opening or placing an initial order in a securities account with another member; and (2) to the executing member of his or her association with the employer member.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Article III, section 28(c) currently requires a registered representative, prior to opening an account or executing trades at a firm other than his or her employer, to inform the executing

member firm of his or her status as an associated person. This provision does not, however, require the notice to be in writing. In addition, there is no specific provision in the Association's Rules of Fair Practice that requires the registered representative to inform his or her employer member that he or she is executing trades through another firm.[1] The rule, as it stands, places the burden on the executing member to notify the employer member and to provide duplicate confirmations or such other information as the employer member may require. At present, many, but not all firms have internal compliance procedures requiring that notice be given to the employer. If such notification were required, the NASD believes that it might allow member firms to more directly detect the existence of possible rule violations, including potential insider trading by associated persons.

At its May meeting, the Board of Governors approved the solicitation of member comment on a proposed amendment to Article III, section 28 of the Rules of Fair Practice. In Notice to Members 90–50 (August 1990), the NASD requested member comments on a proposal which would amend Article III, section 28 not only requiring the written notification of both members, but also requiring the employing member to approve the initial trade or opening of the account. Based upon comments received, the Board of Governors, at its September meeting, determined to amend the proposal to eliminate the approval requirement. Comments received are discussed in Subsection C below.

The NASD, therefore, proposed to amend section 28 to require an association person to provide notice in writing (1) to his or her employer prior to opening or placing an initial order in a securities account with another member; and (2) to the executing member of his or her association with the employer member.

The NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act, which requires, in pertinent part, that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest in that the proposed rule change will provide information to employers of associated persons who have accounts or execute trades through another member that will assist the employer-member in detecting possible securities law violations.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The proposed rule change was published for comment in Notice to Members 90–50 (August 1990), and differed slightly from the version proposed herein. The NASD received seventeen comment letters on the amendment as originally proposed. Nine were generally in favor, six were generally opposed, and two were opposed as a result of misunderstanding the proposal.

The initial version of the proposed rule change included a provision that would have required the employer member to specifically approve the initial trade or opening of the account. Based on the comments received, the NASD decided to amend the proposal to eliminate the approval requirement.

Of the favorable comments, two letters received were in strong support of the amendment as originally proposed. Five favorable comments were received which recommended minor changes or clarifications. Two letters were received which supported the written notification requirement, but strongly opposed the approval requirement which has now been deleted. Two letters contained comments which suggested the commentors did not fully understand the terms of the proposed amendment.

Six comments in opposition to the proposal were submitted by members with limited securities businesses. A number of these commentors recommended that the proposed amendment be limited to member firms with general securities licenses and firms conducting a traditional retail brokerage business, and that exemptions be created for specialty firms such as life insurance companies and broker-dealers engaged exclusively in the sale of variable products or limited partnership interests. They argued that the amendment's impact was unduly harsh on the limited broker-dealers without justification of a reasonable benefit to the industry.

After consideration of these comments, the NASD was of the opinion that the elimination of the approval requirement would reduce the responsibility of limited broker-dealers, thereby alleviating what may have been interpreted as an onerous burden. The Association decided that notification of each firm of the opening of an account should still be required, while allowing the firms to decide independently in what manner to respond. The requirement that an employer member receive notification is far less burdensome, in the NASD's opinion, than the requirement that the employer member approve the opening of the account or initial trade.

In addition, the amendment would provide additional assurances that the registered representative, the employer member firm, and the executing member firm have satisfied their respective obligations under the federal securities laws and the Rules of Fair Practice. The NASD believes that the amendment would also, among other things, prevent instances in which trades may be made on inside information because the employer member was not aware of the existence of the account with another member. For these reasons, the Association believes that the rule amendment, as currently proposed for member vote, is necessary and appropriate.

Several comment letters raised the concern that all trades by an associated person through a non-employer member would be subject to section 28. That is not the intention of the NASD. This amendment will require notice only prior to the opening of an account or, in the event an associated person makes a trade without opening an account, prior to the execution of the initial order. Written notification will not be required for any subsequent trades.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

[1] The transactions subject to section 28 are not considered to be private securities transactions that need to be approved by the employing member pursuant to Article III, Section 40 of the Rules of Fair Practice.

IV. Solicitation of Comment

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 amendment, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by February 20, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Dated: January 24, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–2186 Filed 1–29–91; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–28814; File No. SR–NYSE–91–01]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange, Inc. Relating to Establishing a Listing Fee Schedule for Short-Term Securities

Pursuant to section 9(b)(1) of the Securities Exchange Act of 1934, ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 4, 1991, 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 Organziation's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE, pursuant to Rule 19b–4 of the Act, submitted a proposed rule change to add section 902.04 to the *Listed Company Manual* to establish a listing fee schedule for short-term securities. Short-term securities are defined by the Exchange as those securities having a term of less than five years.

The text of the proposed rule change available at the Office of the Secretary, NYSE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The NYSE has recently adopted a series of listing standards for short-term special purpose securities (*e.g.* index warrants,[1] foreign currency warrants,[2] contingent value rights,[3] etc.).

Given their short-term nature, the NYSE deems it appropriate to stablish a specific fee schedule for these securities rather than utilize the schedule applicable to common stock.[4]

The proposed fee schedule for short-term securities represents 50% of the fees for common stock.[5]

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[1] See Securities Exchange Act Release No. 28153 (June 26, 1990), 55 FR 27734 (July 5, 1990) (File No. SR–NYSE–90–7).

[2] See Securities Exchange Act Release No. 24687 (July 8, 1987), 52 FR 25618 (July 15, 1987) (File No. SR–NYSE–87–19).

[3] See Securities Exchange Act Release No. 28072 (May 30, 1990), 55 FR 23166 (June 5, 1990) (File No. SR–NYSE–90–15).

[4] The Exchange proposes to establish an initial fee and a continuing annual fee for short term securities. The NYSE has stated that it will not charge an original fee for short term securities under 902.20 of the *Listed Company Manual*. Telephone conversation between Linda Simplicio, NYSE, and Diana Luka-Hopson, Commission, on January 18, 1991.

[5] The Exchange proposes to charge an initial fee for short-term securities which ranges from $7,375 to $950 per million shares issued. The Exchange proposes to charge a continuing annual fee which ranges from $7,315 to $36,400 based on the number of shares issued.

(2) Statutory Basis

The basis under the Act for the proposed rule change is the requirement under section 6(b)(4) that an Exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments regarding the proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

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) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the 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 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 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 NYSE. All submissions should refer to File No. SR-NYSE-91-01 and should be submitted by February 20, 1991

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 23, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-2187 Filed 1-29-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-28818; File No. SR-PTC-90-11]

Self-Regulatory Organizations; Participants Trust Company; Filing and Immediate Effectiveness of Proposed Rule Change Relating to a Change of the Starting Time for Its On-Line System

January 24, 1991.

Pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b), notice is hereby given that on December 28, 1990, Participants Trust Company ("PTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (SR-PTC-90-11) as described in Items I, II, and III below, which items have been prepared by PTC. 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 changes the starting time for PTC's on-line system from 7 a.m. to 8 a.m. eastern standard time ("est").[1]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PTC included statements concerning the purpose of and statutory 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. PTC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to change the starting time for PTC's on-line system from 7 a.m. to 8 a.m. est. Among other considerations, an 8 a.m. start is consistent with the practice of securities clearing, transferring, and netting entities.

The statutory basis is the requirement under section 17A(b)(3)(F) of the Act that the rules of a clearing agency must be designed to promote the prompt and accurate clearance and settlement of securities transactions. The proposed rule change promotes the prompt and accurate clearance and settlement of transactions in securities deposited with PTC.

B. Self-Regulatory Organization's Statement on Burden on Competition

PTC does not perceive that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

PTC has not solicited and does not intend to solicit comments on this proposed rule change. PTC has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to section 19(b)(3)(A) of the Act and paragraph (e) of Rule 19b-4, 17 CFR 240.19b-4, because the proposal effects a change in an existing service of a registered clearing agency that (i) does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency for which it is responsible and (ii) does not significantly affect the respective rights or obligations of the clearing agency or persons using the service. At any time within sixty days of the filing of such proposed rule change, the Commission summarily may abrogate such rule change and require that the proposed rule change be refiled in accordance with paragraphs (1) and (2) of section 19(b)(2) 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 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 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 PTC. All submissions should refer to File No. SR-PTC-90-11 and should be submitted by February 20, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-2188 Filed 1-29-91; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

January 24, 1991.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Blackstone Strategic Term Trust, Common Stock, $0.01 Par Value (File No. 7-6510)

Catellus Development, Common Stock, $0.01 Par Value (File No. 7-6511)

Conseco, Inc., Common Stock, No Par Value (File No. 7-6512)

Laidlaw, Inc., Class A & B Shares, No Par Value (File No. 7-6513)

Nuveen Investment Quality Municipal Fund, Inc., Common Stock, No Par Value (File No 7-6514)

OEA, Inc., Common Stock, $0.10 Par Value (File No. 7-6515)

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[1] PTC's on-line system is its computer system used to process, including end of day netting, its participants' transfers and pledges of eligible securities. At starting time, PTC begins processing the transactions that have been submitted by participants to PTC in bulk prior to starting time.

Pinelands, Inc., Common Stock, No Par Value (File No. 7–6516)
Questar Corp., Common Stock, $2.50 Par Value (File No. 7–6517)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 14, 1991, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91–2191 Filed 1–29–91; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–17955; 812–7596]

Advance Ross Corp.; Application

January 22, 1991.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: Advance Ross Corporation ("Applicant").

RELEVANT 1940 ACT SECTIONS: Order requested under section 6(c) of the 1940 Act.

SUMMARY OF APPLICATION: Applicant seeks a conditional order exempting it from all provisions of the 1940 Act until May 27, 1991, to enable it to consummate an acquisition or take other appropriate action so as to cease being an investment company under the 1940 Act.

FILING DATE: The application was filed on September 24, 1990, and amended on January 10, 1991.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 15, 1991, and should be accompanied by proof of service on Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 111 West Monroe Street, Chicago, Illinois 60603.

FOR FURTHER INFORMATION CONTACT: Robert A. Robertson, Staff Attorney, at (202) 504–2283, or Stephanie M. Monaco, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant represents that it is engaged, through its subsidiaries, in the manufacturing, distribution and installation of electrostatic precipitators for pollution control. Applicant also owns more than a 25% interest in Utah Shale & Land Minerals Corporation ("USLMC"), which owns mineral properties in Utah, and a 13.8% interest in NaTec Resources, Inc. ("NaTec"), which is engaged in the control of pollutants commonly associated with acid rain.

2. Applicant has been a reporting company under the Securities Exchange Act of 1934 (the "1934 Act") since the mid-1960's, and its common stock is traded on the NASDAQ National Market System.

3. For some time prior to October 30, 1989, Applicant relied on rule 3a–1 under the 1940 Act in order not to be deemed an "investment company" as defined in section 3(a)(3) of the 1940 Act. Section 3(a)(3) generally provides that an investment company includes any issuer that is engaged in the business of investing, reinvesting, owning, holding, or trading in securities, and owns investment securities having a value exceeding 40 per centum of the value of such issuer's total assets on an unconsolidated basis. However, rule 3a–1 generally provides that an issuer will not be deemed an investment company under section 3(a)(3) if no more than 45% of the company's total assets consists of securities and no more than 45% of the company's net income after taxes is derived from securities, with certain securities excluded from these calculations. These excluded securities include, among other things, securities issued by companies that are controlled primarily by such issuer and through which such issuer engages in a non-investment company business. Prior to October 30, 1989, Applicant presumptively controlled both USLMC and NaTec within the meaning of section 2(a)(9) of the 1940 Act because it then owned more than 25% of the outstanding common stock of each company.

4. On October 30, 1989, NaTec (then named Industrial Resources, Inc.) consummated an exchange transaction (the "Exchange Transaction") with its joint venture partner. CRSS, Inc. ("CRSS"), in NaTec Mines, Ltd. In the Exchange Transaction, CRSS exchanged its entire ownership interest in NaTec Mines, Ltd. and a further capital contribution for a 44.8% interest in NaTec. This resulted in Applicant's interest in NaTec being diluted to 13.8% from more than 25% and Applicant not being able to rely on rule 3a–1.

5. After the Exchange Transaction, Applicant relied on rule 3a–2 under the 1940 Act, the one-year safe harbor for transient investment companies, in order to not register under the 1940 Act. Rule 3a–2 generally provides that an issuer is deemed not to be engaged in the business of investing, reinvesting, owning, holding or trading in securities for a period of time not to exceed one year; provided, the issuer has a *bona fide* intent to be engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities. Since the Exchange Transaction, Applicant has searched for a non-investment company that it may acquire so as to not come within the definition of an investment company. However, Applicant has been unsuccessful in the one year time period and, therefore, is seeking a conditional exemption from the 1940 Act for the period ending May 27, 1991.

Applicant's Legal Analysis

1. Applicant is an investment company within the meaning of section 3(a)(3) of the 1940 Act because it owns investment securities having a value of more than 40% of its assets on an unconsolidated basis. Applicant seeks a conditional order under section 6(c) of the 1940 Act for the period ending May 27, 1991, to enable it to consummate an acquisition or take other appropriate action so as to cease being an investment company under the 1940 Act.

2. Section 6(c) authorizes the SEC to issue a conditional or unconditional exemption from any provision of the 1940 Act or rule thereunder if the exemption is "necessary or appropriate in the public interest" and is "consistent with the protection of investors and the purposes fairly intended by the policy and provisions of (the 1940 Act)."

3. Also, in response to requests for no action positions, the staff of the SEC has examined the following factors to determine if a transient investment company should be allowed additional time to not come within the scope of the 1940 Act: "(1) Whether the failure of the company to become engaged in a non-investment business or excepted business or liquidate within one year was due to factors beyond its control; (2) whether the company's officers and its employees during that period tried, in good faith, to effect the company's investment of its assets in a non-investment business of excepted business or to cause the liquidation of the company; and (3) whether the company invested in securities solely to preserve the value of its assets." Mededentic Mortgage Corp. (pub. avail. May 23, 1984). These same factors are relevant to a determination under section 6(c) that an order should be issued under like circumstances. *See, e.g.*, Alleghany Corporation, Investment Company Act Release Nos. 14422 (Mar. 15, 1985) (notice) and 14470 (Apr. 15, 1985) (order).

4. Applicant's failure to consummate an acquisition of a non-investment company business within the one year safe harbor period was due to factors beyond its control. Applicant views itself as a participant in the environmental industry and is concentrating its efforts in acquiring companies related to the environmental area. Within the past year, Applicant, or the investment banking firm that it retained, reviewed over thirty acquisition possibilities, many of which are still under consideration. Industries in the environmental area currently are reacting to the passage of the Clean Air Act Amendments of 1990. Thus, the timing and negotiation of an acquisition in this area is, in large part, beyond Applicant's control. In addition, Applicant claims that the collapse of the market for highly leverage bonds, the enactment of new banking regulations and the bankruptcy of major securities brokerage houses have disrupted the acquisition market. Moreover, Applicant states that many target companies steadfastly have refused to accept offers for anything less than they could have received in the middle-1980's, while ignoring the radically changed market.

5. Applicant also has tried in good faith to effect an acquisition of a non-investment company business. It has retained Allen & Company Incorporated, an investment banking firm, as its financial adviser to assist it in formulating a course of action. It also has circulated an "Acquisition Memorandum" in an effort to locate additional acquisition candidates. Applicant has reviewed over thirty acquisition candidates within the past year, and currently is in preliminary discussions with several specific companies engaged in similar activities as Applicant.

6. Consistent with the goal of asset preservation, Applicant's cash holdings have been and continue to be invested in conservative, non-speculative, highly liquid investments including U.S. Treasury Bills and high-grade short-term commercial paper. Applicant's investments are made without the day-to-day involvement or supervision by members of senior management or its board of directors.

7. Applicant represents that the requested relief is necessary in order to allow it to consummate an acquisition transaction. It also submits that the 1934 Act regulatory framework to which it is subject together with the conditions to which it has agreed are appropriate and sufficient for the protection of investors. Lastly, Applicant believes that conditionally exempting it from the provisions of the 1940 Act would be consistent with the purposes fairly intended by the 1940 Act.

Applicant's Conditions

Applicant has agreed that the requested exemptive order will be subject to the following conditions:

1. During the term of this order, Applicant will refrain from investing, reinvesting, owning holding or trading in securities for speculative purposes.

2. Applicant will comply with sections 9, 17(a), 17(d), 17(e), 36 and 37 of the 1940 Act as if it were a registered investment company, and with section 17(f) of the 1940 Act, including as provided in rule 17f-2 thereunder, as if it were a registered management investment company: *Provided, however,* That (a) In the event that Applicant holds shares of or invests in money market mutual funds, such investments may be registered in Applicant's name on the books of said funds notwithstanding any requirements of section 17(f) and the rules thereunder; (b) Applicant may not comply with sections 17(a) and 17(d) of the 1940 Act with respect to Applicant's "Thrift and Savings Plan," a long-standing employee benefit plan, established on April 1, 1977, open to all employees of Applicant and Applicant's wholly-owned subsidiaries, Advance Ross Electronics Corporation and Advance Ross Steel Company, having over one year of service with the Applicant; and (c) in the event that Applicant otherwise believes that compliance with sections 17(a) and 17(d) of the 1940 Act is exceedingly detrimental to the operation of Applicant's ongoing non-investment businesses, Applicant may apply for further exemptive relief.

3. During the term of this order, Applicant will not purchase or otherwise acquire any additional securities other than securities that qualify as "high quality" investments, as defined in rule 2a-7(a)(2)(iv) of the 1940 Act, except that Applicant may make equity investments in connection with the acquisition of majority owned subsidiaries that are not investment companies, as defined in section 3(a) of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-2192 Filed 1-29-91; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17956; 812-7284]

Industrial Series Trust, et al.; Application

January 24, 1991.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Industrial Series Trust (the "Trust"); The Mackenzie Funds, Inc. (the "Company"); any future series of the Trust or Company; and, any future investment company for which Mackenzie Investment Management, Inc., Mackenzie Financial Corporation or one of their subsidiaries or affiliates serves as an investment advisor (individually, a "Fund," collectively, the "Funds"); together with Mackenzie Investment Management, Inc. ("MIMI") and Mackenzie Financial Corporation (MFC").

RELEVANT 1940 ACT SECTION: Exemption requested under section 17(d) of the Act and rule 17d-1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order to permit the operation of

a joint trading account in repurchase agreements.

FILING DATES: The application was fined on April 7, 1989, and amended on August 14, 1990, and January 11, 1991.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 19, 1991, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549; Applicants, c/o Mackenzie Investment Management, Inc., 700 South Federal Highway, suite 300, Boca Raton, Florida 33432.

FOR FURTHER INFORMATION CONTACT: Marc Duffy, State Attorney, (202) 272–2511, or Max Berueffy, Branch Chief, (202) 272–3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Trust is a Massachusetts business trust currently consisting of eight separate series: Mackenzie American Fund, Mackenzie California Municipal Fund, Mackenzie Cash Management Fund, Mackenzie Fixed Income Fund, Mackenzie Government Securities Trust, Mackenzie National Municipal Fund, Mackenzie New York Municipal Fund, and Mackenzie North American Total Return Fund. The Company is a Maryland corporation currently consisting of two separate series: Mackenzie Canada Fund and Mackenzie Growth and Income Fund. The Trust and the Company are both open-end investment companies registered under the Act.

2. MIMI, a wholly-owned subsidiary of MFC, is the Trust's and the Company's business manager and distributor. MIMI is also the investment adviser to Mackenzie California Municipal Fund, Mackenzie Cash Management Fund, Mackenzie Government Securities Trust, Mackenzie Growth and Income Fund, Mackenzie National Municipal Fund, Mackenzie New York Municipal Fund and Mackenzie North American Total Return Fund. MFC is the investment adviser to Mackenzie American Fund, Mackenzie Canada Fund and Mackenzie Fixed Income Trust. (MIMI, MFC and any future subsidiary or affiliate of MIMI or MFC that serves as investment adviser to any Fund are together referred to as the "Adviser.")

3. Each of the Funds is presently authorized to invest in repurchase agreements and has established certain systems and standards that will apply to all joint repurchase agreement transactions. These include creditworthiness standards for issuers of repurchase agreements and requirements that the repurchase agreements will be fully collateralized at all times.

4. Currently, each Fund separately pursues, secures and implements its repurchase agreements. The Adviser, on behalf of the Funds, each morning begins negotiating the interest rate for repurchase agreements for that day and identifying the securities required as collateral. The estimated amount of the required collateral is based on preliminary information indicating the amount of the current day's available cash that will not otherwise be invested that day. The projection may be adjusted during the day to reflect any reductions in uninvested assets or any additional amounts that become available during the day, in an effort to use effectively the highest appropriate portion of each Fund's assets.

5. Under the present system, there can remain, in the respective account of each Fund, some amount of its assets that is received too late or is too small to be effectively invested in a separate transactions and/or at a competitive rate. Furthermore, separtely securing repurchase agreements result in certain inefficiencies and increased costs, and limits the return that some or all of the Funds could otherwise achieve.

6. The Funds therefore seek to invest their cash balances more productively by establishing a joint account for the purchase of entering into repurchase agreements. If the requested relief is granted, the Funds would deposit all or a portion of their uninvested cash balances in a single joint account, the daily balances of which would be used to enter into one or more overnight (or weekend or holiday) large repurchase agreements in the total amount equal to the aggregate daily balance in the account.

7. The Funds intend to maintain the joint repurchase agreement account with The First National Bank of Boston as the designated custodian bank. However, the Funds may use another custodian qualified under section 17 of the Act in the future if they deem it in their best interest to do so. (The First National Bank of Boston together with any other qualified custodian are together referred to as the "Custodian.")

8. Particular United States government obligations to be held as collateral would be identified and the Funds' custodian bank would be notified. The securities would either be wired to the account of the custodian bank at the proper Federal Reserve Bank, transferred to a subcustodian account of the Fund at another qualified bank or redesignated and segregated on the records of the custodian bank if the custodian bank is already the record holder of the collateral for the repurchase agreement.

9. Each of the Funds would participate in the proposed joint account on the same basis as every other Fund in conformity with its fundamental investment objectives and restrictions. Any future Funds that participate in the joint account would be required to do so on the same terms and conditions as the existing Funds have set forth herein.

10. Applicants believe that a Fund's investment in the joint account will not be subject to the claims of creditors, whether brought in bankruptcy, insolvency or other legal proceedings, or of any other participant Fund in the joint account. Each Fund's liability on any repurchase agreement purchased by the joint account will be limited to its interest in such repurchase agreement.

11. The Adviser would have no monetary participation in the joint account, but would be responsible for investing amounts in the account, establishing accounting and control procedures and ensuring the equal treatment of each fund.

12. Applicants believe the joint account will save the Funds transactions fees, allow the Funds to negotiate higher rates of return than can be obtained for smaller repurchase agreements, reduce the possibility of errors by reducing the number of trade tickets, and allow the Funds greater flexibility in the management of their cash balances because institutions entering into large repurchase agreements are more willing to increase the amount covered by the repurchase agreement than they would be in the case of smaller repurchase agreements. Applicants estimate that, if the joint account is put in place, the Funds would

experience aggregate annual savings of approximately $3,250 in transaction fees.

13. The Directors and Trustees, as the case may be, of the Funds have satisfied themselves that the proposed method of operating the joint account would not result in any conflicts of interest between any of the Funds or between a Fund and the Adviser. They have further determined that there does not appear to be any basis upon which to predict greater benefit to one Fund than to another. They have also considered that although the Adviser would gain some benefit through administrative convenience and some possible reduction in clerical costs, the primary beneficiaries would be the Funds and their shareholders because the joint account would be a more efficient and productive way of administering these daily investment transactions. On the basis of these considerations, the Directors and Trustees have determined that the operation of the joint account would be free of any inherent bias favoring one Fund over another and should eliminate bias due to size or lack thereof in any transaction. They have further determined that future participation in such joint trading account by one or more Funds that do not presently exist would not alter their conclusions with respect to participation by the present Funds and that it would be desirable to permit such future participation without the necessity of applying for an amendment to the requested order.

Applicants' Conditions

As an express condition to obtaining an exemptive order, Applicants agree to operate the joint account according to the following procedures:

1. A separate designated custodial cash account would be established at the Custodian into which each Fund would deposit all or a portion of its daily uninvested net cash balances. The joint account would not be distinguishable from any other accounts maintained by a Fund with its custodian bank except that monies from a Fund will be deposited on a commingled basis. The account will not have any separate existence which will have indicia of a separate legal entity. The sole function of the account will be to provide a convenient way of aggregating individual transactions which would otherwise require daily management by each Fund of its uninvested cash balances.

2. Cash in the account would be invested solely in repurchase agreements collateralized by suitable United States goverment obligations, i.e., obligations issued or guaranteed as to principal or interest by the Government of the United States or by any of its agencies or instrumentalities. Such repurchase agreements would satisfy the uniform stnadards set by the Funds for such investments.

3. All investments held by the joint account would be valued on an amortized cost basis. Each Fund subject to an exemptive order permitting valuation on the basis of amortized cost or the use of the penny rounding method of pricing its shares, or relying upon Rule 2a–7 under the Act for either purpose, would use the average maturity of the account of the purpose of computing the Fund's average portfolio maturity with respect to the portion of its assets held in such account on that day.

4. In order to assure that there would be no opportunity for one Fund to use any part of a balance on the account credited to another Fund, no Fund would be allowed to create a negative balance in the account for any reason, although it would be permitted to draw down its entire balance at any time; each Fund shall retain the sole rights of ownership of any of its assets, including interest payable on the assets invested in the account.

5. Each Fund would participate in the income earned or accrued in the account, including all instruments held in the joint account on the basis of the percentage of the total amount in the account on any day represented by its share of the account.

6. Each Fund's decision to invest in the account shall be solely at the Fund's option and no Fund shall be ogligated to invest in or to maintain any minimum amount in the account.

7. Each Fund's investment in the account shall be documented daily on the books of each Fund as well as on the Custodian's books.

8. All repurchase agreements will have an overnight, over the weekend or over a holiday duration, and in no event a duration of more than seven days.

9. The administration of the joint account would be within the fidelity bond coverage required by section 17(g) of the Act and rule 17g–1 thereunder.

10. MIMI will administer and invest the cash balances in the account for all Funds and will not collect any separate fee for the managmeent of the account.

11. The Funds and the Adviser will enter into an agreement to govern the arrangements in accordance with the foregoing principles.

12. The Boards of Trustees or Directors of the existing Funds and of future Funds participating in the account shall evaluate the account arrangements annually, and shall continue the account only if they determine that there is a reasonable likelihood that the account will benefit the Funds and their shareholders.

13. All joint repurchase agreement transactions will be effected in accordance with Investment Company Act Rel. No. 13005 (February 2, 1983) and with other existing and future positions taken by the SEC or its staff by rule, interpretive release, no-action letter, any release proposing, reproposing, or adopting any new rule, or any release proposing, reproposing, or adopting any amendments to any existing rule.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–2193 Filed 1–29–91; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–17957; 812–6932]

Pilgrim Short-Term Multi-Market Income Fund, et al.; Application

January 24, 1991.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

APPLICANTS: Pilgrim Short-Term Multi-Market Income Fund; Pilgrim Strategic Investment Series; and Pilgrim Distributors Corp. (the "Applicants").

RELEVANT 1940 ACT SECTIONS: Order for exemption requested pursuant to section 6(c) of the 1940 Act from the provisions of sections 2(a)(32), 2(a)(35), 22(c) and 22(d) of the 1940 Act and rule 22c–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an exemption under section 6(c) to permit Applicants to impose a contingent deferred sales charge ("CDSC") on redemptions of their shares and to waive the CDSC under certain circumstances.

FILING DATE: The application, filed on December 2, 1987, was placed on inactive status on June 2, 1988. An Amended and Restated Application was filed on December 19, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 19, 1991 and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549; on behalf of Applicants, c/o Pilgrim Group Inc., 10100 Santa Monica Boulevard, Los Angeles, California 90067.

FOR FURTHER INFORMATION CONTACT: Marc Duffy, Staff Attorney, (202) 272–2511, or Max Berueffy, Branch Chief, (202) 272–3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Pilgrim Short-Term Multi-Market Income Fund ("PSMIF") and Pilgrim Strategic Investment Series ("PSIS") are open-end, management investment companies registered under the 1940 Act. PSMIF currently consists of three non-diversified series of shares, Pilgrim Short-Term Multi-Market Income Fund, Pilgrim Short-Term Multi-Market Income and Fund II and Pilgrim Global Cash Fund. PSIS consists of one diversified series, Pilgrim High Yield Trust, and one non-diversified series, Pilgrim Adjustable U.S. Government Securities Trust.

2. Pilgrim Management Corporation ("PMC") will serve as investment adviser and manager to each series of both PSMIF and PSIS. Pilgrim Distributors Corp. ("PDC") will serve as principal underwriter with respect to the shares of each series of both PSMIF and PSIS and will receive the proceeds of the CDSC described below. PMC and PDC are wholly-owned subsidiaries of Pilgrim Group Inc.

3. Applicants request that the exemption sought with respect to Pilgrim Short-Term Multi-Market Income Fund II, Pilgrim Global Cash Fund and Pilgrim Adjustable U.S. Government Securities Trust extend to other investment companies within the Pilgrim Group for whom PDC acts as principal underwriter and whose shares are offered and sold substantially on the same basis as those described in the Amended and Restated Application or whose shares may be exchanged for such shares (collectively, the "CDSC Funds").

4. Shares of Pilgrim Short-Term Multi-Market Income Fund and Pilgrim High Yield Trust are and will continue to be offered with a front-end sales charge. Shares of Pilgrim Short-Term Multi-Market Income Fund II, Pilgrim Global Cash Fund and Pilgrim Adjustable U.S. Government Securities Trust will be offered subject to a CDSC. The amount of the CDSC with respect to Pilgrim Short-Term Multi-Market Income Fund II and Pilgrim Adjustable U.S. Government Securities Trust will be 4.0% on shares redeemed during the first year after purchase, and will be reduced at a rate of 1% per year over a specified number of years from the date of purchase (the "CDSC Period"), as set forth in the Prospectuses of these Funds, so that redemptions of shares held after that period will not be subject to a CDSC. The amount of the CDSC with respect to Pilgrim Global Cash Fund will be 1.0% on shares redeemed during the first year following their date of purchase and no charge will be imposed thereafter.

5. The amount of deferred sales charges, and the length of the CDSC Period, applicable in the future to CDSC Funds may difffer from those described in the Amended and Restated Application.

6. A CDSC will be imposed if an investor in a CDSC Fund redeems an amount that causes the value of his account with such Fund to fall below the total dollar amount of purchase payments made by him during the applicable CDSC Period. In addition, even when the value of the investor's account falls below the total dollar amount of the purchase payments made by the investor during the applicable CDSC Period, no CDSC will be imposed to the extent that the net asset value of the shares redeemed does not exceed (a) The current net asset value of shares purchased during other than the applicable CDSC Period, plus (b) the current net asset value of shares purchased through reinvestment of dividends or capital gains distributions, plus (c) increases in the net asset value of the investor's shares above the total amount of payments for the purchase of shares of the CDSC Fund made during the applicable CDSC Period. If the current net asset value of shares redeemed has declined below the investor's cost due to the CDSC Fund's performance, the CDSC will be applied to the current value, rather than to its purchase price.

7. Applicants seek exemptive relief authorizing an CDSC Fune to waive, or apply other scheduled variations to, any applicable CDSC that would otherwise be due upon redemption. Currently, it is proposed that the CDSC will be waived with respect to the following redemptions of such Funds' shares: (a) Redemptions following the death or disability of a shareholder; (b) redemptions in connection with certain distributions from IRAs, qualified retirement plans or tax-sheltered annuities; (c) redemptions of shares held by officers, directors/trustees and bona fide full-time employees of such Funds and other Affiliated Purchasers (as defined in the application); (d) involuntary redemptions of shares in accounts that do not meet the minimum balance requirements; and (e) redemptions the proceeds of which are reinvested in shares of the same CDSC Fund within thirty days of such redemption. These categories of waivers are more fully described in the application.

8. The Applicants do not currently intend to offer any exchange privileges to the shareholders of CDSC Funds. However, any such exchange privileges offered in the future would be implemented in accordance with the provisions of rule 11a-3 and proposed rule 6c-10 under the 1940 Act, as such Rule is currently proposed and as it may be reproposed, adopted or amended.

9. In addition to the CDSC, it is proposed that CDSC Funds will assist in financing the distribution of their shares pursuant to plans of distribution adopted in accordance with rule 12b-1 under the 1940 Act. Pursuant to the distribution plans proposed with respect to Pilgrim Short-Term Multi-Market Income Fund II, Pilgrim Global Cash Fund and Pilgrim Adjustable U.S. Government Securities Trust (the "Plans"), each such Fund will pay to PDC a monthly distribution fee in an amount not to exceed, on an annual basis, 0.75%, 0.65% and 1.00%, respectively, of their average daily net assets, as compensation for expenses incurred by PDC in connection with the offering of their shares. Distribution fees paid to PDC under the Plans will be used to cover distribution related expenses. The receipt of a CDSC by PDC will be taken into consideration by the Boards of all CDSC Funds in their annual review of such Funds' Plans.

Applicants' Legal Conclusions

1. Applicants submit that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act. The CDSC permits shareholders to have the advantage of more investment dollars working for them at the time of their purchase than with a traditional front-end sales charge. Furthermore, the schedule of deferred sales charges for all CDSC Funds will comply, to the extent applicable, with the requirements of section 26(d) of the Rules of Fair Practice of the National Association of Securities Dealers, Inc.

2. The Applicants further believe that it would be fair and equitable and in the public interest and in the interest of CDSC Fund shareholders for the CDSC Funds to be permitted to waive or vary the CDSC in the manner described above. In each of the situations

described above the redeeming shareholder would have purchased shares under circumstances that did not require PDC to incur substantial additional distribution expenses, would be a member of a class of shareholders that is favored under the Federal tax or securities laws or would have had no control over the timing of such redemption. Furthermore, any new waiver or other scheduled variation will be implemented only after the prospectuses and statements of additional information of the CDSC Funds affected thereby are amended or supplemented to describe the new waiver or variation.

Applicants' Condition

If the requested exemptive order is granted, Applicants agree that they will comply with the provisions of proposed rule 6c-10 under the 1940 Act, Investment Company Act Rel. No. 16619 (Nov. 2, 1988), as such Rule is currently proposed and as it may be reproposed, adopted or amended.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–2194 Filed 1–29–91; 8:45 am]

BILLING CODE 3010–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP); Information on Imports During First 10 Months of 1990 and Invitation of Comments

SUMMARY: This notice is for information only and has no legal effect. It is provided to inform the public of certain import statistics covering the period January through October 1990 and to afford the public an opportunity to comment on certain discretionary decisions the President must make with respect to the GSP program. These decisions concern the GSP "competitive need" limits set forth in section 504(c) and section 504(d)(2) of the Trade Act of 1974, as amended (the "Trade Act") (19 U.S.C. 2464(c) and (d)(2)), and possible redesignation of beneficiaries for articles for which the beneficiary is currently ineligible for GSP duty-free treatment. Presidential decisions concerning the application of competitive need limits and other product-related decisions stemming from the 1990 Annual Review are expected to be announced on or about April 1, and implemented on July 1, 1991.

FOR FURTHER INFORMATION CONTACT: GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street, NW., room 414, Washington, DC 20506. The telephone number is (202) 395–6971.

SUPPLEMENTARY INFORMATION: Pursuant to section 504(c), any GSP eligible beneficiary country that exported to the United States during the most recent calendar year a quantity of any one GSP eligible article in excess of (1) $25 million indexed to the U.S. Gross National Product (GNP) since 1974, or (2) 50 percent of the value of total U.S. imports of the article, is to be removed from GSP eligibility not later than July 1 of the next calendar year. Based on preliminary data and subject to revision, the dollar limit is expected to be approximately $93,104,970 for calendar year 1990.

As a result of the Trade and Tariff Act of 1984 (19 U.S.C. 2464(c)(2)), a general review of the GSP was initiated in 1985 and the results of the review announced on January 2, 1987 (52 FR 389). The purpose of the review was to determine whether beneficiary countries have become sufficiently competitive in GSP-eligible products, on a product and country specific basis. For beneficiaries found to be sufficiently competitive with respect to a product, the percentage competitive need limit was reduced to 25 percent and the dollar limit was reduced to $25 million, indexed to the nominal growth of U.S. GNP since 1984. Based on preliminary data and subject to revision, the dollar limit for beneficiaries found to be sufficiently competitive is expected to be approximately $36,351,466 for the calendar year 1990.

Section 504(d)(2) of the Trade Act permits the President to disregard the 50 percent "competitive need" limit with respect to any eligible article if the value of total imports of the article during the most recent calendar year did not exceed $5 million, adjusted annually to reflect changes in the U.S. GNP. This *de minimis* level is expected to be approximately $10,934,136 for calendar year 1990.

A proclamation will be issued to be effective July 1, 1991, making the adjustments that are required by section 504(c) of the Trade Act and announcing the discretionary decisions referred to in this notice, on the basis of official data covering all of calendar year 1990.

It should be emphasized that the information set forth below covers only the first 10 months of 1990. Partial year data is being published now to provide the maximum possible advance indication of adjustments that may be made to meet the requirements of section 504(c) of the Trade Act and to afford the opportunity for comment on potential discretionary decisions.

List I below shows specific GSP-eligible articles for beneficiaries which have already exceeded estimated competitive need limitations (i.e. a beneficiary supplied over $93,104,970 or $36,351,466 in the case where a beneficiary has been found sufficiently competitive in the product, during January-October 1990) or have been graduated from the GSP in earlier years pursuant to the President's discretionary authority.

List II below shows beneficiaries which are approaching the competitive need limitations (i.e. a beneficiary accounted for over 47 percent of the value of total U.S. imports and/or over $70 million, or in the case where a beneficiary has been found to be sufficiently competitive, over 22 percent and/or $28 million during January–October 1990).

List III below shows beneficiaries which, despite accounting for more than 50 percent (or 25 percent in the case of a beneficiary found sufficiently competitive in a product) of the value of total U.S. imports of an article, may be eligible to receive GSP benefits through the *de minimis waiver* (i.e. where a beneficiary accounted for more than the applicable percentage limit and the value of total U.S. imports of the item was less than $10,934,136 during January–October 1989).

List IV below shows beneficiaries which are currently ineligible for GSP duty-free treatment but which may be eligible for redesignation to GSP status pursuant to the President's discretionary authority (i.e. a beneficiary accounted for less than 50 percent, or 25 percent in the case of products determined to be sufficiently competitive, of the value of U.S. imports and the value of total U.S. imports was less than the applicable dollar limit during January–October 1990). All written comments with regard to these decisions should be addressed to: GSP Subcommittee, Office of the U.S Trade Representative, 600 17th Street, NW., room 414, Washington, DC 20506. All submissions should conform to the information requirements of 15 CFR 2007, particularly §§ 2007.0, 2007.1(a)(1), 2007.1(a)(2) and 2007.1(a)(3). Furthermore, each party providing comments should indicate on the first page of the submission its name, HTS subheading(s), beneficiary country or territory of interest, and the type of action (i.e. the use of the President's *de minimis* waiver authority, etc.) in which the party is interested.

These statements must be accompanied by twelve copies, in

English, of all comments and must be received by the Chairman of the GSP Subcommittee of the Trade Policy Staff Committee no later than 5 p.m., Wednesday, February 20. Until further notice, no packages will be accepted for delivery at the USTR building. All such packages should be delivered to the New Executive Office Building, 725 17th Street, NW., room G–1. Comments received after the deadline will not be accepted. If the comments contain business confidential information, twelve copies of a non-confidential version of the comments along with twelve copies of the confidential version must be submitted. A justification as to why the information contained in the submission should be treated confidentially must be included in the submission. In addition, the submission containing confidential information should be clearly marked "confidential" at the top and bottom of each page of the submission. The version that does not contain confidential information should also be clearly marked, at the top and bottom of each page, "public version" or "non-confidential."

Written comments submitted in connection with these decisions will be available for public inspection shortly after the filing deadline by appointment only with the staff of the USTR Public Reading Room, except for information granted "business confidential" status pursuant to 15 CFR 2007.7. The USTR Public Reading Room is located at the address listed above. Appointments may be made from 10 a.m. to noon and 1 p.m. to 4 p.m. by calling (202) 395–6186. Other requests and questions should be directed to the GSP Information Center at USTR by calling (202) 395–6971.

David A. Weiss,

Chairman, Trade Policy Staff Committee

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GSP IMPORTS DURING THE FIRST 10 MONTHS OF 1990

LIST I : COUNTRIES GRADUATED OR EXCEEDING COMPETITIVE NEED LIMITS
1990 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE
* R	0603.10.70	Colombia	79,482,161	88.2%
*	0702.00.60	Mexico	215,625,505	99.4%
*	0709.60.00	Mexico	119,233,588	86.3%
*	1701.11.01	Brazil	118,861,236	18.3%
G R	2203.00.00	Mexico	136,130,371	17.8%
2	2603.00.00	Mexico	117,850,741	100.0%
G	2825.90.15	Brazil	11,602,993	85.0%
G D	2827.59.05	Israel	1,187,749	67.7%
G	2903.40.00	Israel	175,986	0.4%
G D	2903.59.40	Israel	0	0.0%
G D	2918.22.10	Turkey	0	0.0%
*	2918.90.30	Bahamas	236,166,443	95.6%
G D	2933.40.10	Israel	1,431,756	78.2%
G D	2933.90.47	Mexico	0	0.0%
2	4412.11.20	Indonesia	239,347,365	86.2%
G D	4823.20.10	Brazil	0	0.0%
G D R	6810.11.00	Mexico	81,162	2.3%
*	7113.19.50	Thailand	123,932,814	10.6%
G	7202.21.10	Brazil	15,843,908	66.8%
G R	7202.21.50	Brazil	24,775,375	34.2%
G R	7202.30.00	Brazil	9,216,363	8.7%
G	7307.21.50	Brazil	13,873	0.0%
G	7307.91.50	Brazil	3,518,792	7.1%
G	7323.94.00	Mexico	6,482,918	8.8%
1 R	7402.00.00	Mexico	43,124,893	38.2%
G D	7604.10.30	Venezuela	83,303	1.6%
G D	7604.29.30	Venezuela	74,821	0.8%
G D	7605.11.00	Venezuela	0	0.0%
G D	7605.21.00	Venezuela	2,137,281	19.8%
*	8407.34.20	Mexico	258,362,857	12.9%
* R	8408.20.20	Brazil	124,241,554	65.3%
* R	8409.91.91	Mexico	53,842,585	6.6%
* R	8409.99.99	Brazil	45,381,323	16.2%
* R	8415.90.00	Mexico	49,327,131	23.9%
1 R	8428.90.00	Mexico	58,738,158	26.5%
* R	8431.49.90	Brazil	36,510,905	6.7%
*	8501.40.40	Mexico	128,172,265	85.5%
*	8504.40.00	Mexico	112,098,910	17.6%
*	8512.40.40	Mexico	96,081,943	80.5%
	8517.10.00	Malaysia	129,077,831	16.4%
2	8521.10.00	Thailand	167,324,134	8.1%
* R	8523.11.00	Mexico	45,054,412	25.1%
2	8527.11.11	Malaysia	98,619,230	19.7%
*	8527.21.10	Mexico	177,410,011	20.6%
* R	8527.21.10	Brazil	77,185,109	8.9%
*	8536.50.00	Mexico	192,991,213	31.1%
*	8536.69.00	Mexico	100,055,490	27.0%
*	8536.90.00	Mexico	166,317,724	33.6%
*	8544.30.00	Mexico	970,787,449	73.3%
*	8544.51.80	Mexico	214,508,231	53.1%
*	8708.21.00	Mexico	374,498,727	69.7%
*	8708.99.50	Mexico	244,133,964	4.8%
*	8802.30.00	Brazil	295,174,446	19.7%
*	9401.20.00	Mexico	164,411,100	59.6%
G D R	9401.30.40	Yugoslavia	0	0.0%
G R	9401.61.40	Yugoslavia	2,440,458	1.9%
G R	9401.69.60	Yugoslavia	56,657,769	25.4%
G	9401.90.40	Yugoslavia	1,246,687	4.6%
2	9405.30.00	Thailand	113,964,957	38.6%

FLAGS: G = Graduated by Petition * = Excluded full year 1990
1 = Excluded January-June 1990 2 = Excluded July-December 1990
R = Reduced Competitive Need Limits Apply D = Imports currently below de minimis limit X = Waiver of Reduced Limit Granted

LIST II : COUNTRIES APPROACHING COMPETITIVE NEED LIMITS
1990 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE
D	0210.20.00	Uruguay	3,599,107	78.5%
D	0210.90.20	Israel	59,819	50.3%
D	0302.22.00	Venezuela	23,969	63.5%
D	0303.77.00	Mexico	110,956	91.7%
D	0305.10.40	Peru	1,022,581	95.1%
D	0306.24.20	Venezuela	4,102,033	51.8%
* D	0704.10.40	Mexico	1,415,573	92.6%
* D	0704.10.60	Mexico	45,774	71.8%
* D	0704.20.00	Mexico	2,434,638	98.2%
D R	0704.90.20	Mexico	2,131,239	29.2%
* D	0705.11.40	Mexico	2,158,952	95.4%
* D	0705.19.40	Mexico	1,071,405	97.7%
D	0706.10.10	Israel	234,366	75.0%
D	0706.90.20	Mexico	3,636,767	95.8%
D	0706.90.30	Mexico	340,087	66.6%
*	0707.00.20	Mexico	21,249,216	94.6%
2	0707.00.40	Mexico	21,190,731	96.4%
D	0707.00.60	Mexico	1,230,089	54.4%
D	0708.10.20	Guatemala	1,529,770	89.8%
* R	0708.10.40	Mexico	13,688,408	75.4%
D	0708.90.05	Turkey	194,304	67.7%
D	0708.90.30	Dominican Republic	329,201	90.4%
D	0709.10.00	Colombia	49,824	70.0%
* D	0709.30.20	Mexico	1,458,705	98.5%
*	0709.30.40	Mexico	13,079,373	99.8%
D	0709.40.40	Mexico	357,659	88.6%
D	0709.90.05	Mexico	2,739,096	62.7%
1 D	0709.90.13	Mexico	1,618,477	100.0%
D	0709.90.16	Mexico	2,120,567	96.1%
*	0709.90.20	Mexico	33,790,612	97.9%
D	0710.22.25	Mexico	186,865	71.5%
D	0710.29.30	Dominican Republic	1,319,878	99.3%
D	0710.80.70	Guatemala	6,019,081	68.2%
D	0711.10.00	Israel	93,015	73.8%
D	0712.90.10	Israel	1,591,656	50.9%
D	0712.90.65	Israel	743,730	79.7%
D	0713.20.10	Mexico	26,580	56.8%
D	0713.20.20	Mexico	6,386,959	87.5%
D	0713.90.10	India	858,798	80.6%
D	0714.10.00	Costa Rica	2,824,117	93.9%
D	0714.20.00	Dominican Republic	1,360,444	96.0%
D	0714.90.10	Dominican Republic	3,642,882	50.3%
D	0802.50.20	Turkey	873,748	51.0%
D	0802.50.40	Turkey	728,077	89.1%
	0802.90.15	Mexico	9,705,784	80.3%
*	0804.50.40	Mexico	18,960,427	83.3%
2	0804.50.60	Mexico	33,393,956	96.5%
D	0804.50.80	Philippines	366,148	58.2%
D	0805.90.00	Israel	495,644	86.4%
*	0807.10.20	Mexico	46,639,237	68.3%
D	0807.10.30	Mexico	7,533,315	95.3%
* R	0807.10.70	Mexico	10,703,635	50.9%
2	0810.10.40	Mexico	11,883,261	89.8%
* D R	0810.90.40	Mexico	4,275,727	70.8%
*	0811.10.00	Mexico	22,691,811	86.0%
D	0811.90.10	Costa Rica	1,959,134	81.4%
D	0811.90.50	Costa Rica	637,450	60.6%
D	0811.90.55	Guatemala	1,069,650	71.1%
*	0813.10.00	Turkey	11,010,855	90.2%
* D R	0813.30.00	Argentina	1,483,152	46.0%
D	0813.40.10	Thailand	687,627	93.9%
D	0910.40.30	Jamaica	45,251	63.4%
D	0910.99.40	Mexico	235,113	57.2%
* D	1005.90.40	Argentina	1,043,018	72.0%
D	1006.30.10	Brazil	365,832	80.2%
D	1007.00.00	Mexico	418,319	56.9%
D	1102.20.00	Mexico	1,458,380	73.2%
* D	1102.30.00	Thailand	1,017,145	90.6%

LIST II : COUNTRIES APPROACHING COMPETITIVE NEED LIMITS
1990 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE
D	1104.23.00	Colombia	38,534	59.4%
D	1106.30.20	Ecuador	525,000	99.2%
D	1108.20.00	Thailand	1,350	100.0%
D	1212.92.00	Colombia	38,039	96.2%
D	1403.90.40	Mexico	1,325,889	57.0%
D	1515.30.40	India	1,791,476	56.4%
D	1515.60.00	Mexico	908,061	96.5%
D	1519.11.00	Malaysia	524,307	61.0%
D	1521.90.20	Dominican Republic	23,807	76.4%
D	1602.50.09	Uruguay	576,377	52.9%
D	1604.16.30	Morocco	325,446	48.7%
D	1605.90.10	Thailand	3,120,667	60.0%
2	1701.11.01	Dominican Republic	92,071,806	14.2%
D	1701.11.02	Swaziland	5,526,076	69.5%
D	1701.91.40	Colombia	425,566	67.8%
D	1702.30.20	Malaysia	19,189	53.9%
D	1702.90.35	Dominican Republic	4,547,589	99.9%
D	1703.10.30	Barbados	1,219,294	63.8%
D	1703.90.30	Lebanon	15,665	64.0%
D	1806.20.70	Mexico	7,116	100.0%
	1901.90.90	Mexico	10,786,353	57.1%
*	2001.90.39	Mexico	13,283,420	74.9%
D	2004.10.40	Colombia	1,600	100.0%
D	2005.20.00	Mexico	3,822,404	88.3%
2 D	2005.80.00	Thailand	5,433,027	94.0%
* D R	2005.90.55	Mexico	1,993,948	43.2%
D	2006.00.90	Thailand	154,929	55.6%
* D R	2007.99.50	Brazil	1,069,536	23.4%
D	2008.19.15	Philippines	2,748,368	47.7%
D	2008.19.25	Israel	7,949	100.0%
D	2008.19.30	Turkey	1,135,026	83.4%
D	2008.30.37	Israel	22,050	61.5%
D	2008.30.95	Ecuador	10,400	53.8%
D	2008.99.13	Panama	2,341,566	51.8%
D	2008.99.23	Dominican Republic	578,535	68.0%
D	2008.99.35	Thailand	1,590,625	65.0%
D	2008.99.40	Mexico	1,499,965	50.8%
D	2008.99.45	Dominican Republic	76,775	59.3%
D	2008.99.50	Dominican Republic	418,285	51.3%
D	2008.99.80	Dominican Republic	428,665	61.6%
D	2009.30.10	Mexico	542,906	97.1%
D	2009.30.20	Brazil	1,090,313	58.6%
D	2103.20.20	Venezuela	184,116	84.9%
D	2106.90.11	Jamaica	5,007	100.0%
2 R	2202.10.00	Mexico	17,580,869	37.1%
D	2208.90.05	Trinidad and Tobago	244,940	55.9%
D	2208.90.75	Colombia	952,489	61.8%
D	2306.30.00	Argentina	738,786	54.7%
*	2402.10.80	Dominican Republic	20,012,316	58.5%
D	2516.22.00	India	72,584	66.4%
D	2607.00.00	Peru	2,501,108	59.1%
* R	2804.69.10	Brazil	23,098,374	47.2%
1 D	2824.10.00	Mexico	8,510,322	97.5%
1 D	2824.20.00	Mexico	170,425	82.8%
D	2825.50.30	Mexico	878,743	91.4%
D	2827.41.00	Mexico	917,052	59.7%
D	2827.51.10	Israel	1,616,945	97.5%
D	2827.51.20	Israel	496,637	63.2%
D	2827.60.20	India	168,237	70.2%
D	2833.26.00	Mexico	1,302,522	66.2%
D	2833.29.50	Mexico	4,187,333	61.0%
D	2834.29.20	Mexico	1,436,477	97.3%
2 D	2836.92.00	Mexico	8,346,939	81.5%
D	2840.11.00	Turkey	3,302,740	99.9%
D	2841.90.30	Mexico	193,987	49.2%
1 D R	2843.21.00	Mexico	4,621,135	99.8%
D	2843.30.00	Yugoslavia	1,756,622	91.7%
D	2903.14.00	Brazil	4,705,732	54.9%

LIST II : COUNTRIES APPROACHING COMPETITIVE NEED LIMITS
1990 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE
D	2903.19.10	Brazil	216,600	47.8%
D	2903.59.50	Israel	1,972,215	48.1%
D	2903.69.30	Israel	947,481	98.9%
D	2905.44.00	Mexico	2,133,739	60.6%
D	2909.42.00	Mexico	978,764	56.2%
* D R	2915.31.00	Brazil	2,152,080	67.9%
D	2915.90.20	Thailand	25,909	62.6%
D	2917.19.15	Israel	44,880	60.2%
D	2917.32.00	Mexico	83,414	90.0%
D	2917.35.00	Mexico	3,683,422	62.5%
D	2918.22.10	Poland	505,935	49.6%
D	2921.49.20	Israel	489,586	50.0%
D	2924.21.50	Israel	1,294,077	63.3%
	2929.90.50	Bahamas	10,795,152	61.0%
D	2930.10.00	Yugoslavia	2,049,521	53.1%
D	2931.00.25	Israel	942,611	88.6%
2 D	2933.19.25	Guatemala	5,302,568	72.9%
D	2933.39.27	Israel	1,577,694	97.5%
D	2933.59.15	Venezuela	2,274,405	56.7%
D	2933.59.18	Israel	3,805,225	56.8%
D	2933.71.00	Brazil	5,412,745	90.4%
D	2933.90.18	Israel	3,036,558	71.7%
D	2933.90.47	Israel	524,890	65.3%
D	2934.90.12	Israel	2,140,052	49.0%
D	2934.90.14	Brazil	4,566,786	79.2%
D	2934.90.18	Brazil	1,988,183	87.6%
D	2935.00.05	India	436,336	99.6%
D	2935.00.37	Yugoslavia	157,015	50.4%
D	2937.22.00	Bahamas	3,797,719	59.6%
2 R	2937.92.10	Mexico	8,329,128	49.2%
D	3003.40.00	Hungary	845,052	69.7%
D	3006.50.00	Hungary	363,500	49.9%
*	3203.00.50	Mexico	8,734,043	69.9%
1 D R	3207.40.10	Mexico	3,823,504	43.1%
* D	3301.12.00	Brazil	6,565,711	72.6%
D	3301.19.10	Israel	1,121,117	75.7%
	3402.90.10	Mexico	7,044,400	54.9%
D	3604.90.00	Israel	3,433,794	62.0%
D	3702.91.00	Mexico	343,092	49.1%
D	3802.90.20	Mexico	2,523,087	73.8%
D	3808.30.20	Israel	314,081	93.2%
D	3812.30.20	Mexico	511,397	49.1%
D	3814.00.20	Mexico	2,717,837	80.6%
D	3823.20.00	Trinidad and Tobago	730,988	68.9%
D	3823.90.32	Argentina	882,139	98.8%
	3917.33.00	Mexico	8,340,298	58.9%
D	3920.42.10	Mexico	1,820,059	53.8%
D	3920.61.00	Israel	3,293,035	52.7%
	3926.90.87	Mexico	6,129,557	51.5%
D	4006.10.00	Peru	314,046	51.3%
D	4006.90.50	Israel	4,071,488	48.9%
D	4007.00.00	Malaysia	4,009,757	52.2%
	4011.91.50	Israel	8,835,330	77.6%
2	4013.10.00	Mexico	12,944,496	53.0%
2	4015.11.00	Malaysia	69,497,454	75.8%
* D	4104.21.00	Argentina	6,931,921	75.0%
D	4104.31.20	Thailand	8,318,746	84.5%
*	4104.39.80	Argentina	27,291,107	59.7%
*	4106.20.60	India	12,192,175	59.7%
2 D R	4107.21.00	Argentina	168,985	49.5%
2 R	4107.29.30	Argentina	8,984,905	47.5%
D	4202.22.35	Philippines	159,169	76.1%
D	4205.00.60	Argentina	245,529	53.4%
*	4409.10.40	Mexico	72,104,348	95.0%
D R	4409.10.60	Mexico	1,131,631	42.9%
* R	4411.11.00	Brazil	11,745,154	62.0%
D	4411.19.20	Mexico	3,941,006	48.0%
2 D	4412.11.50	Indonesia	5,777,974	71.3%

LIST II : COUNTRIES APPROACHING COMPETITIVE NEED LIMITS
1990 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE
D	4412.12.15	Brazil	4,376,550	68.1%
D	4412.19.10	Brazil	348,208	74.1%
D	4412.19.30	Philippines	19,825	100.0%
2 D	4412.29.40	Brazil	3,109,585	47.7%
D	4412.99.10	Brazil	484,474	100.0%
D	4412.99.40	Philippines	840,541	67.1%
D	4415.20.80	Mexico	2,289,078	49.3%
D	4420.90.20	Honduras	318,627	48.7%
D	4421.90.10	Honduras	1,222,147	82.3%
2 D	4802.51.10	Mexico	3,503,627	85.7%
2 D	4804.31.60	Mexico	3,229,298	48.2%
*	4818.50.00	Mexico	22,430,729	60.8%
D	4823.90.20	Philippines	3,826,748	47.7%
1 D	5208.31.20	India	656,186	97.9%
1 D	5208.32.10	India	592,093	96.9%
1 D	5208.41.20	India	4,977,620	99.4%
1 D	5208.42.10	India	3,110,837	95.2%
1 D	5208.51.20	India	207,799	97.1%
1 D	5208.52.10	India	317,524	78.0%
D	5209.31.30	India	366,497	92.4%
D	5209.41.30	India	617,192	90.5%
D	5311.00.60	Mexico	414,749	96.4%
D	5607.30.20	Philippines	3,962,625	94.3%
D	5702.20.10	India	303,057	95.5%
D	6116.92.10	Thailand	292,657	91.3%
1	6210.10.20	Mexico	48,063,211	91.5%
D	6304.99.25	India	48,831	82.4%
1	6307.90.60	Mexico	33,042,741	95.8%
	6406.10.65	Dominican Republic	88,505,643	46.5%
D	6406.10.72	Mexico	174,000	97.8%
D	6802.29.00	Mexico	1,079,434	88.2%
D	6806.20.00	Mexico	1,031,302	87.9%
D	6810.19.50	Mexico	3,296,131	53.1%
*D	6905.10.00	Venezuela	3,860,201	49.0%
D	6905.90.00	Mexico	2,912,097	56.2%
* R	6908.10.20	Thailand	3,670,567	25.3%
* R	6910.10.00	Brazil	13,191,830	22.3%
D	7002.10.20	Mexico	326,418	60.2%
D	7005.29.25	Mexico	1,415,750	49.9%
2	7008.00.00	Mexico	6,300,575	51.3%
D	7012.00.00	India	815,186	78.3%
D	7019.10.30	Mexico	2,682,301	57.7%
D	7102.21.30	Congo	1,036,643	62.6%
D	7107.00.00	Israel	44,625	61.7%
* D	7113.11.20	Thailand	3,520,604	48.4%
	7113.19.10	Peru	46,214,526	51.3%
	7113.19.50	Israel	75,931,359	6.5%
D	7113.20.10	Peru	1,631,957	94.1%
D	7113.20.21	Malta and Gozo	2,144,941	86.9%
D	7113.20.29	Israel	5,362,732	63.5%
D	7307.99.10	Mexico	4,479,780	54.3%
D	7314.11.60	Mexico	637,017	82.4%
D	7314.49.30	Mexico	1,628,510	65.9%
D	7319.20.00	Malaysia	1,812,631	61.1%
D	7319.30.10	Malaysia	782,663	58.8%
	7321.11.30	Mexico	14,225,327	49.1%
1	7401.10.00	Mexico	14,635,650	100.0%
1 D	7403.12.00	Peru	1,915,712	100.0%
R	7407.21.90	Brazil	10,832,001	23.4%
D	7411.29.50	Venezuela	246,834	47.6%
*	7413.00.10	Peru	14,707,593	78.7%
D	7413.00.50	Mexico	5,035,647	90.2%
D	7416.00.00	Barbados	384,308	62.6%
D	7604.10.30	Yugoslavia	2,367,437	47.6%
2 D	7605.19.00	Venezuela	1,808,555	48.7%
D	7614.10.50	Brazil	442,689	100.0%
D	7614.90.20	Venezuela	4,116,015	91.5%
D	7614.90.50	Brazil	271,993	58.1%

LIST II : COUNTRIES APPROACHING COMPETITIVE NEED LIMITS
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FLAGS	HTSUS	PARTNER	IMPORTS	SHARE
D	7801.99.30	Mexico	1,329,810	94.8%
D	7803.00.00	Mexico	1,753,144	51.9%
1 R	7903.10.00	Mexico	2,773,053	23.8%
D	7904.00.00	Brazil	3,289,452	62.9%
D	7907.10.00	Israel	64,545	94.0%
D	8104.90.00	Mexico	3,230,244	89.4%
D	8107.90.00	Peru	161,746	94.7%
D	8112.99.00	Mexico	1,427,400	51.4%
D	8113.00.00	Brazil	387,539	61.3%
	8301.40.60	Mexico	73,794,589	42.4%
D	8301.50.00	Mexico	1,853,779	77.6%
D	8302.49.20	Mexico	306,364	66.2%
D	8311.30.30	Mexico	1,488,573	51.7%
D	8402.20.00	Colombia	4,033,240	97.3%
D	8404.20.00	Brazil	1,248,133	69.4%
* R	8409.91.91	Brazil	28,114,386	3.4%
* R	8414.59.80	Mexico	33,792,850	18.3%
* R	8415.82.00	Mexico	22,826,111	26.7%
	8418.10.00	Mexico	10,764,581	66.7%
D	8418.40.00	Mexico	4,315,807	70.7%
2	8419.19.00	Mexico	20,003,009	64.3%
*	8424.20.10	Mexico	12,774,421	77.8%
* R	8429.20.00	Brazil	5,686,258	26.0%
* R	8429.30.00	Brazil	7,605,819	47.0%
D	8461.10.00	Brazil	60,000	47.7%
*	8471.99.30	Mexico	81,517,005	11.1%
	8501.40.60	Mexico	18,365,350	55.0%
*	8504.10.00	Mexico	80,664,831	77.9%
2	8504.32.00	Mexico	14,419,548	53.6%
1	8504.50.00	Mexico	71,463,474	47.0%
R	8507.20.00	Mexico	22,420,298	22.7%
*	8509.90.20	Mexico	33,166,495	64.0%
2	8516.80.80	Mexico	13,053,465	49.9%
	8520.20.00	Malaysia	77,879,673	29.3%
2 D	8522.10.00	Mexico	6,675,778	62.7%
2 R	8529.90.50	Mexico	28,843,393	9.4%
1	8535.40.00	Mexico	16,894,720	56.7%
1	8536.61.00	Mexico	16,704,533	47.6%
* R	8539.90.00	Mexico	24,692,167	67.4%
* R	8543.80.90	Mexico	35,129,889	7.4%
	8544.19.00	Mexico	6,577,617	47.8%
	8544.30.00	Thailand	74,718,405	5.6%
2	8544.30.00	Philippines	86,817,567	6.5%
D	8545.90.20	Mexico	1,234,005	84.3%
D	8546.10.00	Brazil	472,714	49.3%
D	8547.10.40	Mexico	332,080	63.6%
	8708.50.80	Hungary	14,705,844	48.9%
D	8713.10.00	Mexico	5,210,734	69.6%
D	8804.00.00	Mexico	4,383,477	69.8%
D	8906.00.10	Brazil	200,000	48.1%
D	9010.90.40	Israel	3,257,823	70.5%
D	9013.10.30	Israel	561,033	77.0%
D	9014.80.10	Israel	1,506,750	85.7%
2	9019.20.00	Mexico	40,890,491	48.2%
D	9021.21.80	Mexico	605,302	50.1%
2	9022.29.40	Mexico	18,733,446	88.5%
D	9022.90.70	Mexico	59,295	100.0%
* D R	9025.11.20	Brazil	1,803,345	34.9%
2 D	9025.11.20	India	2,778,996	53.7%
D	9025.80.40	Mexico	2,367,316	67.0%
2	9026.80.60	Mexico	27,003,908	49.2%
D	9031.90.40	Israel	4,186,835	56.1%
D	9306.29.00	Peru	1,814,470	56.0%
*	9401.90.10	Mexico	81,579,985	15.2%
D	9403.60.40	Mexico	733,826	47.6%
* R	9403.60.80	Thailand	29,611,528	3.6%
D	9404.10.00	Mexico	1,323,897	53.4%
D	9405.91.40	Mexico	1,225,250	76.5%

LIST II : COUNTRIES APPROACHING COMPETITIVE NEED LIMITS
1990 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE
* D R	9504.20.60	Brazil	1,739,480	43.1%
D	9506.61.00	Indonesia	790,433	61.9%
D	9603.10.70	Mexico	1,987,791	55.6%
D	9606.29.20	Thailand	440,818	67.9%
D	9613.80.80	Mexico	3,762,411	51.7%
D	9614.20.60	Turkey	114,911	86.3%
D	9614.20.80	Turkey	157,571	62.5%

LIST III : POSSIBLE de MINIMIS ITEMS
1990 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE
D	0210.20.00	Uruguay	3,599,107	78.5%
D	0210.90.20	Israel	59,819	50.3%
D	0302.22.00	Venezuela	23,969	63.5%
D	0303.77.00	Mexico	110,956	91.7%
D	0305.10.40	Peru	1,022,581	95.1%
D	0306.24.20	Venezuela	4,102,033	51.8%
* D	0704.10.40	Mexico	1,415,573	92.6%
* D	0704.10.60	Mexico	45,774	71.8%
* D	0704.20.00	Mexico	2,434,638	98.2%
D R	0704.90.20	Mexico	2,131,239	29.2%
* D	0705.11.40	Mexico	2,158,952	95.4%
* D	0705.19.40	Mexico	1,071,405	97.7%
D	0706.10.10	Israel	234,366	75.0%
D	0706.90.20	Mexico	3,636,767	95.8%
D	0706.90.30	Mexico	340,087	66.6%
D	0707.00.60	Mexico	1,230,089	54.4%
D	0708.10.20	Guatemala	1,529,770	89.8%
D	0708.90.05	Turkey	194,304	67.7%
D	0708.90.30	Dominican Republic	329,201	90.4%
D	0709.10.00	Colombia	49,824	70.0%
* D	0709.30.20	Mexico	1,458,705	98.5%
D	0709.40.40	Mexico	357,659	88.6%
D	0709.90.05	Mexico	2,739,096	62.7%
1 D	0709.90.13	Mexico	1,618,477	100.0%
D	0709.90.16	Mexico	2,120,567	96.1%
D	0710.22.25	Mexico	186,865	71.5%
D	0710.29.30	Dominican Republic	1,319,878	99.3%
D	0710.80.70	Guatemala	6,019,081	68.2%
D	0711.10.00	Israel	93,015	73.8%
D	0712.90.10	Israel	1,591,656	50.9%
D	0712.90.65	Israel	743,730	79.7%
D	0713.20.10	Mexico	26,580	56.8%
D	0713.20.20	Mexico	6,386,959	87.5%
D	0713.90.10	India	858,798	80.6%
D	0714.10.00	Costa Rica	2,824,117	93.9%
D	0714.20.00	Dominican Republic	1,360,444	96.0%
D	0714.90.10	Dominican Republic	3,642,882	50.3%
D	0802.50.20	Turkey	873,748	51.0%
D	0802.50.40	Turkey	728,077	89.1%
D	0804.50.80	Philippines	366,148	58.2%
D	0805.90.00	Israel	495,644	86.4%
D	0807.10.30	Mexico	7,533,315	95.3%
* D R	0810.90.40	Mexico	4,275,727	70.8%
D	0811.90.10	Costa Rica	1,959,134	81.4%
D	0811.90.50	Costa Rica	637,450	60.6%
D	0811.90.55	Guatemala	1,069,650	71.1%
* D R	0813.30.00	Argentina	1,483,152	46.0%
D	0813.40.10	Thailand	687,627	93.9%
D	0910.40.30	Jamaica	45,251	63.4%
D	0910.99.40	Mexico	235,113	57.2%
* D	1005.90.40	Argentina	1,043,018	72.0%
D	1006.30.10	Brazil	365,832	80.2%
D	1007.00.00	Mexico	418,319	56.9%
D	1102.20.00	Mexico	1,458,380	73.2%
* D	1102.30.00	Thailand	1,017,145	90.6%

LIST III : POSSIBLE de MINIMIS ITEMS
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FLAGS	HTSUS	PARTNER	IMPORTS	SHARE
D	1104.23.00	Colombia	38,534	59.4%
D	1106.30.20	Ecuador	525,000	99.2%
D	1108.20.00	Thailand	1,350	100.0%
D	1212.92.00	Colombia	38,039	96.2%
D	1403.90.40	Mexico	1,325,889	57.0%
D	1515.30.40	India	1,791,476	56.4%
D	1515.60.00	Mexico	908,061	96.5%
D	1519.11.00	Malaysia	524,307	61.0%
D	1521.90.20	Dominican Republic	23,807	76.4%
D	1602.50.09	Uruguay	576,377	52.9%
D	1604.16.30	Morocco	325,446	48.7%
D	1605.90.10	Thailand	3,120,667	60.0%
D	1701.11.02	Swaziland	5,526,076	69.5%
D	1701.91.40	Colombia	425,566	67.8%
D	1702.30.20	Malaysia	19,189	53.9%
D	1702.90.35	Dominican Republic	4,547,589	99.9%
D	1703.10.30	Barbados	1,219,294	63.8%
D	1703.90.30	Lebanon	15,665	64.0%
D	1806.20.70	Mexico	7,116	100.0%
D	2004.10.40	Colombia	1,600	100.0%
D	2005.20.00	Mexico	3,822,404	88.3%
2 D	2005.80.00	Thailand	5,433,027	94.0%
* D R	2005.90.55	Mexico	1,993,948	43.2%
D	2006.00.90	Thailand	154,929	55.6%
* D R	2007.99.50	Brazil	1,069,536	23.4%
D	2008.19.15	Philippines	2,748,368	47.7%
D	2008.19.25	Israel	7,949	100.0%
D	2008.19.30	Turkey	1,135,026	83.4%
D	2008.30.37	Israel	22,050	61.5%
D	2008.30.95	Ecuador	10,400	53.8%
D	2008.99.13	Panama	2,341,566	51.8%
D	2008.99.23	Dominican Republic	578,535	68.0%
D	2008.99.35	Thailand	1,590,625	65.0%
D	2008.99.40	Mexico	1,499,965	50.8%
D	2008.99.45	Dominican Republic	76,775	59.3%
D	2008.99.50	Dominican Republic	418,285	51.3%
D	2008.99.80	Dominican Republic	428,665	61.6%
D	2009.30.10	Mexico	542,906	97.1%
D	2009.30.20	Brazil	1,090,313	58.6%
D	2103.20.20	Venezuela	184,116	84.9%
D	2106.90.11	Jamaica	5,007	100.0%
D	2208.90.05	Trinidad and Tobago	244,940	55.9%
D	2208.90.75	Colombia	952,489	61.8%
D	2306.30.00	Argentina	738,786	54.7%
D	2516.22.00	India	72,584	66.4%
D	2607.00.00	Peru	2,501,108	59.1%
1 D	2824.10.00	Mexico	8,510,322	97.5%
1 D	2824.20.00	Mexico	170,425	82.8%
D	2825.50.30	Mexico	878,743	91.4%
D	2827.41.00	Mexico	917,052	59.7%
D	2827.51.10	Israel	1,616,945	97.5%
D	2827.51.20	Israel	496,637	63.2%
D	2827.60.20	India	168,237	70.2%
D	2833.26.00	Mexico	1,302,522	66.2%
D	2833.29.50	Mexico	4,187,333	61.0%
D	2834.29.20	Mexico	1,436,477	97.3%
2 D	2836.92.00	Mexico	8,346,939	81.5%
D	2840.11.00	Turkey	3,302,740	99.9%
D	2841.90.30	Mexico	193,987	49.2%
1 D R	2843.21.00	Mexico	4,621,135	99.8%
D	2843.30.00	Yugoslavia	1,756,622	91.7%
D	2903.14.00	Brazil	4,705,732	54.9%
D	2903.19.10	Brazil	216,600	47.8%
D	2903.59.50	Israel	1,972,215	48.1%
D	2903.69.30	Israel	947,481	98.9%
D	2905.44.00	Mexico	2,133,739	60.6%
D	2909.42.00	Mexico	978,764	56.2%
* D R	2915.31.00	Brazil	2,152,080	67.9%

LIST III : POSSIBLE de MINIMIS ITEMS
1990 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE
D	2915.90.20	Thailand	25,909	62.6%
D	2917.19.15	Israel	44,880	60.2%
D	2917.32.00	Mexico	83,414	90.0%
D	2917.35.00	Mexico	3,683,422	62.5%
D	2918.22.10	Poland	505,935	49.6%
D	2921.49.20	Israel	489,586	50.0%
D	2924.21.50	Israel	1,294,077	63.3%
D	2930.10.00	Yugoslavia	2,049,521	53.1%
D	2931.00.25	Israel	942,611	88.6%
2 D	2933.19.25	Guatemala	5,302,568	72.9%
D	2933.39.27	Israel	1,577,694	97.5%
D	2933.59.15	Venezuela	2,274,405	56.7%
D	2933.59.18	Israel	3,805,225	56.8%
D	2933.71.00	Brazil	5,412,745	90.4%
D	2933.90.18	Israel	3,036,558	71.7%
D	2933.90.47	Israel	524,890	65.3%
D	2934.90.12	Israel	2,140,052	49.0%
D	2934.90.14	Brazil	4,566,786	79.2%
D	2934.90.18	Brazil	1,988,183	87.6%
D	2935.00.05	India	436,336	99.6%
D	2935.00.37	Yugoslavia	157,015	50.4%
D	2937.22.00	Bahamas	3,797,719	59.6%
D	3003.40.00	Hungary	845,052	69.7%
D	3006.50.00	Hungary	363,500	49.9%
1 D R	3207.40.10	Mexico	3,823,504	43.1%
* D	3301.12.00	Brazil	6,565,711	72.6%
D	3301.19.10	Israel	1,121,117	75.7%
D	3604.90.00	Israel	3,433,794	62.0%
D	3702.91.00	Mexico	343,092	49.1%
D	3802.90.20	Mexico	2,523,087	73.8%
D	3808.30.20	Israel	314,081	93.2%
D	3812.30.20	Mexico	511,397	49.1%
D	3814.00.20	Mexico	2,717,837	80.6%
D	3823.20.00	Trinidad and Tobago	730,988	68.9%
D	3823.90.32	Argentina	882,139	98.8%
D	3920.42.10	Mexico	1,820,059	53.8%
D	3920.61.00	Israel	3,293,035	52.7%
D	4006.10.00	Peru	314,046	51.3%
D	4006.90.50	Israel	4,071,488	48.9%
D	4007.00.00	Malaysia	4,009,757	52.2%
* D	4104.21.00	Argentina	6,931,921	75.0%
D	4104.31.20	Thailand	8,318,746	84.5%
2 D R	4107.21.00	Argentina	168,985	49.5%
D	4202.22.35	Philippines	159,169	76.1%
D	4205.00.60	Argentina	245,529	53.4%
D R	4409.10.60	Mexico	1,131,631	42.9%
D	4411.19.20	Mexico	3,941,006	48.0%
2 D	4412.11.50	Indonesia	5,777,974	71.3%
D	4412.12.15	Brazil	4,376,550	68.1%
D	4412.19.10	Brazil	348,208	74.1%
D	4412.19.30	Philippines	19,825	100.0%
2 D	4412.29.40	Brazil	3,109,585	47.7%
D	4412.99.10	Brazil	484,474	100.0%
D	4412.99.40	Philippines	840,541	67.1%
D	4415.20.80	Mexico	2,289,078	49.3%
D	4420.90.20	Honduras	318,627	48.7%
D	4421.90.10	Honduras	1,222,147	82.3%
2 D	4802.51.10	Mexico	3,503,627	85.7%
2 D	4804.31.60	Mexico	3,229,298	48.2%
D	4823.90.20	Philippines	3,826,748	47.7%
1 D	5208.31.20	India	656,186	97.9%
1 D	5208.32.10	India	592,093	96.9%
1 D	5208.41.20	India	4,977,620	99.4%
1 D	5208.42.10	India	3,110,837	95.2%
1 D	5208.51.20	India	207,799	97.1%
1 D	5208.52.10	India	317,524	78.0%
D	5209.31.30	India	366,497	92.4%
D	5209.41.30	India	617,192	90.5%

LIST III : POSSIBLE de MINIMIS ITEMS
1990 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE
D	5311.00.60	Mexico	414,749	96.4%
D	5607.30.20	Philippines	3,962,625	94.3%
D	5702.20.10	India	303,057	95.5%
D	6116.92.10	Thailand	292,657	91.3%
D	6304.99.25	India	48,831	82.4%
D	6406.10.72	Mexico	174,000	97.8%
D	6802.29.00	Mexico	1,079,434	88.2%
D	6806.20.00	Mexico	1,031,302	87.9%
D	6810.19.50	Mexico	3,296,131	53.1%
D	6905.10.00	Venezuela	3,860,201	49.0%
D	6905.90.00	Mexico	2,912,097	56.2%
D	7002.10.20	Mexico	326,418	60.2%
D	7005.29.25	Mexico	1,415,750	49.9%
D	7012.00.00	India	815,186	78.3%
D	7019.10.30	Mexico	2,682,301	57.7%
D	7102.21.30	Congo	1,036,643	62.6%
D	7107.00.00	Israel	44,625	61.7%
* D	7113.11.20	Thailand	3,520,604	48.4%
D	7113.20.10	Peru	1,631,957	94.1%
D	7113.20.21	Malta and Gozo	2,144,941	86.9%
D	7113.20.29	Israel	5,362,732	63.5%
D	7307.99.10	Mexico	4,479,780	54.3%
D	7314.11.60	Mexico	637,017	82.4%
D	7314.49.30	Mexico	1,628,510	65.9%
D	7319.20.00	Malaysia	1,812,631	61.1%
D	7319.30.10	Malaysia	782,663	58.8%
1 D	7403.12.00	Peru	1,915,712	100.0%
D	7411.29.50	Venezuela	246,834	47.6%
D	7413.00.50	Mexico	5,035,647	90.2%
D	7416.00.00	Barbados	384,308	62.6%
D	7604.10.30	Yugoslavia	2,367,437	47.6%
2 D	7605.19.00	Venezuela	1,808,555	48.7%
D	7614.10.50	Brazil	442,689	100.0%
D	7614.90.20	Venezuela	4,116,015	91.5%
D	7614.90.50	Brazil	271,993	58.1%
D	7801.99.30	Mexico	1,329,810	94.8%
D	7803.00.00	Mexico	1,753,144	51.9%
D	7904.00.00	Brazil	3,289,452	62.9%
D	7907.10.00	Israel	64,545	94.0%
D	8104.90.00	Mexico	3,230,244	89.4%
D	8107.90.00	Peru	161,746	94.7%
D	8112.99.00	Mexico	1,427,400	51.4%
D	8113.00.00	Brazil	387,539	61.3%
D	8301.50.00	Mexico	1,853,779	77.6%
D	8302.49.20	Mexico	306,364	66.2%
D	8311.30.30	Mexico	1,488,573	51.7%
D	8402.20.00	Colombia	4,033,240	97.3%
D	8404.20.00	Brazil	1,248,133	69.4%
D	8418.40.00	Mexico	4,315,807	70.7%
D	8461.10.00	Brazil	60,000	47.7%
2 D	8522.10.00	Mexico	6,675,778	62.7%
D	8545.90.20	Mexico	1,234,005	84.3%
D	8546.10.00	Brazil	472,714	49.3%
D	8547.10.40	Mexico	332,080	63.6%
D	8713.10.00	Mexico	5,210,734	69.6%
D	8804.00.00	Mexico	4,383,477	69.8%
D	8906.00.10	Brazil	200,000	48.1%
D	9010.90.40	Israel	3,257,823	70.5%
D	9013.10.30	Israel	561,033	77.0%
D	9014.80.10	Israel	1,506,750	85.7%
D	9021.21.80	Mexico	605,302	50.1%
D	9022.90.70	Mexico	59,295	100.0%
* D R	9025.11.20	Brazil	1,803,345	34.9%
2 D	9025.11.20	India	2,778,996	53.7%
D	9025.80.40	Mexico	2,367,316	67.0%
D	9031.90.40	Israel	4,186,835	56.1%
D	9306.29.00	Peru	1,814,470	56.0%
D	9403.60.40	Mexico	733,826	47.6%

LIST III : POSSIBLE de MINIMIS ITEMS
1990 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE
D	9404.10.00	Mexico	1,323,897	53.4%
D	9405.91.40	Mexico	1,225,250	76.5%
* D R	9504.20.60	Brazil	1,739,480	43.1%
D	9506.61.00	Indonesia	790,433	61.9%
D	9603.10.70	Mexico	1,987,791	55.6%
D	9606.29.20	Thailand	440,818	67.9%
D	9613.80.80	Mexico	3,762,411	51.7%
D	9614.20.60	Turkey	114,911	86.3%
D	9614.20.80	Turkey	157,571	62.5%

LIST IV : POSSIBLE REDESIGNATION ITEMS
1990 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE
2	0713.31.40	Thailand	598,808	34.5%
2	0807.20.00	Mexico	678,386	33.3%
2 R	1005.90.20	Argentina	382,160	21.2%
*	1103.14.00	Thailand	0	0.0%
2	1605.10.20	Thailand	6,298,571	40.7%
2	1605.10.20	Malaysia	5,914,988	38.2%
2	1701.11.01	Dominican Republic	92,071,806	14.2%
2	1701.11.02	Dominican Republic	1,277,609	16.0%
*	1701.11.02	Brazil	0	0.0%
*	1701.12.01	Brazil	0	0.0%
*	1701.91.21	Brazil	15,915	38.4%
*	1701.99.01	Brazil	0	0.0%
*	1806.10.41	Brazil	0	0.0%
2	1905.90.90	Mexico	5,917,005	45.9%
* R	2007.99.50	Brazil	1,069,536	23.4%
*	2906.11.00	Brazil	3,338,617	11.9%
2	2933.39.25	Brazil	0	0.0%
2	2935.00.31	Yugoslavia	4,212,455	45.7%
2	3402.90.30	Mexico	1,077,599	19.8%
* R	3823.90.40	Brazil	642,975	17.7%
2	3904.21.00	Brazil	0	0.0%
*	3909.10.00	Israel	1,354,198	16.7%
*	4011.10.00	Brazil	45,492,016	4.3%
*	4011.20.00	Brazil	21,912,605	2.5%
2	4104.10.40	India	399,239	22.3%
*	4104.22.00	Argentina	2,434,389	17.8%
*	4104.29.50	Argentina	683,609	26.8%
*	4104.29.90	Argentina	2,506,508	9.1%
*	4104.31.50	Argentina	1,879,214	15.3%
*	4104.31.60	Argentina	8,517,122	16.2%
*	4104.31.80	Argentina	50,619,551	44.5%
*	4104.39.50	Argentina	140,014	2.5%
*	4104.39.60	Argentina	11,830,031	46.4%
*	4105.20.60	Argentina	48,725	0.2%
*	4106.12.00	India	101,769	41.2%
*	4106.19.00	India	98,062	2.7%
*	4106.20.30	India	3,131,376	38.8%
*	4107.29.60	Argentina	1,283,741	36.5%
*	4107.90.60	Argentina	279,534	6.8%
*	4109.00.70	Argentina	0	0.0%
* R	4411.19.20	Brazil	1,455,793	17.7%
*	4411.19.40	Brazil	3,322,222	27.9%
* R	4411.21.00	Brazil	0	0.0%
* R	4411.29.60	Brazil	352,410	17.1%
*	4411.29.90	Brazil	0	0.0%
2	4412.12.20	Brazil	4,895,373	8.1%
2	4412.12.20	Indonesia	16,860,944	27.9%
2	4412.12.50	Brazil	1,603,323	45.5%
2	4412.12.50	Indonesia	255,580	7.2%
2	4412.29.30	Brazil	5,121,843	41.8%
2	4412.29.30	Indonesia	1,879,286	15.3%
2	4412.29.40	Brazil	3,109,585	47.7%

[FR Doc. 91-2208 Filed 1-29-91; 8:45 am]
BILLING CODE 3190-01-C

LIST IV : POSSIBLE REDESIGNATION ITEMS
1990 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE
2	4412.29.40	Indonesia	1,233,800	18.9%
2	4421.90.50	Brazil	283,864	6.7%
2	4421.90.60	Brazil	190,911	2.1%
2	4804.31.60	Mexico	3,229,298	48.2%
2	4818.90.00	Mexico	2,761,176	38.8%
* R	6406.10.65	Brazil	20,605,694	10.8%
*	6406.99.60	Argentina	4,964,479	34.5%
* R	6702.90.60	Thailand	6,247,016	10.2%
*	6905.10.00	Mexico	2,037,991	25.8%
*	6910.10.00	Mexico	17,884,301	30.2%
* R	6910.10.00	Brazil	13,191,830	22.3%
* R	6910.90.00	Brazil	93,424	2.3%
* R	6911.90.00	Brazil	95,717	0.3%
*	6912.00.44	Brazil	9,404,117	10.1%
*	7113.11.20	Thailand	3,520,604	48.4%
*	7113.11.50	Thailand	42,786,682	29.9%
2	7113.20.21	Dominican Republic	79,559	3.2%
*	7113.20.50	Thailand	699,803	3.5%
*	7116.10.10	Thailand	10,539	2.2%
*	7116.20.10	Thailand	25,898,938	31.1%
*	7202.11.10	Mexico	0	0.0%
*	7202.19.50	Mexico	14,657,061	32.2%
* R	7314.19.00	Mexico	463,186	6.0%
2	7605.19.00	Venezuela	1,808,555	48.7%
2	7614.90.50	Venezuela	0	0.0%
2	8302.10.90	Mexico	2,604,282	13.4%
*	8406.11.90	Israel	0	0.0%
*	8406.19.90	Israel	0	0.0%
*	8406.90.90	Israel	0	0.0%
* R	8409.91.91	Brazil	28,114,386	3.4%
* R	8414.59.80	Mexico	33,792,850	18.3%
*	8419.11.00	Israel	0	0.0%
*	8419.19.00	Israel	76,062	0.2%
*	8419.90.10	Israel	43,280	0.6%
* R	8429.11.00	Brazil	9,251,714	20.9%
*	8471.99.30	Mexico	81,517,005	11.1%
2	8474.20.00	Philippines	0	0.0%
2 R	8507.90.40	Mexico	1,702,883	18.9%
2	8516.80.80	Mexico	13,053,465	49.9%
2 R	8529.90.50	Mexico	28,843,393	9.4%
* R	8543.80.90	Mexico	35,129,889	7.4%
2	8544.30.00	Philippines	86,817,567	6.5%
2	9006.52.10	Mexico	9,762,194	39.5%
2	9019.20.00	Mexico	40,890,491	48.2%
2	9026.80.60	Mexico	27,003,908	49.2%
2	9031.40.00	Israel	19,948,662	45.1%
* R	9401.40.00	Thailand	15,997	0.1%
* R	9401.61.60	Thailand	2,212,488	1.3%
* R	9401.69.80	Thailand	2,358,168	10.1%
*	9401.90.10	Mexico	81,579,985	15.2%
* R	9403.30.80	Thailand	447,753	0.3%
* R	9403.40.90	Thailand	4,001,175	3.8%
* R	9403.50.90	Thailand	808,336	0.3%
* R	9403.60.80	Thailand	29,611,528	3.6%
*	9405.91.30	Mexico	2,451,018	27.6%
2	9603.30.40	Mexico	570,319	21.6%

FLAGS: G = Graduated by Petition * = Excluded full year 1990
1 = Excluded January-June 1990 2 = Excluded July-December 1990
R = Reduced Competitive Need Limits Apply D = Imports currently below de minimis limit X = Waiver of Reduced Limit Granted

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. LVM 89-01; Notice 7]

Passenger Automobile Average Fuel Economy Standards; Rejection of Petition; Dutcher Motors, Inc.

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

ACTION: Rejection of petitions.

SUMMARY: This notice rejects petitions from Dutcher Motors, Inc. (Dutcher) to exempt the company from the generally applicable corporate average fuel economy standards for model years (MY) 1989 and 1991, and to establish alternative fuel economy standards for the company for those model years. The agency has concluded that Dutcher has not shown "good cause" for its late filing of the petitions. In a companion Federal Register notice published today, the agency addresses separately Dutcher's petition for an alternate fuel economy standard for Model Year 1992, which was timely filed.

FOR FURTHER INFORMATION CONTACT: Mr. Orron Kee, Office of Market Incentives, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Mr. Kee's telephone number is (202) 366-0846.

SUPPLEMENTARY INFORMATION: Title V of the Motor Vehicle Information and Cost Savings Act (Cost Savings Act), 15 U.S.C. 2001 *et seq.*, provides for an automotive fuel economy regulatory program under which standards are established for the corporate average fuel economy (CAFE) of the annual production fleets of manufacturers of passenger automobiles and light trucks. The standards for passenger automobiles for MYs 1989 and 1991, the years covered by the petitions for exemption, are 26.5 miles per gallon (mpg) for MY 1989 and 27.5 mpg for MY 1991.

Section 502(c) of the Cost Savings Act provides that a low volume manufacturer of passenger automobiles may be exempted from the generally applicable average fuel economy standards for passenger automobiles if those standards are more stringent than the maximum feasible average fuel economy for that manufacturer and if NHTSA establishes an alternative standard for the manufacturer at its maximum level. Under the Act, a low volume manufacturer is one that manufacturers (worldwide) fewer than 10,000 passenger automobiles in the model year for which the exemption is sought (the affected model year) and that manufactured fewer than 10,000 passenger automobiles in the second model year before the affected model year.

NHTSA has promulgated regulations establishing the required contents of and procedures for processing petitions for low volume exemptions from the generally applicable passenger automobile average fuel economy standards. (See 49 CFR part 525.) Section 525.6(b) specifies that each petition for exemption must be filed "not later than 24 months before the beginning of the affected model year, unless good cause for later submission is shown * * *." (See generally 41 FR 53827, 53828 (December 9, 1976), and 44 FR 21061, 21065 (April 9, 1979)).

On July 20, 1989, Dutcher petitioned the agency for an exemption from the generally applicable corporate average fuel economy standards for MY 1989. Two vehicles were sold by Dutcher in that year. On August 16, 1989, Dutcher filed an additional petition for exemptions for MYs 1990, 1991, and 1992. The request for an alternate standard for MY 1990 was subsequently withdrawn. The petition for MY 1992 was timely and a separate notice proposing to grant an alternate standard for the company for that model year appears in this issue of the Federal Register. However, the petitions for MYs 1989 and 1991 were untimely. Dutcher's arguments purporting to show "good cause" for late filing for MYs 1989 and 1991 are discussed below.

MY 1989

For MY 1989, Dutcher apparently had a contract with a customer to deliver two vehicles. The agency was not provided any information concerning when the contract was formed. In its petition, Dutcher stated that the company did not intend to deliver any vehicles for MY 1989, but was "forced" to do so when the customer threatened litigation if the company did not deliver pursuant to the contract. Dutcher delivered the two vehicles in June 1989.

The agency does not accept as "good cause" Dutcher's stated rationale. Dutcher did not indicate whether the contract for MY 1989 was entered into sooner or later than 24 months in advance of the model year, but, at the very latest, the company knew at the time the contract was entered into that it would likely produce MY 1989 vehicles, and that it would be unable to meet the generally applicable fuel economy standard. The company did not in fact submit its petition until one month after delivering the vehicles. For these reasons, the agency concludes that Dutcher has not shown "good cause" for late filing for MY 1989.

MY 1991

In purporting to show "good cause" for late filing for MY 1991, Dutcher cited a series of problems that began when the company first attempted to produce its product, the Transitaxi, in 1985. Although specific dates were not provided for most of these events, Dutcher summarized these problems as being "busy simply trying to survive as a small manufacturer." Dutcher also asked the agency, in determining "good cause", to consider the company's poor financial condition, and the small number of vehicles that the company would be producing. That is not the first time Dutcher has presented these reasons as "good cause" for late filing of the petition. They had previously been presented as "good cause" for late filing for MYs 1986 through 1989. This petition had been filed in May 1986.

In the Federal Register notice of April 18, 1990 (55 FR 14439), in which the agency proposed to grant alternate fuel economy standards for Dutcher for MYs 1986 through 1988, the agency found Dutcher had shown "good cause" for late filing for these model years. The agency noted that at the time of that filing, the company had been newly formed, and a sudden decision by Ford to stop supplying the company with engines after MY 1988, forced Dutcher to utilize a Buick engine.

The reasons for "good cause" provided for MY 1991 are not significantly different from those that were provided in 1986, three years previously. Because of its previous experience with the petitioning process, the company knew at least as early as 1986 that in order to be eligible to receive an alternate standard, a timely petition must be filed. No new circumstances were cited that explained the delay for MY 1991. Accordingly, the agency concludes Dutcher has not shown "good cause" for the late filing for MY 1991.

In sum, NHTSA has carefully considered the arguments presented by Dutcher but has concluded that Dutcher has not shown "good cause" for its late filing of petitions for low volume exemptions for MYs 1989 and 1991.

Authority: 15 U.S.C. 2002; delegation for authority at 49 CFR 1.40 and 501.8.

Issued on: January 23, 1991.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 91-2019 Filed 1-29-91; 8:45 am]

BILLING CODE 4910-59-M

Federal Motor Vehicle Safety Standards; Occupant Crash Protection; Petition for Rulemaking; Denial

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

ACTION: Petition for Rulemaking; denial.

SUMMARY: The purpose of this notice is to announce the denial of a rulemaking petition to amend Standard No. 208, *Occupant Crash Protection*, to require manufacturers of passenger cars, light trucks, small buses, and multipurpose passenger vehicles to install adjustable shoulder belt anchorages which would allow safety belt users to alter the height of the shoulder belt for the most comfortable fit. Available data do not reveal a difference in usage rates between occupants of different sizes to enable the agency to conclude that adjustable shoulder belt anchorages would significantly increase belt usage. Thus, given that shorter people do not use safety belts less frequently than taller people, despite reported comfort problems, it is uncertain that adjustable anchorages would significantly increase safety belt use rates and reduce deaths and injuries. In addition, there is no evidence that current restraint systems create a safety hazard for small adults and children. In the past, the agency has issued regulations designed to increase the comfort of safety belts, believing that increasing comfort would increase safety belt usage and therefore provide a safety benefit. However, given the certainty of the costs associated with adjustable anchorages, and the uncertainty of safety benefits, the agency does not find that their installation can be mandated. Therefore, the petition is denied. At the same time, the agency is supportive of any effort that might increase belt use and encourages manufacturers to offer such devices so that a clearer understanding of their effects can be ascertained. As more real-world data on the performance of adjustable anchorages become available, the agency will consider whether a rulemaking proceeding is warranted.

FOR FURTHER INFORMATION CONTACT: Mr. Clarke B. Harper, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590. Telephone: (202) 366–2264.

SUPPLEMENTARY INFORMATION: Federal Motor Vehicle Safety Standard No. 208, *Occupant Crash Protection*, requires the shoulder belt for a seat to fit the range of occupants from a 5th percentile adult female to a 95th percentile adult male, with the seat in any position. The term "fit" means the ability of a safety belt to go around the occupant and to latch. The standard has no performance requirements limiting where the safety belt may contact the body of seated occupants.

Smaller safety belt users have complained that shoulder belts pass over their neck or even their face. Standard No. 208 does address some issues relating to comfort and convenience. Since belt pressure on vehicle occupants has been perceived as the main comfort concern for a number of years, the standard specifies the maximum belt webbing contact force. In addition, the standard permits, but does not require, webbing tension relievers, convenience hooks for stroing webbing during vehicle egress, and adjustable shoulder belt anchorages. If an adjustable anchorage is present, the standard specifies the adjustment location.

On April 27, 1990, Ms. Rosemary Dunlap, President of Motor Voters, petitioned this agency to require adjustable upper anchorages for the shoulder belt portion of safety belts in passenger cars, light trucks, small buses, and multipurpose passenger vehicles. Adjustable upper anchorages allow the safety belt user to adjust the position of the shoulder belt to ensure the most comfortable fit. Motor Voters believes that improving comfort would increase seat belt usage among children and smaller adults, and hence, increase safety.

In evaluating this petition, the agency examined two factors. First, the agency reviewed between accident data to determine whether there is a relationship between occupant size and safety belt use rate. The agency hypothesized that if safety belt usage rates were determined to be similar regardless of occupant size, then it was likely that the discomfort problems reported by smaller size occupants were not, in fact, deterring them from using seat belts. Second, the agency reviewed accident data to determine if current restraint systems create a safety hazard for small adults and children.

Safety Belts Use Rates and Occupant Size

The agency has documented the fact that shorter occupants experience more comfort problems than average size occupants. For example, in a 1988 agency study titled, "A Comparison of the Confort and Convenience of Automatic Safety Belt Systems among Selected 1983–1989 Model Year Automobiles" (DOT HS 807–467), a significant number of consumers reported comfort problems. Shorter people (58–62 inches) reported comfort problems 33.9 percent of the time, while taller people (over 70 inches) reported comfort problems 16.0 percent of the time.

To determine if comfort problems affect safety belt use rates, data from the agency's National Accident Sampling System (NASS) from 1981–86 were analyzed for drivers and right front passengers from known height. These seating positions were selected because both have a high occupancy rate and a high frequency of lap/shoulder belts. Vehicle occupants under 20 years of age were not included in the analysis. They were excluded because the agency believes that other motivating factors, such as parental control, influence the decision to use safety belts and would bias the results . The analysis considered only passenger cars from model year 1974 and later, investigating only manual lap and shoulder belts, since few automatic safety belt systems were available during the 1981–86 time frame. This analysis is available in docket no. 87–08.

A review of these data revealed no indication that shorter people are less likely to wear lap/shoulder belts than taller people. The usage rate for all size adults is approximately 33 percent. While there is some variation in usage rate for different size groups, there is not correlation shown between height and usage rate. Since comfort problems relating to the height of the user can not be shown to affect belt use rates for smaller occupants, the agency has no factual basis to believe that making anchorages for shoulder belts adjustable would significantly increase belt use. Thus, the safety benefits of such a system are uncertain.

Effectiveness

Due to the lack of comparative vehicles or comparative accident data, the agency is unable to determine if there is any evidence indicating that varying anchorage locations alters safety belt effectiveness, i.e., the injury reducing performance of the safety belt system. The agency will continue to assess safety belt usage rates and effectiveness for different size occupants as part of the proposed Evaluation Plan for Standard No. 208 (January 17, 1990, (55 FR 1586)). The agency will evaluate the effectiveness of automatic occupant protection systems (automatic seat belts, air bags or other automatic devices) for occupants of unusual size, to determine if small adults are provided with the same level of protection by current safety belt or air bag designs, as are larger adults.

Costs

At a minimum, the agency estimates that the requested amendment would cost an additional $1 per seating position. The amendment would affect approximately 10 million automobiles and 4 million light trucks per year. If adjustable anchorages were required in only front outboard seating positions, the estimated annual cost would be $56 million. If the requirement were extended to all outboard seating positions (front and rear), the estimated annual cost would be $104 million. The agency is reluctant to impose costs of this magnitude in the absence of clear evidence of a safety benefit.

Other Activities

The agency is aware that many manufacturers already offer, or are planning to offer, adjustable shoulder belt anchorages on some models. For example, Audi, BMW, General Motors, Honda, Mercedes Benz, Nissan, Saab, Toyota, and Volvo offer such systems. Ford has plans to introduce such systems early in 1991, and along with other companies, plans to greatly expand their availability in future years. On December 19, 1990, the National Transportation Safety Board (NYSB) recommended that the manufacturers of passenger vehicles, "Provide in all newly manufactured passenger vehicles an adjustable upper anchorage for the shoulder portion of the seatbelt" (NTSB recommendation H–90–111).

While the agency is not mandating such systems at this time, given the uncertain level of safety benefits and the high level of costs, it is supportive of any actions that might increase safety belt usage. As a consequence, we support the actions of the NTSB and vehicle manufacturers in this area. The volunatry provision of adjustable shoulder anchorages will allow for an analysis of their effects on belt usage, consumer acceptance, and automobile safety. Should the agency's analyses remove the uncertainty of safety benefits associated with adjustable anchorages, it will reconsider this decision.

Conclusion

There is no clear evidence that amending Standard No. 208 to require adjustable shoulder belt anchorages would result in a significant safety benefit. Given the relatively high costs of such a regulatory requirement, and the current voluntary action of manufacturers, the agency does not believe a regulation is required at this time.

Based on the foregoing discussion, this petition is denied.

Issued on January 23, 1991.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 91–2103 Filed 1–29–91; 8:45 am]

BILLING CODE 4910–59–M

Sunshine Act Meetings

Federal Register
Vol. 56, No. 20
Wednesday, January 30, 1991

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 ENERGY REGULATORY COMMISSION

January 23, 1991.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–49), U.S.C. 552B:

DATE AND TIME: January 30, 1991, 10:00 a.m.

PLACE: 825 North Capitol Street, NE., Room 9306, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208–0400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Agenda—Hydro, 930th Meeting—January 30, 1991, Regular Meeting (10:00 a.m.)

CAH–1.
Omitted
CAH–2.
Docket Nos. UL87–16–004 and UL87–17–004, Niagara Mohawk Power Corporation
CAH–3.
Docket No. UL91–1–001, City of Soda Springs, Idaho
CAH–4.
Project No. 3218–018, City of Orrville, Ohio
Project No. 4474–026, Borough of Cheswick, Pennsylvania, and Allegheny Valley North Council of Governments
Project No. 4675–017, Borough of Charlerci, Pennsylvania, Washington County Board of Commissioners, and Pennsylvania Renewable Resources, Inc.
Project No. 7041–015, Potter Township, Pennsylvania
Project No. 7307–014, City of Grafton, West Virginia
Project Nos. 7563–014 and 7909–015, County of Allegheny, Pennsylvania
Project No. 7660–016, Borough of Point Marion, Pennsylvania
Project Nos. 8654–015 and 8990–014, Noah Corporation
Project No. 8906–018, Borough of Brownsville, Pennsylvania, Washington County Board of Commissioners, and Pennsylvania Renewable Resources, Inc.
Project No. 9042–017, Gallia Hydro Partners
CAH–5.
Project No. 3344–022, Town of Gassaway, West Virginia
CAH–6.
Project No. 6632–003, John N. Webster
CAH–7.
Project No. 10745–001, Robert Hoe
Project No. 10802–001, Gover-Kelly No. 2 and RK–DK Associates
CAH–8.
Omitted
CAH–9.
Docket No. UL89–14–004, North American Hydro, Inc.
CAH–10.
Docket No. UL88–17–001, Central Vermont Public Service Corporation

Consent Agenda—Electric

CAE–1.
Docket No. ER91–143–000, Public Service Company of New Hampshire
CAE–2.
Docket No. ER91–149–000, Boston Edison Company
CAE–3.
Docket No. ER91–63–001, Cambridge Electric Light Company
CAE–4.
Docket Nos. EL89–11–002 and ER89–312–002, Vermont Yankee Nuclear Power Corporation
CAE–5.
Docket Nos. EF85–2011–012 and EF85–2021–010, United States Department of Energy—Bonneville Power Administration
CAE–6.
Docket No. ER91–107–001, Potomac Electric Power Company
CAE–7.
Docket No. RM84–9–001, Calculation of Cash Working Capital Allowance for Electric Utilities
CAE–8.
Docket No. EC91–2–000, Kansas Power and Light Company and Kansas Gas and Electric Company
CAE–9.
Docket No. EL89–34–000, Northern California Power Agency v. Pacific Gas and Electric Company
Docket No. ER90–355–000, Pacific Gas and Electric Company

Consent Miscellaneous

CAM–1.
Docket No. RM90–11–001, Streamlining Commission Procedures for Review of Staff Action

Consent Agenda—Oil and Gas

CAG–1.
Docket Nos. RP91–68–000 and 001, Penn-York Energy Corporation
CAG–2.
Docket No. RP91–65–000, Arkla Energy Resources
CAG–3.
Docket Nos. CP90–772–002 and RP89–191–001, Northwest Pipeline Corporation
CAG–4.
Docket No. RP91–151–001, Transwestern Pipeline Company
CAG–5.
Docket No. RP90–192–002, Texas Gas Transmission Corporation
CAG–6.
Docket No. RP91–9–000, Florida Gas Transmission Company
CAG–7.
Docket No. RP91–66–000, Northwest Pipeline Corporation
CAG–8.
Docket No. RP91–64–000, ANR Pipeline Company
CAG–9.
Docket No. RP91–63–000, South Georgia Natural Gas Company
CAG–10.
Docket No. RP91–61–000, Texas Gas Transmission Corporation
CAG–11.
Docket No. RP91–40–000, Northern Natural Gas Company
CAG–12.
Docket No. TA91–1–59–001, Northern Natural Gas Company
CAG–13.
Docket No. TA91–1–18–000, Texas Gas Transmission Corporation
CAG–14.
Docket Nos. TA91–1–17–000, and TM91–2–17–000, Texas Eastern Transmission Corporation
CAG–15.
Docket No. TM91–3–48–000, ANR Pipeline Company
CAG–16.
Docket Nos. TQ91–2–43–000 and TM91–4–43–000, Williams Natural Gas Company
CAG–17.
Docket Nos. TQ91–6–4–000 and TM91–3–4–000, Granite State Gas Transmission, Inc.
CAG–18.
Docket No. GT91–13–000, Algonquin Gas Transmission Company
CAG–19.
Docket No. RP90–132–002, United Gas Pipe Line Company
CAG–20.
Docket Nos. TA90–1–33–000 and 004, El Paso Natural Gas Company
CAG–21.
Docket Nos. GT90–12–002 and 003, Mississippi River Transmission Corporation
CAG–22.
Docket No. RP91–28–001, El Paso Natural Gas Company
CAG–23.
Docket No. RP91–15–002, Transwestern Pipeline Company
CAG–24.
Docket No. RP91–22–001, Natural Gas Pipeline Company of America
CAG–25.

Docket Nos. RP88–262–011 and CP89–917–005, Panhandle Eastern Pipe Line Company
CAG–26.
Docket No. CP88–651–006, Northern Pipeline Company
CAG–27.
Docket No. TM91–6–28–001, Panhandle Eastern Pipe Line Company
CAG–28.
Docket No. RP91–13–001, Equitrans, Inc.
CAG–29.
Docket No. RP91–5–002, Natural Gas Pipeline Company of America
CAG–30.
Docket Nos. RP88–259–041, CP89–1227–009, RP89–136–023 and RP90–124–006, Northern Natural Gas Company
CAG–31.
Omitted
CAG–32.
Docket Nos. CP90–2154–001, RP85–177–093, RP88–67–041, RP89–255–003 and RP90–119–005, Texas Eastern Transmission Corporation
Docket No. RP90–15–001, Equitrans, Inc. V. Texas Eastern Transmission Corporation
CAG–33.
Docket Nos. RP86–136–009, RP89–49–011, RP90–14–001 and CP89–1582–003, National Fuel Gas Supply Corporation
CAG–34.
Docket No. RM91–2–002, Mechanisms for Passthrough of Pipeline Take-or-Pay Buyout and Buydown Costs
Docket Nos. TA88–2–25–006, RP88–146–004, TA88–3–25–005, RP89–12–007, RP89–13–004, RP89–158–003, TQ89–4–25–001, TQ89–5–25–001, TQ90–1–25–003, TA90–1–25–002, TM90–5–25–001, TM90–4–25–001, TQ90–3–25–001, TM90–6–25–001, TQ91–4–25–001, TM91–2–25–001, TQ91–2–25–001, TM91–2–25–001 and TQ91–2–25–001, Mississippi River Transmission Corporation
CAG–35.
Docket Nos. RP88–197–000 and RP88–236–000, Williston Basin Interstate Pipeline Company
CAG–36.
Docket Nos. RP88–92–023, RP88–263–016 and RP88–265–008, United Gas Pipe Line Company
CAG–37.
Docket No. RP89–250–000, Columbia Gas Transmission Corporation
Docket No. RP89–249–000, Columbia Gulf Transmission Company
CAG–38.
Docket No. RP90–6–000, Dow Intrastate Gas Company
CAG–39.
Docket Nos. RP89–251–000, and TA90–1–1–000, Alabama-Tennessee Natural Gas Company
CAG–40.
Omitted
CAG–41.
Docket No. GP84–56–008, Williams Natural Gas Company
Docket No. RP83–42–007, Midwest Gas Users Association v. Williams Natural Gas Company
CAG–42.
Docket No. RM84–6–036, Refunds Resulting from Btu Measurement Adjustments
CAG–43.
Docket No. GP88–26–002, Northern Pump Company, Danner No. A–1 Well
CAG–44.
Docket No. GP89–47–001, Sandstone Resources, Inc. v. Columbia Gas Transmission Corporation
CAG–45.
Docket No. GP90–14–000, Exxon Corporation
CAG–46.
Docket No. CI86–165–000, Phillips Petroleum Company
CAG–47.
Docket No. CP90–644–001, Columbia Gas Transmission Corporation and Commonwealth Gas Pipeline Corporation
CAG–48.
Docket No. CP90–1292–001, East Tennessee Natural Gas Company
CAG–49.
Docket No. CP84–252–003, Trans-Appalachian Pipeline, Inc.
CAG–50.
Docket No. CP87–358–004, Tennessee Gas Pipeline Company Docket No. CP87–428–004, CNG Transmission Corporation
CAG–51.
Docket No. CP87–75–005, Tennessee Gas Pipeline Company
CAG–52.
Docket No. CP81–296–018, Tennessee Gas Pipeline Company
CAG–53.
Docket No. CP90–989–003, National Fuel Gas Supply Corporation
CAG–54.
Omitted
CAG–55.
Docket No. CP90–78–001, Mississippi River Transmission Corporation
CAG–56.
Docket No. CP89–1953–001, ANR Storage Company
CAG–57.
Omitted
CAG–58.
Docket No. CP88–266–007, Viking Gas Transmission Company
CAG–59.
Docket No. CP89–1205–000, Columbia Gas Transmission Corporation
CAG–60.
Docket No. CP90–1654–000, Tennessee Gas Pipeline Company and Transcontinental Gas Pipe Line Corporation
CAG–61.
Docket No. CP90–1941–000, United Gas Pipe Line Company
CAG–62.
Docket No. CP91–752–000, Tennessee Gas Pipeline Company
CAG–63.
Docket No. CP91–913–000, Colorado Interstate Gas Company
CAG–64.
Docket Nos. RP84–42–000, RP72–133–000, TA80–1–11–000, TA80–2–11–000, TA81–1–11–000, TA81–2–11–000, TA82–1–11–000, TA82–2–11–000, TA83–1–11–000, TA83–2–11–000, TA84–1–11–000, and TA84–2–11–000 (Phase I), United Gas Pipe Line Company
CAG–65.
Docket Nos. RP90–139–004 and RP91–69–000, Southern Natural Gas Company

Hydro Agenda

H–1.
Reserved

Electric Agenda

E–1.
Reserved

Oil and Gas Agenda

I. Pipeline Rate Matters

PR–1.
Docket No. RM87–34–064, Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol. Order on remand.
PR–2.
Docket No. RM91–2–001, Mechanism for Passthrough of Pipeline Take-or-Pay Buyout or Buydown Costs
Docket Nos. RP86–119–016, TA84–2–9–016 and TA85–1–6–004, Tennessee Gas Pipeline Company. Order on rehearing.

II. Producer Matters

PF–1.
Reserved

III. Pipeline Certificate Matters

PC–1.
Docket Nos. CP89–634–003 and CP89–815–002, Iroquois Gas Transmission System, L.P.
Docket No. CP89–629–003, Tennessee Gas Pipeline Company
Docket No. CP89–1263–002, Texas Eastern Transmission Company
Docket No. CP89–1339–002, Long Island Lighting Company, The Brooklyn Union Gas Company and Consolidated Edison Company of New York, Inc. Opinion and order on rehearing.
PC–2.
Docket No. CP89–634–004, Iroquois Gas Transmission System, L.P. Order on certificate.
PC–3.
Docket No. CP89–2067–001, Southern Natural Gas Company. Order on rehearing.
PC–4.
Docket No. CP90–1391–000, Arcadian Corporation v. Southern Natural Gas Company. Order on complaint.

Lois D. Cashell,

Secretary.

[FR Doc. 91–2221 Filed 1–25–91; 8:45 am]

BILLING CODE 6717–01–M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 12:00 noon, Monday, February 4, 1991.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: Janaury 25, 1991.

Jennifer J. Johnson

Associate Secretary of the Board.

[FR Doc. 91–2242 Filed 1–28–91; 10:20 am]

BILLING CODE 6210–01–M

Corrections

Federal Register
Vol. 56, No. 20
Wednesday, January 30, 1991

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ACTION

Proposed Amendment to Student Community Service Project Guidelines

Correction

In notice document 90-1188 beginning on page 1784 in the issue of Thursday, January 17, 1991, make the following corrections:

1. On page 1784, in the first column under **Dates**, in the third line, the year should read "1991".

2. On the same page, in the second column, under **II. Purpose**, in the fifth line, "amended" was misspelled.

3. On the same page, in the 3rd column, in the 3rd paragraph, in the 10th line, "finds" should read "funds".

4. On page 1787, in the first column, in paragraph "5.", in the second line, after "shall" insert "not".

BILLING CODE 1505-01-D

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 106, 110, 9001-9007, 9012, and 9031-9039

[Notice 1990-19]

Public Financing of Presidential Primary and General Election Candidates

Correction

In proposed rule document 90-30378 beginning on page 106 in the issue of Wednesday, January 2, 1991, make the following corrections:

1. On page 108, in the 1st column, in the 17th line, after *FEC*, insert "734".

2. On page 113, in the 1st column, in the last paragraph, in the 14th line, "limitations" should read "limitation".

3. On the same page, in the second column, in the second complete paragraph, in the first line, "that" should read "the" and in the second line, the first "the" should read "that".

§ 100.8 [Corrected]

4. On page 114, in the third column, in § 100.8(b)(21)(iii)(A), in the fourth line, "110.9" should read "110.8".

§ 9002.6 [Corrected]

5. On page 117, in the second column, in § 9002.6, the fifth and sixth lines, should read "party, 25 percent or more of the total number of popular".

§ 9003.1 [Corrected]

6. On page 119, in the first column, in § 9003.1(b)(9), in the last line, "Funds", should read "Fund".

§ 9003.3 [Corrected]

7. On page 121, in the third column, in § 9003.3(c)(3), in the last line, after "purpose", replace the period with a colon.

§ 9003.5 [Corrected]

8. On page 123, in the first column, in § 9003.5, the first paragraph designated (1) should be designated (a).

§ 9004.5 [Corrected]

9. On page 125, in the second column, in § 9004.5, in the sixth line, "States" should read "State".

§ 9004.6 [Corrected]

10. On the same page, in the 3rd column, in § 9004.6(d)(1), in the 14th line "reimbursement" should read "reimbursements".

§ 9004.7 [Corrected]

11. On page 126, in the 2nd column, in § 9004.7(b)(7), in the 10th line, after "be" insert "a".

§ 9004.9 [Corrected]

12. On page 127, in the second column, in § 9004.9(f)(2)(i), in the third line from the end of the paragraph, after "eligible" insert "based".

§ 9005.1 [Corrected]

13. On page 128, in the second column, in § 9005.1(c)(3), in the second line, "candidate" was misspelled.

§ 9033.2 [Corrected]

14. On page 136, in the first column, in § 9033.2(b)(1), in the fourth line, "Office" should read "office".

§ 9033.8 [Corrected]

15. On page 137, in the third column, in § 9033.8(b), in the third line, "eligible" should read "ineligible".

§ 9033.11 [Corrected]

16. On page 139, in the first column, in § 9033.11(b)(3)(i), in the sixth line, "received" should read "receives".

§ 9033.12 [Corrected]

17. On the same page, in the second column, in § 9033.12(c), in the third line, "provide" should read "produce".

§ 9034.2 [Corrected]

18. On page 140, in the first column, in § 9034.2(a)(4), in the sixth line, after "calender" insert "year".

§ 9034.6 [Corrected]

19. On page 143, in the first column, in § 9034.6(d)(1), in the first line, "Committee" should read "committee".

§ 9034.8 [Corrected]

20. On page 145, in the first column, in § 9034.8(c)(7)(ii), in the eighth line, "fund" should read "funds".

21. On the same page, in the second column, in § 9034.8(c)(9)(ii), in the second line from the end, "Form 3-F" should read "Form 3-P".

§ 9036.1 [Corrected]

22. On page 146, in the third column, in § 9036.1(b)(2), in the eighth line, "submissions" should read "submission".

§ 9036.2 [Corrected]

23. On page 147, in the second column, in § 9036.2(b)(2), in the last line remove "of".

24. On the same page, in the third column, in § 9036.2(c)(1)(ii), in the seventh line, "9036(a)" should read "9036.2(a)".

§ 9036.3 [Corrected]

25. On page 148, in the first column, in the § 9036.3 heading, in the first line, remove "of".

§ 9038.1 [Corrected]

26. On page 150, in the second column, in § 9038.1(b)(2), "Field work" should read "Fieldwork". On the same page, in the same section, in the third column, in paragraph (b)(4), in the third line, "of" should read "if".

27. On page 151, in the 1st column, in § 9038.1(d), in the 14th line, "9038" should read "9038.2". In the 16th line, "asset" should read "as set".

§ 9038.2 [Corrected]

28. On page 151, in the third column, in § 9038.2(b)(2)(i), in the seventh line, "2" should read "(2)".

29. On page 152, in the 3rd column, in § 9038.2(g), in the 4th and 10th lines "authorize" should read "authorized".

§ 9039.3 [Corrected]

30. On page 154, in the second column, in § 9039.3(a)(2), in the first line, "an" should read "An".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6830

[CO-930-4214-10; COC-0125422]

Partial Revocation of Public Land Order No. 3843; Colorado

Correction

In rule document 91-1456 appearing on page 2443, in the issue of Wednesday, January 23, 1991, in the first line of the heading, after "Order" insert "6830".

BILLING CODE 1505-01-D

federal register

Wednesday
January 30, 1991

Part II

Environmental Protection Agency

40 CFR Parts 141, 142, and 143
National Primary Drinking Water Regulations; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 141, 142, and 143

[WH-FRL-3380-1]

National Primary Drinking Water Regulations—Synthetic Organic Chemicals and Inorganic Chemicals; Monitoring for Unregulated Contaminants; National Primary Drinking Water Regulations Implementation; National Secondary Drinking Water Regulations

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: By this document, EPA is promulgating maximum contaminant level goals (MCLGs) and National Primary Drinking Water Regulations (NPDWRs) for 26 synthetic organic chemicals (SOCs) and 7 inorganic chemicals (IOCs). (The MCLGs and MCLs for aldicarb, aldicarb sulfoxide, aldicarb sulfone, pentachlorophenol and barium are reproposed elsewhere in today's **Federal Register** due to changes in the health basis for the MCLGs and/or revised MCLs.) The NPDWRs consist of maximum contaminant levels (MCLs) or treatment techniques for the SOCs and IOCs. The NPDWRs also include monitoring, reporting, and public notification requirements for these compounds. This document includes the best available technology (BAT) upon which the MCLs are based and the BAT for the purpose of issuing variances. The Agency is promulgating secondary MCLs (SMCLs) for two contaminants and one-time monitoring requirements for approximately 30 SOCs and IOCs that are not regulated by NPDWRs.

EFFECTIVE DATE: All sections (141.11, 141.23, 141.24, 141.32, 141.40, 141.50, 141.60, 141.61, 141.62, 141.110, 141.111, 142.14, 142.15, 142.16, 142.57, 142.62, 142.64, 143.3, and 143.4) of this regulation are effective July 30, 1992. The information collection requirements of §§ 141.23, 141.24 and 141.40 are effective July 30, 1992 if the Information Collection Request is cleared by the Office of Management and Budget (OMB). If not, the requirements will be effective when OMB clears the request at which time a document will be published in the **Federal Register** establishing the effective date. In accordance with 40 CFR 23.7, this regulation shall be considered final Agency action for the purposes of judicial review at 1 p.m., Eastern time on February 13, 1991.

ADDRESSES: A copy of the public comments received, EPA responses, and all other supporting documents (including references included in this notice) are available for review at the U.S. Environmental Protection Agency (EPA), Drinking Water Docket, 401 M Street, SW., Washington, DC. 20460. For access to the docket materials, call 202–382–3027 between 9 a.m. and 3:30 p.m. Any document referenced by an MRID number is available by contacting Susan Laurence, Freedom of Information Office, Office of Pesticide Programs, at 703–557–4454.

Copies of health criteria, analytical methods, and regulatory impact analysis documents are available for a fee from the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161. The toll-free number is 800–336–4700, local: 703–487–4650.

FOR FURTHER INFORMATION CONTACT: Al Havinga, Criteria and Standards Division, Office of Drinking Water (WH–550), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, 202–382–5555, or one of the EPA Regional Office contacts listed below. General information may also be obtained from the EPA Drinking Water Hotline. The toll-free number is 800–426–4791, local: 202–382–5533.

EPA Regional Offices

I. JFK Federal Bldg., room 2203, Boston, MA 02203, Phone: (617) 565–3602, Jerry Healey
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Abbreviations Used in This Document

AA: Direct Aspiration Atomic Absorption Spectroscopy
ADI: Adjusted Daily Intake
BAT: Best Available Technology
BTGA: Best Technology Generally Available
CAA: Clean Air Act
CAG: Cancer Assessment Group
CRAVE: Cancer Risk Assessment Verification Endeavor
CUR: Carbon Usage Rate
CWS: Community Water System
DWEL: Drinking Water Equivalent Level
EBCT: Empty Bed Contact Time
ED: Electrodialysis
EDR: Electrodialysis Reversal
EMSL: EPA Environmental Monitoring and Support Laboratory (Cincinnati)
FmHA: Farmer's Home Administration
GAC: Granular Activated Carbon
GFAA: Graphite Furnace Atomic Absorption Spectroscopy
ICP–AES: Inductively Coupled Plasma-Atomic Emission Spectroscopy
IE: Ion Exchange
IMDL: Inter-Laboratory Method Detection Limit
IOC: Inorganic Chemical
LOAEL: Lowest-Observed-Adverse-Effect Level
LOQ: Limit of Quantitation
MBS: Multinational Business Services, Inc.
MCL: Maximum Contaminant Level (expressed as mg/1) [1]
MCLG: Maximum Contaminant Level Goal
MDL: Method Detection Limit
MGD: Million Gallons per Day
NAS: National Academy of Science
NIPDWR: National Interim Primary Drinking Water Regulation
NIST: National Institute of Standards and Technology
NOAEL: No-Observed-Adverse-Effect Level
NORS: National Organic Reconnaissance Survey
NPDWR: National Primary Drinking Water Regulation
NSF: National Sanitation Foundation
NTWS: Non-Transient Non-Community Water System
OPP: EPA's Office of Pesticide Programs
PAP: Polymer Addition Practices
PE: Performance Evaluation
POE: Point-of-Entry Technologies
POU: Point-of-Use Technologies
PQL: Practical Quantitation Level
PTA: Packed Tower Aeration
PWS: Public Water System
RfD: Reference Dose (formerly termed Acceptable Daily Intake (ADI))
RIA: Regulatory Impact Analysis
RMCL: Recommended Maximum Contaminant Level
RO: Reverse Osmosis
RSC: Relative Source Contribution
SDWA: Safe Drinking Water Act, or the "Act," as amended in 1986
SMCL: Secondary Maximum Contaminant Level
SOC: Synthetic Organic Chemical
TEM: Transmission Electron Microscopy
THMs: Trihalomethanes
TON: Total Odor Number
TWS: Transient Non-Community Water System
UF: Uncertainty Factor
UIC: Underground Injection Control
VOC: Volatile Organic Chemical
WHP: Wellhead Protection

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[1] 1,000 micrograms (μg)=1 milligram (mg).

SUPPLEMENTARY INFORMATION:

Abbreviations Used In This Document

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I. Summary of Today's Action

The effective date of this rule is July 30, 1992.

TABLE 1.—MCLGS AND MCLS FOR INORGANIC CONTAMINANTS

	MCLGs	MCLs
(1) Asbestos	7 million fibers/liter (longer than 10 μm)	7 million fibers/liter (longer than 10 μm).
(2) Cadmium	0.005 mg/l	0.005 mg/l.
(3) Chromium	0.1 mg/l	0.1 mg/l.
(4) Mercury	0.002 mg/l	0.002 mg/l.
(5) Nitrate	10 mg/l (as N)	10 mg/l (as N).
(6) Nitrite	1 mg/l (as N)	1 mg/l (as N).
(7) Total Nitrate and Nitrite	10 mg/l (as N)	10 mg/l (as N).
(8) Selenium	0.05 mg/l	0.05 mg/l.

TABLE 2.—MCLGS AND MCLS FOR VOLATILE ORGANIC CONTAMINANTS

	MCLGs (mg/l)	MCLs (mg/l)
(1) o-Dichlorobenzene	0.6	0.6
(2) cis-1,2-Dichloroethylene	0.07	0.07
(3) trans-1,2-Dichloroethylene	0.1	0.1
(4) 1,2-Dichloropropane	0	0.005
(5) Ethylbenzene	0.7	0.7
(6) Monochlorobenzene	0.1	0.1
(7) Styrene	0.1	0.1
(8) Tetrachloroethylene	0	0.005
(9) Toluene	1	1
(10) Xylenes (total)	10	10

TABLE 3.—MCLGS AND MCLS FOR PESTICIDES/PCBS

	MCLGs	MCLs (mg/l)
(1) Alachlor	Zero	0.002.
(2) Atrazine	0.003 mg/l	0.003.
(3) Carbofuran	0.04 mg/l	0.04.
(4) Chlordane	Zero	0.002.
(5) 1,2-Dibromo-3-chloropropane (DBCP).	Zero	0.0002.
(6) 2,4-D	0.07 mg/l	0.07/l.
(7) Ethylene dibromide (EDB).	Zero	0.00005.
(8) Heptachlor	Zero	0.0004.
(9) Heptachlor epoxide	Zero	0.0002.
(10) Lindane	0.0002 mg/l	0.0002.
(11) Methoxychlor	0.04 mg/l	0.04.
(12) Polychlorinated biphenyls (PCBs) (as decachlorobiphenyl).	Zero	0.0005.
(13) Toxaphene	Zero	0.003.
(14) 2,4,5-TP (Silvex)	0.05 mg/l	0.05.

TABLE 4.—MCLGS AND TREATMENT TECHNIQUE REQUIREMENTS FOR OTHER ORGANIC CONTAMINANTS

	MCLGs	MCLs
(1) Acrylamide	Zero	Treatment technique.
(2) Epichlorohydrin	Zero	Treatment technique.

TABLE 5.—SECONDARY MAXIMUM CONTAMINANT LEVELS (SMCLS)

(1) Aluminum	0.05 to 0.2 mg/l.
(2) Silver	0.1 mg/1.

TABLE 6.—BEST AVAILABLE TECHNOLOGIES TO REMOVE INORGANIC CONTAMINANTS

Inorganic contaminant	Best available technologies									
	Activated alumina	Coagulation/filtration [2]	Corrosion control	Direct filtration	Diatomite filtration	Granular activated carbon	Ion exchange	Lime softening [2]	Reverse osmosis	Electrodialysis
Asbestos		X	X	X	X					
Barium							X	X	X	X
Cadmium		X					X	X	X	
Chromium III.		X					X	X	X	
Chromium VI.		X					X		X	
Mercury		X [1]				X		X [1]	X [1]	
Nitrate							X		X	X
Nitrite							X		X	
Selenium IV (Selenite).	X	X						X	X	X
Selenium VI (Selenate).	X						X	X	X	

[1] BAT only if influent mercury concentrations do not exceed 10 μg/l. Coagulation/filtration for mercury removal includes PAC addition or post-filtration GAC column where high organic mercury is present in source water.

[2] Not 1415 BAT for small systems for variances unless treatment is currently in place.

TABLE 7.—BEST AVAILABLE TECHNOLOGIES TO REMOVE SYNTHETIC ORGANIC CONTAMINANTS

Chemcal	GAC [1]	PTA [2]	PAP [3]
VOCs:			
o-Dichlorobenzene	X	X	
cis-1,2-Dichloroethylene	X	X	
trans-1,2,-Dichloroethylene	X	X	
1,2-Dichloropropane	X	X	
Ethylbenzene	X	X	
Monochlorobenzene	X	X	
Styrene	X	X	
Tetrachloroethylene	X	X	
Toluene	X	X	
Xylenes (Total)	X	X	
Pesticides/PCBs:			
Alachlor	X		
Aldicarb	X		
Aldicarb sulfone	X		
Aldicarb sulfoxide	X		
Atrazine	X		
Carbofuran	X		
Chlordane	X		
2,4-D	X		
Dibromochloropropane (DBCP)	X	X	
Ethylene Dibromide (EDB)	X	X	
Heptachlor	X		
Heptachlor epoxide	X		
Lindane	X		
Methoxychlor	X		
PCBs	X		
Pentachlorophenol	X		
2,4,5-TP (Silvex)	X		
Toxaphene	X		
Other Organic Contaminants:			
Acrylamide			X
Epichlorohydrin			X

[1] GAC = Granular activated carbon.
[2] PTA = Packed tower aeration.
[3] PAP = Polymer addition practices.

TABLE 8.—COMPLIANCE MONITORING REQUIREMENTS

Contaminant	Base requirement		Trigger that increases monitoring	Waivers
	Ground water	Surface water		
	1 sample/3 yr	Annual sample		
5 Inorganics	1 sample/9 years after 3 samples <MCL		>MCL	Yes: Based on analytical results of 3 rounds.
Asbestos	1 sample every 9 years		>MCL	Yes: Based on vulnerability assessment.
	Annual	Quarterly		
Nitrate	After 1 year <50% MCL, SWS, may reduce to an annual sample.		>50% MCL	No.
Nitrite	1 Sample—If <50% of MCL, state discretion		>50% MCL	No.
10 VOCs	Quarterly/Yr; annual after one year of no detect; every 3 years after 3 rounds.		>0.0005 mg/l	Yes: Based on vulnerability assessment.
18 Pesticides/PCBs	4 quarterly samples every 3 yrs; after 1 round of no detect: systems >3,300 reduce to 2 samples/yr every 3 yrs, systems <3,300 reduce to 1 sample every 3 yrs.		Detection, (see Table 23)	Yes: Based on vulnerability assessment.
Unregulated:				
—6 IOCs, —24 SOCs	One sample, 4 consecutive quarters		N.A	Yes: Based on vulnerability assessment.

Table 9.—Analytical Methods for Inorganic Chemicals

Contaminant and Methodology

Aluminum:
Atomic absorption; furnace technique [1]
Atomic absorption, direct aspiration [2]
Asbestos
Transmission electron microscopy
Barium:
Atomic absorption; furnace technique [1]
Atomic absorption; direct aspiration [2]
Inductively coupled plasma /3/
Cadmium:
Atomic absorption; furnace technique [1]
Inductively coupled plasma [3]
Chromium:
Atomic absorption; furnace technique [1]
Inductively coupled plasma [3]
Mercury:

[1] Graphite Furnace Atomic Absorption Spectroscopy (GFAA).

[2] Direct Aspiration Atomic Absorption Spectroscopy (AA).

[3] Inductively Coupled Plasma—Atomic Emission. Spectroscopy (ICP-AES).

Manual cold vapor techique
Automated cold vapor technique
Nitrate:
Manual cadmium reduction
Automated hydrazine reduction
Automated cadmium reduction
Ion selective electrode
Ion chromatography
Nitrite:
Spectrophotometric
Automated cadmium reduction
Manual cadmium reduction
Ion chromatography
Selenium:
Atomic absorption; gaseous hydride
Atomic absorption; furnace [1]
Silver:
Atomic absorption; direct aspiration [2]
Inductively coupled plasma [3]

TABLE 10.—ANALYTICAL METHODS FOR VOLATILE ORGANIC CHEMICALS

EPA methods	Contaminants
502.1	o-Dichlorobenzene.
502.2	cis-1,2-Dichloroethylene.
503.1	trans-1,2,-Dichloroethylene.
524.1	1,2-Dichloropropane.
524.2	Ethylbenzene.
	Monochlorobenzene.
	Styrene.
	Tetrachloroethylene.
	Toluene.
	Xylenes.

TABLE 11.—ANALYTICAL METHODS FOR PESTICIDES/PCBS

EPA methods	Contaminants
504	Dibromochloropropane.
	Ethylene dibromide.
505	Alachlor.
	Atrazine.
	Chlordane.
	Heptachlor.
	Heptachlor epoxide.
	Lindane.
	Methoxychlor.
	Toxaphene.
	PCBs[1]
507	Alachlor.
	Atrazine.
508	Chlordane.
	Heptachlor.
	Heptachlor epoxide.
	Lindane.
	Methoxychlor.
	PCBs[1]
508A	PCBs (as decachlorobiphenyl).
515.1	2,4-D.
	2,4,5-TP (Silvex).
	Pentachlorophenol.
525	Alachlor.
	Atrazine.
	Chlordane.
	Heptachlor.
	Heptachlor epoxide.
	Lindane.
	Methoxychlor.
	Pentachlorophenol.
531.1	Aldicarb.
	Aldicarb sulfoxide.
	Aldicarb sulfone.
	Carbofuran.

[1] Methods 505 and 508 are used as screens only. If detected in 505 or 506, systems must confirm using Method 508A.

TABLE 12.—LABORATORY CERITIFICATION CRITERIA

IOCs:	
Asbestos	2 standard deviations based on study statistics
Barium	±15% at >0.15 mg/l
Cadmium	±20% at >.002 mg/l
Chromium	±15% at >0.01 mg/l
Fluoride	±10% at 1 to 10 mg/l
Mercury	±30% at >0.0005 mg/l
Nitrate	±10% at >0.4 mg/l
Nitrite	±15% at >0.4 mg/l
Selenium	±20% at >0.01 mg/l
VOCs:	
	±20% at >0.010 mg/l
	±40% at <0.010 mg/l
Pesticides and PCBs:	
Alachlor	±45% at 0.002 mg/l
Atrazine	±45% at 0.001 mg/l
Carbofuran	±45% at 0.007 mg/l
Chlordane	±45% at 0.002 mg/l
Heptachlor	±45% at 0.0004 mg/l
Heptachlor epoxide.	±45% at 0.0002 mg/l
Lindane	±45% at 0.0002 mg/l
Methoxychlor	±45% at 0.01 mg/l
PCBs (as Decachlorobiphenyl).	0-200% at 0.0005 mg/l
Aldicarb	±55% at 0.003 mg/l
Aldicarb sulfoxide	±55% at 0.003 mg/l
Aldicarb sulfone	±55% at 0.003 mg/l
Toxaphene	±45% at 0.003 mg/l
Pentachlorophenol	±50% at 0.001 mg/l
2,4-D	±50% at 0.005 mg/l
2,4,5-TP	±50% at 0.005 mg/l
EDB	±40% at 0.00005 mg/l
DBCP	±40% at 0.0002 mg/l

TABLE 13.—STATE IMPLEMENTATION REQUIREMENTS

Requirement	Primacy	Record-keeping	Reporting
Vulnerability assessment procedures [1].	X		
Waiver procedures.	X		
Monitoring schedule.	X		
Vulnerability assessment determinations.		X	
Waivers granted		X	
Treatment technique certifications.		X	
Unregulated contaminant results.		X	X

[1] Required if States grant waivers.

II. Background

A. Statutory Authority

The Safe Drinking Water Act (SDWA or "the Act"), as amended in 1986 (Pub. L. No. 99-339, 100 Stat. 642), requires EPA to publish "maximum contaminant level goals" (MCLGs) for contaminants which, in the judgment of the Administrator, "may have an adverse effect on the health of persons and which [are] known or anticipated to occur in public water systems" (section 1412(b)(3)(A)). MCLGs are to be set at a level at which "no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety" (section 1412(b)(4)).

At the same time EPA publishes an MCLG, which is a non-enforceable health goal, it must also promulgate a National Primary Drinking Water Regulation (NPDWR) which includes either (1) a maximum contaminant level (MCL), or (2) a required treatment technique (section 1401(1), 1412(a)(3), and 1412(b)(7)(A)). A treatment technique may be set only if it is not "economically or technologically feasible" to ascertain the level of a contaminant (sections 1401(1) and 1412(b)(7)(A)). An MCL must be set as close to the MCLG as feasible (section 1412(b)(4)). Under the Act, "feasible" means "feasible with the use of the best technology, treatment techniques, and other means which the Administrator finds, after examination for efficacy under field conditions and not solely under laboratory conditions, are available (taking cost into consideration)" (section 1412(b)(5)). In setting MCLs, EPA considers the cost of treatment technology to large public water systems (i.e., >1,000,000 people) with relatively clean source water supplies (132 *Cong. Rec.* S6287 (daily ed., May 21, 1986)). Each NPDWR that establishes an MCL must list the best available technology, treatment techniques, and other means that are feasible for meeting the MCL (BAT) (section 1412(b)(6)). NPDWRs include monitoring, analytical and quality assurance requirements, specifically, "criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels * * *." (Section 1401(1)(D)). Section 1445 also authorizes EPA to promulgate monitoring requirements.

Section 1414(c) requires each owner or operator of a public water system to give notice to persons served by it of (1) any failure to comply with a maximum contaminant level, treatment technique, or testing procedure required by a NPDWR; (2) any failure to comply with any monitoring required pursuant to section 1445 of the Act; (3) the existence of a variance or exemption; and (4) any failure to comply with the requirements of any schedule prescribed pursuant to a variance or exemption.

Under the 1986 Amendments to the SDWA, EPA was to complete the promulgation of NPDWRs for 83 contaminants, in three phases, by June

19, 1989. After 1989, an additional 25 contaminants must be regulated every three years (section 1412(b)).

B. Regulatory History

In the 1986 Amendments to the SDWA, Congress required that MCLGs and MCLs be proposed and promulgated simultaneously (section 1412(a)(3)). This change streamlined development of drinking water standards by combining two steps in the regulation development process. Section 1412(a)(2) renamed recommended maximum contaminant levels (RMCLs) as maximum contaminant level goals (MCLGs).

To ensure compliance with the provision that MCLGs and MCLs be proposed and promulgated simultaneously and to ensure adequate opportunity for public comment on these proposed standards, EPA proposed as RMCLs, in November 1985, most of the MCLGs contained in today's rule.

On May 22, 1989, EPA proposed MCLGs and MCLs for 36 contaminants and a treatment technique requirement for two contaminants. Most of the MCLGs and MCLs are promulgated at the same levels as proposed in May 1989. However, the MCLGs and/or MCLs for five contaminants are lower than previously proposed. Where EPA is promulgating MCLGs, MCLs, analytical methods, best available technology, monitoring requirements, and State implementation requirements that differ from the proposal, the changes result from public comments and/or additional data that the preamble indicated were under development or analysis. The technical and/or policy basis for these changes are explained in this notice.

On February 14, 1989, in response to a citizen suit from the Bull Run Coalition, EPA entered into a consent order which requires promulgation of regulations for 40 contaminants by December 31, 1990. EPA on June 19, 1989 partially fulfilled this requirement by promulgating regulations on coliforms and other microbiological contaminants. The promulgation of regulations on the 34 contaminants in today's rule partially fulfills the terms of the consent decree. Because of changed RfDs for aldicarb, aldicarb sulfoxide, aldicarb sulfone, and barium and the reclassification of pentachlorophenol as a B2 carcinogen and placement in Category I, EPA, elsewhere in today's Federal Register, is reproposing the MCLGs and MCLs for these contaminants. EPA intends to promulgate final standards for these chemicals by July, 1991.

C. Public Comments on the Proposal

EPA requested comments on all aspects of the May 22, 1989 proposal. A summary of the major comments and the Agency's response to the issues raised are presented in the following section. The Agency's detailed response to the comments received are presented in the document "Response to Comments Received on the Proposed Requirements for 35 Contaminants of May 22, 1989," which is in the docket for this rule.

EPA received approximately 170 comments on the proposed MCLGs in the May, 1989 proposal. These comments represented the views of 65 industrial/commercial groups, 47 State governments, 35 local governments and public water systems, 9 public interest groups, 6 federal agencies, as well as comments from individual citizens and academic interests.

EPA held a public hearing on the proposed rule July 12, 1989 in Washington, DC. Fourteen organizations made oral presentations at the public hearing. A transcript of the hearing is available in the docket.

III. Explanation of Today's Action

A. Establishment of MCLGs

Most of the MCLGs promulgated today are at the same level as proposed in May 1989. However, MCLGs (toluene and methoxychlor) are lower than proposed. One contaminant, styrene, originally proposed at levels of zero and 0.1 mg/l is promulgated today at a level of 0.1 mg/l. EPA is reproposing lower MCLGs based upon revised RfDs elsewhere in today's Federal Register for five contaminants. The basis for that change is explained in that notice. Where EPA in this notice is promulgating MCLGs that differ from previously proposed MCLGs, the changes result from public comments and/or data or that the preamble indicated were under development or analysis. An explanation of these changes is included in this notice. In this notice, EPA is responding to the major issues raised in public comments. For EPA's complete response to all issues raised in comments, EPA refers the reader to the Comment/Response Document found in the Phase II docket.

For a number of the contaminants, EPA had previously responded to issues raised in response to the November 1985 notice in the May 1989 proposal. For the most part, these responses are not repeated in this notice unless additional information was provided to the Agency. Where comments were previously responded to, EPA refers the reader to the May 1989 proposal. For four contaminants, no major issues were raised and no new information was obtained by the Agency that would cause it to change the MCLGs from the level proposed in May 1989. For these contaminants (EDB, toxaphene, 2,4,5–TP, and epichlorohydrin), final MCLGs are promulgated without additional comment.

For contaminants classified in Category II, EPA currently considers two options for setting the MCLG as described in 50 FR 46949, November 13, 1985. The lead option is to set the MCLG based on noncarcinogenic endpoints (the RfD adjusted for an adult drinking an average of 2 L water/day over a lifetime) if adequate data exist. To account for possible carcinogenicity, an additional uncertainty factor of up to 10 is applied. If adequate noncarcinogenic data are not available (i.e., asbestos), the second option consists of setting the MCLG in the theoretical excess cancer risk range of 10^{-5} to 10^{-6}. EPA is currently evaluating the appropriateness of the two options for establishing MCLGs (see 55 FR 30370, p. 30404). However, the MCLGs promulgated today use the RfD option with an application of an additional uncertainty factor up to 10, except as noted for asbestos.

1. How MCLGs Are Developed

MCLGs are set at concentration levels at which no known or anticipated adverse health effects would occur, allowing for an adequate margin of safety. Establishment of a specific MCLG depends on the evidence of carcinogenicity from drinking water exposure or the Agency's reference dose (RfD), which is calculated for each specific contaminant.

The cancer classification for a specific chemical and the reference dose are adopted by two different Agency groups. Decisions on cancer classifications are made by the Cancer Risk Assessment Verification Endeavor (CRAVE) group, which is composed of representatives of various EPA program offices. Decisions on EPA reference doses (using non-cancer endpoints only) are made through the Agency Reference Dose work group, also composed of representatives of various EPA program offices. Decisions by CRAVE and the RfD groups represent policy decisions for the Agency and are used by the respective regulatory programs as the basis for regulatory decisions. Decisions of these two groups are published in the Agency's Integrated Risk Information System (IRIS). This system can be accessed by the public by contacting Mike McLaughlin of DIALCOM, Inc. at 202–488–0550.

The RfD is an estimate, with an uncertainty spanning perhaps an order of magnitude, of a daily exposure to the

human population (including sensitive subgroups) that is likely to be without an appreciable risk of deleterious health effects during a lifetime. The RfD is derived from a no- or lowest-observed-adverse-effect level (called a NOAEL or LOAEL, respectively) that has been identified from a subchronic or chronic scientific study of humans or animals. The NOAEL or LOAEL is then divided by the uncertainty factor to derive the RfD.

The use of an uncertainty factor is important in the derivation of the RfD. EPA has established certain guidelines (shown below) to determine which uncertainty factor should be used:

10—Valid experimental results for appropriate duration. Human exposure.

100—Human data not available. Extrapolation from valid long-term animal studies.

1,000—Human data not available. Extrapolation from animal studies of less than chronic exposure.

1–10—Additional safety factor for use of a LOAEL instead of a NOAEL.

Other—Other uncertainty factors are used according to scientific judgment when justified.

In general, an uncertainty factor is calculated to consider intra- and interspecies variations, limited or incomplete data, use of subchronic studies, significance of the adverse effect, and the pharmacokinetic factors.

From the RfD, a drinking water equivalent level (DWEL) is calculated by multiplying the RfD by an assumed adult body weight (generally 70 kg) and then dividing by an average daily water consumption of 2 L per day. The DWEL assumes the total daily exposure to a substance is from drinking water exposure. The MCLG is determined by multiplying the DWEL by the percentage of the total daily exposure contributed by drinking water, called the relative source contribution. Generally, EPA assumes that the relative source contribution from drinking water is 20 percent of the total exposure, unless other exposure data for the chemical are available. The calculation below expresses the derivation of the MCLG:

$$\text{RfD} = \frac{\text{NOAEL or LOAEL}}{\text{uncertainty factor}} = \frac{\text{mg/kg/body weight/day}}{} \quad (1)$$

$$\text{DWEL} = \frac{\text{RfD} \times \text{body weight}}{\text{daily water consumption in L/day}} = \text{mg/L} \quad (2)$$

$$\text{MCLG} = \text{DWEL} \times \text{drinking water contribution} \quad (3)$$

For chemicals suspected as carcinogens, the assessment for nonthreshold toxicants consists of the weight of evidence of carcinogenicity in humans, using bioassays in animals and human epidemiological studies as well as information that provides indirect evidence (i.e., mutagenicity and other short-term test results). The objectives of the assessment are (1) to determine the level or strength of evidence that the substance is a human or animal carcinogen and (2) to provide an upperbound estimate of the possible risk of human exposure to the substance in drinking water. A summary of EPA's carcinogen classification scheme is:

Group A—Human carcinogen based on sufficient evidence from epidemiological studies.

Group B1—Probable human carcinogen based on at least limited evidence of carcinogenicity to humans.

Group B2—Probable human carcinogen based on a combination of sufficient evidence in animals and inadequate data in humans.

Group C—Possible human carcinogen based on limited evidence of carcinogenicity in animals in the absence of human data.

Group D—Not classifiable based on lack of data or inadequate evidence of carcinogenicity from animal data.

Group E—No evidence of carcinogenicity for humans (no evidence for carcinogenicity in at least two adequate animal tests in different species or in both epidemiological and animal studies).

Establishing the MCLG for a chemical is generally accomplished in one of three ways depending upon its categorization (Table 14). The starting point in EPA's analysis is the Agency's cancer classification (i.e., A, B, C, D, or E). Each chemical is analyzed for evidence of carcinogenicity via ingestion. In most cases, the Agency places Group A, B1, and B2 contaminants into Category I, Group C into Category II, and Group D and E into Category III. However, where there is additional information on cancer risks from drinking water ingestion (taking into consideration weight of evidence, pharmacokinetics and exposure) additional scrutiny is conducted which may result in placing the contaminant into a different category. Asbestos and cadmium are examples where the categorization was adjusted based on the evidence of carcinogenicity via ingestion. In the case of chromium, where there is uncertainty in the ingestion data base, the Agency used the RfD approach (described below) to derive an MCLG even though the chemical has not been categorized. This issue is discussed below. Where there is no additional information on cancer risks from drinking water ingestion to consider, the Agency's cancer classification is used to categorize the chemical. In the cases of styrene and tetrachloroethylene, where the Agency's cancer classification is unresolved, EPA used its categorization approach to derive an MCLG.

EPA's policy is to set MCLGs for Category I chemicals at zero. The MCLG for Category II contaminants is calculated by using the RfD/DWEL with an added margin of safety to account for cancer effects or is based on a cancer risk range of 10^{-5} to 10^{-6} when non-cancer data are inadequate for deriving an RfD. Category III contaminants are calculated using the RfD/DWEL approach.

TABLE 14.—EPA'S THREE-CATEGORY APPROACH FOR ESTABLISHING MCLGS

Category	Evidence of carcinogenicity via ingestion	MCLG setting approach
I	Strong evidence considering weight of evidence, pharmacokinetics, and exposure.	Zero.
II	Limited evidence considering weight of evidence, pharmacokinetics, and exposure.	RfD approach with added safety margin or 10^{-5} to 10^{-6} cancer risk range
III	Inadequate or no animal evidence	RfD approach.

The MCLG for Category I contaminants is set at zero because it is assumed, in the absence of other data, that there is no known threshold. Category I contaminants are those contaminants which EPA has determined that there is strong evidence of carcinogenicity from drinking water ingestion. If there is no additional information to consider on potential cancer risks from drinking water ingestion, chemicals classified as A or B carcinogens are placed in Category I.

Category II contaminants include those contaminants which EPA has determined that there is limited evidence of carcinogenicity via drinking water ingestion considering weight of evidence, pharmacokinetics, and exposure. If there is no additional information to consider on potential cancer risks from drinking water ingestion, chemicals classified by the Agency as Group C carcinogens are placed in Category II. For Category II contaminants two approaches are used to set the MCLGs—either (1) setting the goal based upon noncarcinogenic endpoints (the RfD) then applying an additional uncertainty (safety) factor of up to 10 or (2) setting the goal based upon a nominal lifetime cancer risk calculation in the range of 10^{-5} to 10^{-6} using a conservative calculation model. The first approach is generally used; however, the second is used when valid noncarcinogenicity data are not available and adequate experimental data are available to quantify the cancer risk. EPA is currently evaluating its approach to establishing MCLGs for Category II contaminants.

Category III contaminants include those contaminants for which there is inadequate evidence of carcinogenicity via ingestion. If there is no additional information to consider, contaminants classified as Group D or E carcinogens are placed in Category III. For these contaminants, the MCLG is established using the RfD approach.

2. Response to Comments on EPA's Zero MCLG Policy

The purpose of MCLGs under the SDWA is to set goals for both carcinogens and noncarcinogens, at a level at which "no known or anticipated adverse effects on the health of persons occur and which allow an adequate margin of safety." SDWA section 1412(b)(4). In its rulemaking on volatile synthetic organic chemicals (VOCs), the Agency articulated its policy of setting MCLGs at zero for known and probable human carcinogens. *See* 47 FR 9350 (March 4, 1982), 49 FR 24330, at 24343 (June 12, 1984) and 50 FR 46880, at 46895 (Nov. 13, 1985). Multinational Business Services, Inc. (MBS) asked the Agency to reconsider this policy which MBS considered a departure from the consistent application of risk assessment principles by federal agencies in regulating carcinogens. Instead, MBS recommended that EPA establish MCLGs for such contaminants at calculated negligible risk levels. In the May, 1989 proposal of today's rule, the Agency indicated that it intended to continue the zero MCLG policy. At the same time, the Agency agreed to address the MBS request and any other comments on the policy.

In the VOCs rulemaking, the Agency considered three major options (and several variations) for setting MCLGs (then called "recommended maximum contaminant levels") for the carcinogenic VOCs. These were: zero MCLGs, MCLGs set at the analytical detection limit, and MCLGs set at non-zero levels based on calculated negligible contribution to lifetime risks. (50 FR 46880, at 46884.) The Agency recognized that humans can tolerate and detoxify a certain threshold level of noncarcinogens, and therefore found it appropriate to set MCLGs for the noncarcinogenic VOCs above zero. However, in the Agency's view a threshold for the action of potential carcinogens could not be demonstrated by current science; it was conservatively assumed that no threshold exists, absent evidence to the contrary. *Id.* Any exposure to carcinogens might represent some finite level of risk, the magnitude of which would depend on dosage and potency of the particular carcinogen. Under these circumstances, in the Agency's judgment, an MCLG above zero did not meet the statutory requirement that the goal be set where no known or anticipated adverse effects occur or allow an adequate margin of safety.

The Agency believed that MCLGs of zero for the carcinogens would also best reflect the Agency's general philosophy that, as a goal, carcinogens should not be present in drinking water. Moreover, the legislative history of the SDWA specifically authorized this regulatory option. "The (MCLG) must be set to prevent the occurrence of any known or anticipated adverse effect. It must include an adequate margin of safety, unless there is no safe threshold for a contaminant. In such a case the (MCLG) should be set at the zero level." [H.R. Rep. No. 1185, 93d Cong., 2d. Sess. 20 (1974), reprinted in "A Legislative History of the Safe Drinking Water Act," 1982 at 552.] EPA's decision to promulgate zero MCLGs for the carcinogenic VOCs was upheld in the "VOCs decision." *Natural Resources Defense Council* v. *Thomas*, 824 F.2d 1211 (D.C. Cir., 1987). (EPA's determination was "well within the bounds of its authority" under the SDWA. *Id.* at 1213).

Comments on the zero MCLG issue in the May 1989 proposal were received from eighteen commenters in addition to MBS. Virtually all of the issues in these comments have been raised and addressed earlier. *See* 49 FR 24330 (June 12, 1984) and 50 FR 46895 (Nov. 13, 1985).

MBS and other commenters disagree with the Agency's interpretation of the statutory standard to set MCLGs at a level to prevent the occurrence of any known or anticipated adverse health effects with an adequate margin of safety. These commenters argue that Congress intended MCLGs to give "reasonable," not "absolute," assurance against adverse health effects. MBS and others maintain that health effects are not "anticipated" absent evidence indicating they should be expected. We note that the House Report cited earlier indicates that "the Administrator must decide whether any adverse effects can be reasonably anticipated, even though not proved to exist." H.R. Rep. No. 1185, *id.* Some commenters are critical of the Agency's "reliance" on the House Report language addressing the situation where there is no known safe threshold. These commenters argue that EPA's interpretation is "inconsistent" with other legislative history. MBS, for example, cites the House Report discussion of a study to be conducted by the National Academy of Sciences (NAS) to support its position that Congress did not intend MCLGs to be set at zero. The Committee directed NAS to develop recommendations of maximum contaminant levels "solely on considerations of public health" and not to be "influenced by political, budgetary, or other considerations." *Id.*, at 551. In recommending an adequate margin of safety, NAS was to consider, among other factors, the margins of safety used by other regulatory systems. *Id.* However, as the Committee made clear, determining an adequate margin of safety was but the final step in the process of setting an MCLG. The Administrator must first decide if any adverse health effects can reasonably be anticipated, even though not proved to exist. It was necessary to determine an adequate margin of safety only if there is a safe threshold for the contaminant. If there is no safe threshold, the MCLG "should be set at the zero level." *Id.*, at 552. We find nothing in the discussion of the NAS study to contradict the Committee's

explicit recognition of the fact that there may be circumstances where there is no safe threshold for a contaminant.

Some commenters maintain that the Agency's interpretation of the SDWA should be determined by interpretations of other statutes that direct agencies to set "safe" standards. In this regard, several commenters point to the "vinyl chloride decision" construing section 112 of the Clean Air Act (CAA). *Natural Resources Defense Council. Inc.* v. *EPA*, 824 F.2d 1146 (D.C. Cir. 1987). Pursuant to section 112 of the CAA, the Administrator sets emission standards "at the level which in his judgment provides an ample margin of safety to protect the public health." The court found that use of the term "safety" is significant evidence that Congress "did not intend to require the Administrator to prohibit all emissions of non-threshold pollutants." 824 F.2d at 1153. The court cited the Supreme Court's "benzene decision" for the proposition that "safe" does not mean "risk free" and that something is "unsafe" only when it threatens humans with "a significant risk of harm." *Industrial Union Dept, AFL–CIO* v. *American Petroleum Inst.*, 448 U.S. 607, 640 (1980). MBS argues that the "vinyl chloride decision" is particularly compelling since the term "margin of safety" appears in both section 112 of the CAA and section 1412 of the SDWA. However, the court in the "VOCs decision" noted that the Supreme Court's "benzene decision" was based on "a close reading of the statutory language of OSHA, which we note differs significantly from the statutory scheme that we confront in this case. The OSHA language that the Supreme Court interpreted as incorporating a requirement of a finding of significant risk directed the Secretary to set standards 'reasonably necessary and appropriate to provide safe or healthful employment'. 824 F.2d at 1215–1216. Accordingly, there must be a threshold determination that the place of employment is "unsafe" in the sense that significant risks are present and can be eliminated or lessened by changing practices. 824 F.2d at 1215. The court in the "VOCs decision" found that this "significant risk" standard did not apply to the Administrator's decisions to regulate contaminants under the SDWA. 824 F.2d 1211, 1216.

We have followed a similar restraint in importing interpretations from other statutes on the basis that they are "analogous." It remains our view that reliance on such interpretations as determinative of Congressional intent in enacting the SDWA is unwarranted. Section 112 of the CAA and other statutes cited by commenters are not "the same as" section 1412 of the SDWA. They do not have a two-step regulatory process consisting of separate, aspirational goals, followed by achievable, enforceable limits. Feasibility, cost and other factors may be relevant to determining appropriate enforcement levels under the CAA and other statutes and may influence the concept of "safety." Such factors are not appropriate in setting MCLGs. Some commenters point out that EPA has determined that standards reflecting a 10^{-4} to 10^{-6} risk level are safe and protective of public health even for known or probable carcinogens under other of its authorities. That is true, but such determinations are not inconsistent with our position that MCLGs serve fundamentally different purposes than enforceable standards.

MBS and a few other commenters also suggest that the Agency's general assumption of no biological threshold of effect for carcinogens is not appropriate. MBS maintains there is "an increasing body of scientific data" indicating that substances that elicit carcinogenic response in laboratory animals "actually appear to have a threshold of effect for humans." EPA will continue to solicit the best scientific views and encourages the public to provide such evidence to the Agency for consideration. EPA intends to set MCLGs based upon the most current scientific data, and is open to revising current levels based upon new data.

Some comments indicate concern that zero MCLGs are impractical since they are undetectable and unachievable. It remains our view that MCLGs are, by statute, different from enforceable standards; as goals based solely on health factors they need not be measurable, affordable or achievable. Some commenters maintain that even as unenforceable goals, MCLGs have serious practical implications. They argue that zero MCLGs cause undue public alarm and will result in the misallocation of funds to reduce certain contaminants. We believe the distinction between aspirational goals and standards enforceable under the SDWA is significant and understandable. We also believe that those who adopt MCLGs for purposes outside the SDWA or use MCLGs as operational standards rather than aspirational goals do so knowingly; those decisions cannot influence the Agency's setting of MCLGs. In this context, some commenters argue that zero MCLGs will have dire financial results for Agency clean-up actions. We cannot agree with such a broad prediction. EPA has determined that MCLGs of zero are not relevant and appropriate requirements for Superfund cleanups. Contaminant levels of zero are not consistent with cleanup objectives of CERCLA. *See* 55 FR 8666, 8750 (March 8, 1990).

Some commenters maintain that zero MCLGs will necessarily drive MCLs to increasingly stringent enforceable standards as technology improves and that such standards are not justified by their health benefits. The SDWA provides that MCLs shall be set as close as feasible to the MCLGs, taking cost into account. While it is true that an MCL for a contaminant with a zero MCLG has a greater potential to ultimately be more stringent than an MCL for a contaminant with an MCLG above zero, a number of factors are considered in determining what constitutes "best available technology" on which to base the MCLs. Moreover, while resources should be directed toward highest risks, it seems premature to conclude that the resources that may be necessary to achieve such standards would be misdirected.

In the opinion of EPA, Category I contaminants meet the "no safe threshold" test established in the House Report. EPA does not automatically place contaminants classified as Group A or B carcinogens in Category I. Additional scrutiny occurs to determine what evidence exists of the chemicals' carcinogenicity via ingestion considering pharmacokinetics, exposure, and weight of evidence. If the additional evidence indicates that the overall evidence of carcinogenicity via ingestion is limited or inadequate, then the chemical will be placed in the appropriate category and an MCLG is calculated accordingly. For contaminants placed in Category II, the MCLG is based on non-carcinogenic effects using the RfD approach. An extra margin of safety of 1- to 10-fold is used to account for the possible carcinogenic effects of these Category II contaminants. If data are inadequate to establish an RfD, then EPA uses a 10^{-5} to 10^{-6} cancer risk range to establish the MCLG.

EPA recognizes that other Federal, State, and public health agencies have used a risk-based approach for regulating carcinogens. As discussed above, EPA does use a risk-based approach as an alternative methodology for Category II contaminants when non-cancer health effects data are inadequate to establish an RfD (i.e., asbestos). Currently EPA is considering adopting this risk-based alternative as

the primary approach for Category II contaminants in future regulations (see 55 FR 30374, July 25, 1990).

In addition, when EPA establishes MCLs, it considers the cancer risk at the MCL to determine whether they would be acceptable from a safety standpoint. A target risk range of 10^{-4} to 10^{-6} is considered by EPA to be safe and protective of public health.

EPA agrees that MCLGs at zero do not provide specific information on potency and mechanism of action; however, EPA does consider potency and mechanism of action on a chemical-specific basis in determining whether there is strong (Category I) or limited (Category II) evidence of carcinogenicity. EPA recognizes that achieving zero levels of carcinogens in our water supplies or in other media is not possible; MCLGs are health goals. Consequently, EPA believes that reducing the drinking water exposure to carcinogens should lead to an overall reduction in the daily exposures to a compound.

In conclusion, when current scientific data do not show a safe threshold, it remains Agency policy that a zero MCLG for known or probable human carcinogens best reflects the statutory directive to establish a level at which no known or anticipated adverse effects on health occurs. At the same time, we are mindful that significant advances are being made in scientific knowledge and technology that allow us to know more about the process of carcinogenicity and to detect contaminants at increasingly lower levels. We are continuing to evaluate these advances to determine whether it is possible to define levels that have little or no meaning in terms of cancer risk. If so, the Agency may determine that the SDWA directive of "no adverse effects" could be met by other than zero MCLGs.

3. Relative Source Contribution

Table 15 summarizes the approach EPA uses to estimate the relative contribution from other sources of exposure, including air and food, for the purpose of calculating the MCLG for non-carcinogens. EPA requested comments on this approach.

TABLE 15.—RELATIVE SOURCE CONTRIBUTION

	Drinking water exposure between 20 and 80%	Drinking water exposure between 80 and 100%	Drinking water exposure less than 20%
Adequate data are available	EPA uses actual data	EPA uses an 80% drinking water contribution.	EPA uses a 20% drinking water contribution.
Adequate data are not available		EPA uses a 20% drinking water contribution.	

Five commenters fully supported EPA's proposed approach for developing and using relative source contribution (RSC) factors. One of these commenters agreed that volatilization data are currently inadequate for use in establishing RSCs. Another commenter believed sufficient data and modeling techniques for volatilization have been published and that human exposure from volatilization of drinking water could range from 3 to 10 times that from ingestion. Another commenter believed current information indicates that the vast majority of human exposure to drinking water contaminants occurs from ingestion; therefore, EPA should not consider volatilization in developing RSC factors. One commenter noted that the majority of contaminants volatilized from drinking water would not be inhaled. One commenter stated that EPA should refine its models on skin contact and inhalation using a workshop format, present the models to the Science Advisory Board, and publish the models for public comment. Many divergent comments were received on the use of a 20 percent floor and 80 percent ceiling (see Comment/Response Document for details). Several commenters objected to using a 20 percent floor and 80 percent ceiling for the RSC when actual data are available. One commenter asked EPA to clarify that the 20 percent floor accounts for all routes of exposure to drinking water contaminants (i.e., inhalation, dermal absorption, and ingestion).

EPA Response: EPA has not completed the modeling effort for estimating drinking water exposure from volatilization and dermal absorption. The draft document "Guidelines for Incorporation of Inhalation and Dermal Exposures from Drinking Water in the Calculation of Health Advisory and DWEL Values" (U.S. EPA, 1989, draft) is undergoing internal Agency review. After completion of Agency review, the document will be available for Science Advisory Board and external review. In the meantime, EPA maintains the position that exposure to drinking water contaminants from volatilization and dermal absorption is generally limited and adequately accounted for in the selection of relative source contribution factors. EPA believes that the 20 percent floor is very protective and represents a level below which additional incremental protection is negligible. In addition, below 20 percent RSC from water is a clear indication that control of other more contaminated media will have a significantly greater reduction in exposure. EPA believes the 80 percent ceiling is required because, even if nearly all exposure is currently via drinking water, some portion, albeit small, of the adjusted daily intake (ADI) should be reserved to protect populations with unusual exposures and future changes in the distribution of the contaminant in the environment. EPA does not rely on the limits when adequate exposure data exist between 20 and 80 percent, but when data are not adequate, the 20 percent floor and 80 percent ceiling are prudent and protective of public health.

4. Inorganic MCLGs

a. Asbestos. EPA proposed an MCLG of 7 million fibers/liter (rounded off from 7.1 million) for asbestos fibers exceeding 10 micrometers in length since sufficient health and occurrence data exist to justify a national regulation and the 1986 SDWA Amendments require the Agency to regulate this contaminant. EPA's proposal of 7 million fibers/liter (for fibers greater than 10 micrometers in length) is based upon evidence of benign polyps occurring in male rats following the oral administration of intermediate (>10 micrometer range) size chrysotile fibers.

Public Comments. A total of 19 individuals or organizations provided comments in response to the MCLG proposal regarding asbestos. A number of commenters (13) stated that, while recognizing the health hazards associated with inhalation exposure, it was not appropriate to develop an MCLG for asbestos due to the inadequacy of data establishing health risks via ingestion of asbestos. Four commenters stated that asbestos should not be considered as having "limited" evidence of carcinogenicity (Group C), but instead should be placed in "Group

D" with the MCLG based on the No-Observed Adverse-Effect Level (NOAEL) or Lowest-Observed-Adverse-Effect Level (LOAEL) for ingested asbestos. One commenter recommended developing a health advisory based on available data instead of proposing an MCLG for asbestos. Another commenter objected to asbestos carcinogenic classification (limited evidence, Group C) in view of the EPA's classification of inhaled asbestos as Group A (known human carcinogen) and recommended an MCLG of zero.

EPA Response. EPA recognizes that the evidence for the health effects of ingested asbestos has limitations. However, EPA believes that there is a sufficient basis to justify regulating asbestos for the reasons outlined in the November 13, 1985, notice. Furthermore, the 1986 SDWA amendments direct EPA to regulate asbestos. The reasons outlined in the aforementioned November 13, 1985, notice are summarized below:

- Asbestos has been shown to be a human carcinogen through inhalation exposure and is classified by EPA as Group A (human carcinogen).
- The results of the National Toxicology Program (NTP) bioassay showed an association between the ingestion of asbestos fibers 65 percent of which were greater than 1 micrometers in length and benign gastrointestinal tumors (adenomatous polyps) in male rats. A parallel NTP study of fibers, 98 percent of which were <10, did not produce a response in male or female rats.
- Although these results were not statistically significant compared with the concurrent controls, the incidence of the neoplasms was highly significant when compared with the incidence of epithelial neoplasms (benign and malignant combined) of the large intestine of the pooled control groups of all the NTP oral asbestos lifetime studies.
- The EPA Science Advisory Board (SAB) stated that "given the positive signal seen in some epidemiologic studies, plus well-documented evidence for the association between asbestos fiber inhalation and lung cancer, it is hard for the Committee to feel comfortable in dismissing the possibility of an increased risk of gastrointestinal cancer in humans exposed to asbestos fibers from drinking water."
- EPA believes the above information substantiates the health significance of asbestos fibers associated with both inhalation and ingestion as routes of exposure. Therefore, this evaluation of the health significance of asbestos fibers in drinking water is not inconsistent with the proposed MCLG for asbestos.

In addition, The National Research Council (NRC, 1984. Nonoccupational Health Risk of Asbestiform Fibers) concluded "the association of asbestos with an increased risk of malignancies other than lung cancer and mesothelioma has not been confirmed in animal studies and has not been observed consistently in human studies."

In setting an MCLG for asbestos in drinking water, EPA believes the limitations of the available dose-response data from dietary ingestion of asbestos justifies treating asbestos as a Category II contaminant. EPA is promulgating an MCLG of 7 million fibers/liter (>10 micrometer in length) for asbestos following review of public comments.

b. Cadmium. In the 1989 proposal (54 FR 22062), EPA reproposed an MCLG of 0.005 mg/1 for cadmium. This value was based upon a DWEL of 0.018 mg/l, using human renal dysfunctien as an endpoint.

Public Comment. Comments on the proposal were received arguing that (a) the current interim 0.01 mg/l standard should be retained or possibly increased, (b) cadmium in drinking water should be regulated as a carcinogen and thus the MCLG should be set at zero, or (c) cadmium produces learning disabilities, birth defects, and heart disease and thus the MCLG should be set at zero.

Those who supported retaining the current interim 0.01 mg/l standard or a higher value based their argument on a variety of points, including the following: (a) The interim 0.01 mg/l standard is safe, and/or (b) the current 0.01 mg/l standard is supported by the conclusion of the World Health Organization (WHO) that the provisional tolerable weekly intake for cadmium should be established at a level not to exceed 0.4–0.5 mg/person.

Those who argued that cadmium in drinking water should be regulated as a Group I carcinogen (i.e., set the MCLG at zero), collectively, provided an extensive analysis of the oncogenic potential of cadmium via non-ingestion routes of exposure in agreement with EPA's own analysis.

An additional commenter argued that the standard should be zero, as cadmium produces learning disabilities, birth defects, and heart disease, but the commenter provided no data adequate to conclude that the proposed standard would not protect against such adverse effects should they occur.

EPA *Response.* While a level of 0.01 mg/l is probably without effect in most individuals, EPA is not convinced that a level of 0.01 mg/l or higher contains an adequate margin of safety to protect sensitive subpopulations as required by the SDWA. As noted in the 1989 proposal, WHO recommends 0.005 mg cadmium/l of drinking water, a value identical to the proposed MCLG; the 0.4–0.5 mg/person value cited in the comments principally concerns the diet which, in EPA's opinion, is not relevant to a drinking water standard.

As stated in the 1989 proposal, EPA classified cadmium in Group B1, probable human carcinogen, based upon animal and human evidence of lung cancer from inhalation exposure. Chronic oral animal studies with cadmium have shown kidney damage but no carcinogenic activity and ingestion-specific human data are not available. Therefore, in setting an MCLG for cadmium in drinking water, EPA believes the lack of cancer dose-response evidence from ingestion of cadmium justifies considering cadmium as a Category III contaminant. Those comments that conclude that cadmium is a carcinogen provide no new evidence that cadmium is carcinogenic via drinking water but rather, argue that it is prudent to assume that cadmium is carcinogenic via ingestion. As drinking water studies in rats of two cadmium salts have not shown a dose-response basis for risk (e.g., ATSDR, 1989), EPA believes that for drinking water purposes cadmium should be a Category III contaminant (chronic toxicity but lacking evidence of carcinogenicity).

The commenter arguing that cadmium produces learning disabilities, birth defects, and heart disease provides no convincing evidence that the proposed standard would not protect against such effects should they occur at higher levels of exposure. EPA disagrees that the MCLG should be set at zero on this basis.

After reviewing the public comments, EPA has concluded that cadmium should be placed in Category III and that an MCLG of 0.005 mg/l for cadmium, as proposed, based on the most sensitive endpoint is appropriate.

c. Chromium. In the 1989 proposal (54 FR 22062), EPA reproposed an MCLG of 0.1 mg/l for total chromium (chromium III and VI).

Public Comment. Comments were received that recommended that (a) the 0.1 mg/l value be adopted, (b) separate standards be adopted for Cr VI and Cr III as there is no evidence that Cr III is oxidized to Cr VI in drinking water, and (c) chromium be considered potentially carcinogenic to humans via the oral route; thus, EPA should promulgate an MCLG of zero for chromium.

EPA Response: The 1989 proposal stated that "EPA's Office of Research and Development has shown Cr III to oxidize to Cr VI in the presence of an oxidant such as chlorine at concentrations similar to those used to disinfect drinking water." EPA maintains this view despite some public commenters who state that there is no evidence that Cr III is oxidized to Cr VI.

Those commenters who argued that chromium is carcinogenic, in part, support EPA's conclusion that Cr VI is carcinogenic following exposure by inhalation. From a hazard identification perspective, EPA has classified Cr VI in Group A, i.e., a human carcinogen via inhalation, and considers Cr VI to have various genotoxic characteristics including being a mutagen and clastogen. In comparison, the evidence for Cr III is largely non-positive or equivocal and is viewed as inadequate to develop more clear conclusions. Notably Cr III in trace amounts is an essential nutrient for the metabolism of carbohydrates.

Specific dose-response evidence for Cr VI carcinogenicity by oral exposure is not available at this juncture. Commenters did not present any new information on this point. In comparison, the body of dose-response evidence for inhalation exposure is relatively large and consists mainly of human data. The data base comes from epidemiologic studies of chromate and ferrochromium production workers, chrome pigment workers, and chrome platers where the predominant chromium species is Cr VI. While lung cancer is the focus of these studies, there is also some evidence of an increased hazard of gastrointestinal tract cancer suggesting that respiratory clearance and swallowing or some other physiologic distribution of a reactive chromium species is taking place. Unfortunately, most studies did not investigate or did not detect the presence of any clear dose-response relationships, nor is it obvious that other specific confounding factors for the possible gastrointestinal hazards were accounted for.

While oxidation of Cr III to Cr VI may occur in the water treatment system, reduction of Cr VI to Cr III occurs in mammalians. The saliva and gastric juice in the upper alimentary tract of mammals, including humans, have a varied capability to reduce Cr VI with the gastric juice having a notably high capacity. To the extent that Cr VI survives these reduction environments other organs/tissues such as the liver, red blood cells and some lung cells are also reducing environments. Thus, the body's normal physiology provides detoxification for Cr VI, which provides protection from the oral toxicity of Cr VI.

EPA recognizes that by focusing on total chromium the issues of chromium species-specific toxicity, e.g., carcinogenicity, become mixed. We note that Cr III and Cr VI chemistry is already intertwined in the water treatment process since the two valence states of chromium are in a dynamic equilibrium with the degree of oxidation depending on such factors as pH, dissolved oxygen, or the presence of reducing agents. Other equilibriums exist in the mammalian system and thus a clear separation of Cr III and Cr VI is not feasible at this time.

The lack of available Cr VI dose-response information for oral exposure precludes an estimation of the possible magnitude of cancer risk, if any, from drinking water exposure. The available information shows that the capacity for reduction of Cr VI to Cr III can be quite high relative to expected drinking water levels of total chromium. There is, however, insufficient information to describe the rates of reduction and the temporal fate of free or biologically available Cr VI. Since Cr VI is preferentially absorbed compared to Cr III, the amount of biologically available Cr VI is uncertain.

EPA concludes that the presence of Cr VI in drinking water should be minimized in recognition of its biological reactivity including its potential for a carcinogenic hazard. Such minimization will limit the likelihood of saturating the normal reduction/detoxification mechanisms in humans and likewise limit the systemic absorption of any residual Cr VI. Without the necessary information to further evaluate the possibility of carcinogenic risk, EPA believes that drinking water exposure limitations for total chromium based upon other, i.e., non-carcinogenic, health endpoints is the only feasible approach to follow at this time.

The MCLG for total chromium is developed from health effects data for Cr VI, the more toxic chromium species, and is based on EPA's RfD methodology (see 1989 proposal). Since the MCLG includes both Cr III and Cr VI, no category has been assigned for total chromium due to some of the issues discussed earlier. Should new information become available which adequately demonstrates the cancer risk from ingestion of Cr VI, the MCLG for total chromium would be reexamined, especially since Cr VI levels can predominate from spills, uncontrolled waste sites, or geologic formations of Cr VI makeup. Therefore, EPA is promulgating an MCLG of 0.1 mg/l (100 μg/1), as proposed in 1989, and further recommends that the μ uncertainty regarding Cr VI carcinogenic risk warrants additional investigation.

The MCLG level also falls into the estimated safe and μ adequate daily dietary intake range of 50 to 200 μg/day for Cr III established by the National Research Council in the National Academy of Sciences (NAS, 1989). The lower limit is based on the absence of deficiency symptoms in individuals consuming an average of 50 μg/day chromium. The upper limit was identified from several studies where no adverse effects were noted in individuals consuming 200 μg/day chromium. Consequently, for the reasons stated above, EPA promulgates an MCLG of 0.1 mg/1, as proposed.

d. Mercury. EPA proposed an MCLG of 0.002 mg/1 for mercury in the May 22, 1989 proposal. The MCLG was derived from a DWEL of 0.01 mg/1 applying a 20 percent contribution from drinking water. The EPA held a workshop on issues regarding the DWEL for mercury (EPA, Peer Review Workshop on Mercury Issues, Summary Report, October 26–27, 1987). The workshop considered three major studies (Druet et al., 1978; Andres P., 1984; Bernaudin et al., 1981) using the same endpoints(kidney damage) for mercury toxicity. The workshop concluded that 0.01 mg/1 was an appropriate level for the DWEL.

Public Comments: EPA addressed the public comments received in response to the previous proposal of November 13, 1985 in the **Federal Register** Notice of May 22, 1989. In response to the **Federal Register** Notice of 1989, one commenter questioned the use of the studies by EPA for the calculation of DWEL and recommended the use of the Fitzhugh et al. (1950) study instead. The Fitzhugh study noted damage to the kidneys as did the studies selected by EPA. The NOAEL from the Fitzhugh study was 0.315 mg/kg as compared to the LOAEL of 0.32 mg/kg from which EPA derived the DWEL.

EPA Response: EPA examined the Fitzhugh study and found it inappropriate for DWEL determination because of the lack of reporting on which adverse health effects were observed in each dosing group. Consequently, EPA will continue to base its MCLG on the three studies previously cited. Thus, EPA has placed mercury in Category III and promulgates an MCLG of 0.002 mg/1 in drinking water.

e. Nitrate/Nitrite. In the 1989 proposal (54 FR 22062), EPA proposed MCLGs of

10 mg/l (as N) for nitrate and 1 mg/l (as N) for nitrite, and, in addition, proposed that the sum of nitrate and nitrite shall not exceed 10 mg/l (as N). EPA based the MCLGs on the toxicity of nitrate in humans due to the reduction of nitrate to nitrite in the human body. By reacting with hemoglobin, nitrite forms methemoglobin (met Hb), which will not transport oxygen to the tissues and thus can lead to asphyxia (i.e., blue babies) which, if sufficiently severe, can lead to death. The current standard for nitrate, which was promulgated in 1975, was based on the previous Public Health Standard which, in turn, was based on a literature survey [Walton, G. 1951. "Survey of Literature Relating to Infant Methemoglobinemia Due to Nitrate Contaminated Water." *Am. J. Pub. Health* 41:986–996].

The proposed standard is somewhat more stringent than the current MCL of 10 mg/l because it includes an MCL for nitrite (the more toxic form) and a joint standard of 10 mg/l for nitrate and nitrite. Since both nitrate and nitrite result in met Hb, toxicity of nitrate and nitrite may be additive. EPA proposed the joint nitrate/nitrite standard in order to account for the possible additive toxicity of these two chemicals and also to protect against the deterioration of drinking water quality, since the presence of nitrite in water is indicative of water contaminated with sewage.

In the proposal, EPA specifically requested comments on the following issues: (1) The potential cancer risk through drinking water exposure, (2) potential developmental effects and whether the proposed MCLG provides adequate protection against such effects, and (3) whether a lower MCLG would be more appropriate.

(1) Nitrate and Cancer

One commenter stated that there is no definitive evidence from animal bioassay studies that nitrate itself causes excess tumors and, further, the various epidemiological studies that link nitrate and/or nitrite to cancer are not conclusive. Another commenter argued that (a) the Gilli et al. (1984) epidemiology study [Gilli et al., Concentrations of Nitrates in Drinking Water and Incidence of Gastric Carcinomas: First Descriptive Study of the Piemonte Region, Italy, Science of the Total Env., V. 34, pp. 35–48, 1984] provides evidence that nitrate in drinking water is oncogenic (i.e., increased incidence of gastric carcinomas) and (b) Forman et al. (1985) and Al-Dabbagh et al. (1986) are inadequate to conclude whether nitrate and nitrite are carcinogenic. [Both Forman et al. (1985) and Al-Dabbagh et al. (1986) were discussed in the 1989 proposal (54 FR 22062).] Another commenter noted that the 1989 proposal referenced a number of epidemiologic studies (e.g., Burch et al., 1987) that show an association between cancer and nitrate. Finally, another commenter stated that several epidemiologic studies show an association between *preformed* N-nitroso compounds and cancer.

EPA Response. EPA has reviewed the data submitted by the public as well as significant other data (see Drinking Water Criteria Document for Nitrate and Nitrite, 1990). At this time, EPA is not convinced that nitrate and/or nitrite in drinking water presents a potential risk of cancer. EPA does not believe that data concerning the possible oncogenicity of nitrate and/or nitrite can be entirely dismissed, however.

In attempting to resolve this issue, it is desirable to directly seek the assistance of other Federal agencies concerned with other sources of nitrate. Thus, EPA intends to form an inter-agency work group to determine what, if any, oncogenic risks exist.

(2) Other Effects

Prior to the May 1989 proposal, the Agency reviewed the possible health effects associated with nitrate and nitrite. EPA concluded that (a) infants are the most sensitive subpopulation, (b) methemoglobinemia is the most sensitive toxic endpoint in infants, and, (c) a level of 10 mg of nitrate and, separately, a level of 1 mg of nitrite (both as N) will protect infants

(Note: the calculated RfD is based on this conclusion).

Since the 1989 proposal, the Agency has reexamined the RfD for nitrate considering new data. This review reaffirmed the original conclusion that 10 mg nitrate per liter would protect infants.

In reaching this conclusion the Agency examined a large number of papers concerning the toxicity of nitrate and nitrite. These papers separately dealt with chronic toxicity, developmental and reproductive toxicity, and methemoglobinemia (among other endpoints). Data concerning both humans and experimental animals were reviewed.

EPA has reviewed the data on developmental and reproductive toxicity. Based on that review, EPA believes the data are inadequate to conclude that nitrate and nitrite present a risk of developmental or reproductive effects at the MCLGs.

In addition, the Agency reviewed all public comments as well. The issues raised by the public are substantially similar to those examined by EPA.

Based on a review of the data, EPA has concluded that an MCLG of 10 and 1 mg/l, respectively, are adequate to protect infants, and all other groups, against the nononcogenic effects presented by nitrate and nitrite in drinking water.

(3) Other Issues

Other commenters recommended that EPA (a) adopt the MCLGs proposed in 1989 for nitrate and nitrite but not adopt the proposed MCLG for the sum of nitrate and nitrite, as it is unnecessary; (b) adopt the MCLGs proposed in 1989 for nitrate and the sum of nitrate and nitrite but not adopt the MCLG proposed for nitrite, as it is unnecessary; (c) only adopt the MCLG proposed for nitrate, as the other two MCLGs are unnecessary; and (d) adopt the proposed MCLGs for nitrate and nitrite but increase the proposed MCLG for the sum of nitrate and nitrite from 10 mg/l to 11 mg/l (both as N).

EPA disagrees with recommendations (a) through (d), above, for the following reasons:

- It is clear that nitrite may occur in drinking water and also that nitrite is toxic, thus a nitrite standard is needed.
- As nitrate is toxic because it is metabolized in the human body to nitrite, it is reasonable to conclude that the toxicity of nitrate and nitrite is additive. Thus, in agreement with the recommendations of the SAB, a combined standard for nitrite and nitrate is warranted.
- Adoption of an 11 mg/l (as N) combined standard for the sum of nitrate and nitrite, in effect, would mean that a combined standard was unnecessary. For the reasons previously stated, EPA disagrees.

Based on the previous discussion, EPA has placed nitrate and nitrite in Category III and promulgates the MCLGs for nitrate, nitrite, and the sum of nitrate and nitrite at 10 mg/l, 1 mg/l, and 10 mg/l (as N), respectively.

f. Selenium. In the 1989 reproposal (54 FR 22062), EPA proposed an MCLG of 0.05 mg/l for selenium and specifically requested comment as to whether an MCLG of 0.02 or 0.1 mg/l might not be more appropriate. The basis of the current proposal is discussed below.

Public Comment. EPA previously addressed the public comments received in response to the previous proposal of November 13, 1985 in the **Federal Register** Notice of May 22, 1989.

(A) The majority of commenters supported an MCLG of 0.1 mg/l. With one exception, no significant additional

data were provided. However, one commenter recommended that, based on a 1989 study by Yang et al. [Yang et al., Studies of Safe Maximal Daily Dietary Se-Intake in a Seleniferous Area in China, J. Trace Elem. Electrolytes Health Dis., part III, Vol. 3, pp. 123–130, 1989), EPA should consider a lower MCLG value. In addition, the same commenter observed that a number of individuals take selenium supplements (i.e., selenium is an essential trace element) and thus exposure may be significantly greater than EPA anticipates.

EPA Response. The 0.05 mg/l value proposed in 1989 is based on a human effect level observed by the same author (Yang et al., 1983). EPA normally prefers to base MCLGs on no-effect levels, which are more conservative than human effect levels. However, at the time of the 1989 proposal, an appropriate no-effect level was not available. However, Yang et al. (1989) provides a no-effect level obtained from a human study in China and suggests that 0.400 mg of selenium/person/day is a maximal daily safe intake of selenium.

Assuming the consumption of 2 liters of water/adult/day, consumption of water containing selenium at the proposed 0.05 mg/l MCLG would result in the ingestion of 0.1 mg selenium/person/day. As previously stated (54 FR 22062), the average daily dietary intake in this country is 0.125 mg selenium / person/day. Thus, the combined ingestion of water containing 0.05 mg/l and a typical U.S. diet would result in a total daily exposure of 0.225 mg selenium/person, a value well below the 0.400 mg selenium that Yang et al. suggests is safe. Consequently, EPA has concluded that Yang et al. (1989) supports the proposed MCLG of 0.05 mg/l.

EPA believes that the difference (i.e., 0.175 mg selenium/person/day) between dietary intake (0.225 mg selenium/person/day) and the maximal daily safe intake of selenium (0.4 mg selenium/person/day) recommended by Yang et al. (1989) is adequate to protect those who may take selenium supplements. Thus, EPA believes that the 0.05 mg/l value is adequate to protect both the general public and those who may take selenium supplements.

(B) Although providing no new data, other commenters recommended an MCLG of 0.1 mg/l or higher.

EPA Response. EPA disagrees with these comments for the following reasons: (1) It is likely that there are individuals who, whether due to diet or supplements, consume significantly more selenium than the 0.125 mg selenium/person/day that EPA has estimated that the average citizen consumes, and (2) EPA believes that an MCLG higher than 0.05 mg/l may not adequately protect those who chronically consume such elevated amounts of selenium. Thus, EPA has rejected those comments that argue for an MCLG of 0.1 mg/l or more.

After reviewing the public comments, EPA has concluded that selenium should be placed in Category III and an MCLG of 0.05 mg/l is promulgated.

5. Volatile Organic Contaminants (VOCs) MCLGs

a. cis-1,2-Dichloroethylene and trans-1,2-Dichloroethylene. EPA proposed an MCLG of 0.07 mg/l based on a 3-month study in rats using cis-1,2-dichloroethylene. From that study, a DWEL of 0.4 mg/l (rounded from 0.35 mg/l) was calculated and a 20 percent drinking water contribution was assumed. For trans-1,2-dichloroethylene, EPA proposed an MCLG of 0.1 mg/l based on compound-specific data. A DWEL of 0.6 mg/l was derived and a drinking water contribution of 20 percent was assumed to determine the MCLG.

Public Comments and EPA Response. EPA previously addressed the public comments received in response to the earlier proposal of November 13, 1985 in the **Federal Register** Notice of May 22, 1989. With respect to the cis isomer, one commenter stated that data on 1,1-dichloroethylene should not be used for the cis compound, because there is no evidence that the effects of the two compounds are similar. Another commenter stated that the MCLG for cis-1,2-dichloroethylene should be based on Freundt and Macholz (Toxicology 10:131–139, 1978). Another commenter stated that the NTP two-year bioassay for 1,1-dichloroethylene was a better study for deriving a NOAEL/LOAEL for determining MCLGs/MCLs.

For the trans isomer, one commenter stated that their MCL was lower than EPA's MCL. However, they need to review the Barnes et al. (Drug Chem. Toxicol. 8:373–392, 1985) manuscript prior to revising their MCL.

Another commenter disagreed with the selection of NOAEL/LOAEL from the Barnes et al. study and stated that, based on the increase in glucose levels and decrease in aniline hydroxylase activity, 17 mg/kg/day should be a LOAEL and not a NOAEL.

The final MCLG for cis-1,2-dichloroethylene is based on a 3-month compound-specific study by McCauley et al. The Agency's RfD Workgroup has reviewed the data and verified a RfD of 0.01 mg/kg/day.

There are several reasons that the Agency is not using the Freundt and Macholz (1978) study to set an MCLG. First, it is a single eight-hour exposure. EPA does not generally use single exposure studies to set lifetime numbers. Second, it is an inhalation exposure and the Agency prefers to use route-specific (oral) data if possible. Third, the selection of an adverse effect in the Freundt and Macholz (1978) study is questionable. A decrease in microsomal metabolism (i.e., aniline hydroxylase), while an obvious effect, is not necessarily an adverse effect. In fact, if a chemical is activated to a toxic metabolite, inhibition of that chemical's metabolism might be beneficial. Fourth, and most important, the Agency presently has an oral three-month study on cis-1,2-dichloroethylene.

The Agency did not select the NTP two-year bioassay because they gave the 1,1-dichloroethylene in corn oil and oil vehicles have been reported to potentiate the adverse effects of 1,1-dichloroethylene (Chieco et al., Toxicol. Appl. Pharmacol. 57:146–155, 1981).

Since the new trans-1,2-dichloroethylene data are going to be reviewed by the commenter, no Agency reply is necessary at this time. With respect to selection of a NOAEL/LOAEL in the Barnes et al. (1985) study, the RfD workgroup did review the data very carefully. Tables 11 and 12 of the Barnes et al. (1985) paper do report that there are significant increases in serum glucose levels in both male and female CD–1 mice. However, even though the difference between the low- and high-dose levels administered to the mice is 20 fold, there are no differences in serum glucose levels at these two doses. This calls into question the toxicological significance of the increased glucose levels. In addition, the Agency does not know the normal range for variation in serum glucose for this strain. The Agency's RfD workgroup did not believe that either the increased serum glucose levels or the decreased aniline hydroxylase levels (also see discussion for cis-1,2-dichloroethylene) were adverse effects. Accordingly, the 17 mg/kg/day treatment level was used as a NOAEL. EPA has placed cis-1,2-dichloroethylene and trans-1,2-dichloroethylene in Category III and the respective MCLGs of 0.07 and 0.1 mg/l will be retained.

b. 1.2-Dichloropropane. EPA proposed an MCLG of zero for 1,2-dichloropropane based on the statistically significant increased incidence of hepatocellular neoplasms and primary adenomas in male and female $B6C3F_1$ mice. The frequency of liver carcinomas alone was not significant for males or females, but

there was an increase in tumors in both sexes. Also, there was a dose-related trend in mammary adenocarcinomas in female F344 rats. The increased adenocarcinoma incidence in the female rats was considered to be significant since the F344 rat has a relatively low background occurrence rate for these tumors. Therefore, EPA classified 1,2-dichloropropane in Group B2.

Public Comments. Three individuals or organizations provided comments in response to the MCLG proposal regarding 1,2-dichloropropane. One commenter was in agreement with EPA's proposed classification of 1,2-dichloropropane into Group B2, and with EPA's proposed establishment of an MCLG at zero. Two commenters stated that a problem might exist with the NTP study of B6C3F$_1$ mice in terms of showing a high incidence of tumors in the control mice compared to the mice which received the high dose of this chemical. They suggest a reevaluation of this study before establishing an MCLG.

EPA Response. The EPA's classification of 1,2-dichloropropane in Group B2 was based on the results of the final NTP report. This report was peer reviewed and audited by the Peer Review Panel and Audit Workgroup, respectively, and was found acceptable in terms of results reported in the final NTP report. EPA concludes that a reevaluation of this study would not change the findings of this report. Consequently, EPA has placed 1,2-dichloropropane in Category I and an MCLG of zero is promulgated.

c. Ethylbenzene. EPA proposed an MCLG of 0.7 mg/l for ethylbenzene. The MCLG was derived from a DWEL of 3.4 mg/l, by applying a 20 percent drinking water contribution and rounding off to one significant number.

Public Comments. EPA previously addressed the public comments received in response to the earlier proposal of November 13, 1985 in the **Federal Register** Notice of May 22, 1989. In response to the 1989 **Federal Register** Notice, one commenter agreed with the choice of study, NOAEL, and LOAEL, but questioned the use of a 10-fold uncertainty factor to convert from subchronic to chronic exposure. The commenter explained this position in the following manner: Since the adverse effects of doses 3- or 5-fold higher than the NOAEL were minor and a 2-year NTP study on mixed xylenes, which contained 17 percent ethylbenzene (equivalent to 85 mg of ethylbenzene/kg/day), showed no adverse effects, the extra 10-fold uncertainty factor could be omitted.

EPA Response. EPA believes that the 10-fold uncertainty factor for converting a subchronic to a chronic study is still necessary for several reasons. In the Wolf et al. study (Arch. Ind. Hlth 14:387–398, 1956), the NOAEL of 136 mg/kg was adjusted by 5/7 since the animals were treated for only 5 days/week. Some recovery from the effects of ethylbenzene could have occurred during the two days of non-treatment. The administration of 85 mg of ethylbenzene/kg/day as part of an assay of mixed xylenes does not necessarily mean that a 85 mg ethylbenzene/kg/day dose is without effect since EPA does not know about potential interactions among the compounds. In addition, the finding of minor adverse effects at doses 3- and 5-fold higher than the NOAEL does not exclude the possibility that extended exposure at lower doses would lead to adverse effects. Since there are many unanswered questions on the toxicity of ethylbenzene, EPA feels that the 1,000-fold uncertainty factor, including a 10-fold for subchronic to chronic exposure, is appropriate for this chemical. Consequently, EPA places ethylbenzene in Category III and the MCLG of 0.7 mg/l is promulgated as proposed.

d. Monochlorobenzene. EPA proposed an MCLG of 0.1 mg/l for monochlorobenzene in the May 22, 1989 proposal. The MCLG was derived from a DWEL of 0.7 mg/l, applying a 20 percent contribution from drinking water and, because of reclassification of monochlorobenzene in Group D (inadequate evidence for carcinogenicity) according to the EPA guidelines, no additional uncertainty factor for possible carcinogenicity. This MCLG is a revision of the MCLG of 0.06 mg/l (derived from a DWEL of 3.0 mg/l, applying a 20 percent contribution factor from drinking water and an uncertainty factor of 10 used with agents classified in Group C (possible human carcinogen: for monochlorobenzene, limited evidence in animals based on increased neoplastic nodules in liver of male rats in one bioassay)) previously proposed in November 13, 1985. Revision of the MCLG to change the basis for the DWEL and downgrade the carcinogenicity classification from Group C to Group D (Category II to III) is the result of further review of data and review of the MCLG for monochlorobenzene by the EPA's Science Advisory Board in 1986.

Public Comments. EPA addressed the public comments received in response to the previous proposal of November 13, 1985 in the **Federal Register** Notice of May 22, 1989. Two commenters responded to that **Federal Register** notice. The first commenter supported reclassification of monochlorobenzene from Group C to Group D. The second commenter felt that the appropriate classification is Group C and that an additional uncertainty factor should be applied to the study used to derive the DWEL to account for limitations in study design.

EPA Response. EPA agrees with the commenter who supports reclassification of monochlorobenzene from Group C to Group D. EPA reclassified monochlorobenzene after concluding that the combination of neoplastic nodules and hepatocellular carcinomas in male rats in the carcinogenicity bioassay was not adequate evidence of a treatment-related effect to, in turn, support limited evidence for carcinogenicity of monochlorobenzene in animals. EPA disagrees with the second commenter that an extra uncertainty factor is needed with the study used as the basis for the DWEL because EPA considers the 1,000-fold uncertainty factor already used with the study as adequate compensation for uncertainty surrounding limitations in the study design. Consequently, as discussed above, EPA places monochlorobenzene in Category III and an MCLG of 0.1 mg/1 is promulgated.

e. ortho-Dichlorobenzene. EPA proposed an MCLG of 0.6 mg/1 for ortho-dichlorobenzene in the May 22, 1989 proposal. The MCLG was derived from a DWEL of 3.0 mg/1, applying a 20 percent contribution from drinking water.

Public Comment. One commenter felt that because a NOAEL from a chronic (two-year) study in rats was used for calculation of the DWEL, the uncertainty factor should be 100 instead of 1,000 as used by EPA.

EPA Response. EPA disagrees with the comment that the uncertainty factor for the DWEL calculation should be 100 instead of 1,000. Although EPA commonly applies a 100-fold uncertainty factor with a chronic (lifetime) study in rats, EPA chose to use a 1,000-fold uncertainty factor for the DWEL calculation for ortho-dichlorobenzene because toxicity endpoints were assessed in a preliminary subchronic (13-week) study in rats that were not evaluated in the chronic study and because of data gaps (an inadequate reproductive toxicity study in a non-rodent species reproduction study). Consequently, EPA places ortho-dichlorobenzene in Category III and an MCLG of 0.6 mg/1 is promulgated as proposed.

f. Styrene. EPA proposed two MCLGs in the May 22, 1989 proposal because EPA had not yet finalized its carcinogenicity classification for

styrene. One MCLG of 0.1 mg/1 was derived from a DWEL of 7 mg/1, applying a 20 percent contribution from drinking water and an additional 10-fold uncertainty factor by considering the classification of styrene to be Group C. The other MCLG was zero, considering the classification of styrene to be Group B2. At meetings on styrene with EPA's Science Advisory Board in 1988 and 1990, EPA favored a classification of Group B2, whereas the SAB opinion favored a classification of Group C. Additionally, at the 1990 meeting with the SAB, the SAB preferred a multigeneration reproduction/chronic toxicity study in rats over the subchronic toxicity study in dogs the EPA had used for calculation of the DWEL.

Public Comments. EPA addressed the public comments received in response to the previous proposal of November 13, 1985 in the **Federal Register** Notice of May 22, 1989. In response to that **Federal Register** Notice, six commenters advocated no classification for styrene or, if it is to be classified, classification into Group D. One of these commenters also preferred use of the rat study over the dog study, as described above, for calculation of the MCLG. This commenter felt the MCLG should therefore be 1.6 mg/1 (which EPA would round to 2 mg/1), calculated as a Group D classification, thereby omitting the extra uncertainty factor of 10 required for styrene in Group C. Two commenters supported classification of styrene in Group B2 and promulgation of an MCLG of zero, in the opinion that the data are sufficient to meet the criteria for Group B2. Two commenters felt the proper classification for styrene is Group C and an appropriate MCLG is 0.1 mg/1.

EPA Response. The EPA has not classified styrene as to its carcinogenicity potential at this time. The EPA has presented to the Science Advisory Board arguments to classify styrene in Group B2: probable human carcinogen. The Science Advisory Board responsed that the weight of evidence supported a group C classification. Thus, the cancer classification issue is still under review by the Agency.

Via corn oil gavage, there is some evidence that styrene may induce tumors in rodents, and a cancer risk of 9×10^{-7} per $\mu g/1$ is estimated from the NCI mouse study (NCI, I979). Available oral studies in rats have not shown carcinogenic activity. In setting an MCLG for styrene in drinking water, EPA has carefully considered the overall weight of evidence of cancer, especially: (1) The comparatively low estimated cancer potency (based on the corn oil gavage study); (2) the lack of a carcinogenic response in an adequately conducted drinking water study. In addition, styrene is not likely to be widespread in drinking water based on occurrence information currently available in the Agency. Consequently, EPA is placing styrene in Category II and is promulgating an MCLG of 0.1 mg/1 based on the Quast et al. (1978) study in dogs.

g. Tetrachloroethylene. In the May, 1989 notice, EPA proposed an MCLG for tetrachloroethylene (perchloroethylene or PCE) of zero. The Agency has found strong evidence of carcinogenicity from ingestion based on consideration of the weight of evidence, pharmacokinetics and exposure.

The Agency uses a three category approach to set MCLGs under the Safe Drinking Water Act (see 50 FR 46944–46949 (November 13, 1985) and 54 FR 22068 (May 22, 1989)). A chemical for which there is strong evidence of carcinogenicity is placed in Category I. As a matter of policy, EPA sets MCLGs for chemicals in Category I at zero (see earlier discussion of this policy). Recognizing the continuing scientific controversy over the appropriate weight of evidence for the chemical, the Agency also solicited public comment on an MCLG of 0.01 mg/l which would reflect a possible human carcinogen (Catagory II). EPA received a number of comments on the proposal and these comments are addressed below.

In separate actions, the Agency is currently deliberating concerning an Agency-wide classification of PCE, according to its normal procedure. On December [28], 1990, EPA issued a notice for publication in the **Federal Register** that described the process the Agency is following to bring these deliberations to a conclusion. (A **Federal Register** citation for that notice was not available on the date of signature of today's notice; however, the title of the notice is "Amendment to Preambles Published at 54 FR 33418 (August 14, 1989) and 54 FR 50968 (December 11, 1989))".

While these deliberations continue, EPA must take final action on an MCLG and NPDWR for tetrachloroethylene. This chemical is included on the list of 83 chemicals that Congress specifically directed EPA to regulate. The Agency is under court order to promulgate regulations for this contaminant by December 31, 1990. Accordingly, EPA today is promulgating an MCLG for PCE in accordance with the three-category approach developed to implement the SDWA. This action does not reflect a final Agency decision on PCE's classification; it represents a separate and distinct regulatory evaluation and risk management decision concerning PCE. When the Agency completes its deliberations regarding classification, we may reconsider the MCLG for tetrachloroethylene, as appropriate.

Based on EPA's careful review of the comments received in response to the May, 1989 notice and the Agency's evaluation of scientific evidence available since the proposal, it remains EPA's view that there is strong evidence of carcinogenicity through ingestion and that PCE is a Category I chemical for purposes of establishing an MCLG under the SWDA.

Public Comments. The pivotal comments dealt with EPA's categorization of tetrachloroethylene as a probable or possible human carcinogen for purposes of setting an MCLG under the SDWA. One commenter argued that: (1) Tetrachloroethylene metabolites/trichloroacetic acid, which are carcinogenic, were tested in a sensitive strain of mice having a high background liver tumor incidence, (2) mononuclear cell leukemia observed in animals may not be relevant to man, and (3) renal tumors observed in male F–344 rats are species-specific. One commenter argued that this contaminant is a probable human carcinogen; another supported classification of PCE as a possible human carcinogen.

EPA Response. Based on the available carcinogenicity evidence from experimental animal studies and the high frequency of occurrence in drinking water, EPA continues to view PCE as a Category I contaminant for drinking water regulation. The evidence for carcinogenic hazard has two parts, i.e., epidemiologic data and animal data as supplemented by metabolism information and results from short-term studies. In 1985 EPA viewed the epidemiologic data as inadequate to refute or demonstrate a human health hazard potential. EPA is aware of two more recent studies which discuss increased cancer mortality among dry cleaner workers. These studies have not yet been comprehensively integrated into the epidemiologic assessment for PCE. It is not apparent, however, that the influence of PCE alone can be delineated since multiple solvents are involved in one study and in the other study in which PCE is the primary solvent, while the findings are nonpositive, the exposed group was too small to be useful in risk assessment. In experimental animals, three types of tumors in rodents contribute to the inference for a cancer causing potential

in humans. Indications of cancer activity were seen in mice and rats, in both sexes, by inhalation and oral exposure. Short-term studies and other information about PCE metabolism and toxicity of the metabolites both contribute to the hazard concern as well as provide some basis for hypothesizing about tumor formation and relevancy for human hazard assessment.

While there is some uncertainty about the relevance to humans of the animal tumor endpoints, the totality of the animal evidence is judged by EPA to be sufficient to view PCE as a Category I contaminant. The lack of key information does not support the use of the uncertainties to discount the sufficient level of animal evidence. EPA's response to a number of issues raised in the public comments are summarized below.

(1) *Mouse Liver Tumor.* The controversy surrounding the liver tumor response in the B6C3F1 male mouse is well recognized, and EPA is aware of the divergent scientific views regarding the use of this animal endpoint in carcinogen risk assessment. The Agency undertook extensive review of this issue while it was developing the carcinogen risk assessment guidelines and in 1987 solicited PCE-related advice from the SAB. The Agency's position is that mouse liver tumors are considered evidence for potential human carcinogenicity. The guidelines take the position that the mouse liver tumor response, when other conditions for classification of "sufficient" evidence in the animals are met (e.g., replicate studies of malignancy, tumors at multiple sites, etc.) should be considered as "sufficient" evidence of carcinogenicity on a case by case basis. In the March, 1988 letter reviewing tetrachloroethylene issues, the EPA Science Advisory Board concurred with the Agency's criteria for evaluating mouse liver tumor responses.

(2) *Peroxisome Proliferation.* In the case of PCE, peroxisome proliferation has been proposed as a plausible mechanism for mouse liver tumor development. Although PCE and metabolite trichloroacetic acid (TCA) induce peroxisome proliferation and tumors in the mouse liver, a cause and effect relationship is not, thereby, defined. While peroxisome proliferation may have a role in mouse liver tumor formation, the role is undefined. Other plausible mechanistic hypotheses exist including those associated with genotoxicity. There may be multiple mechanisms involved in mouse liver tumor formation. At the present time, EPA maintains the view that mouse liver tumors are relevant for inferring a potential for human health hazard unless there is more definitive evidence to the contrary.

(3) *Mononuclear Cell Leukemia.* Mononuclear cell leukemia, a neoplasm that has been characterized biologically and pathologically, was seen in both male and female rats exposed to PCE. Overall leukemia rates were statistically significant in the males and marginally so in females. When stage 3 leukemias were counted, positive trends and significant increases in male and female rats were seen.

PCE caused a dose-related increase in severity of mononuclear leukemia and shortened the time-to-tumor in female rats. One commenter questioned the relevance of this tumor to humans. EPA does not consider it appropriate to rule out a rodent neoplasm simply because it has no exact human counterpart. Site concordance is not a requirement for relevancy in the inference of hazard potential.

Although a statistically significant increase in tumor incidence for a tumor having a high concurrent background tumor incidence is consistent with theory of promotion, this observation does not identify the actual mechanism, and thus several other plausible mechanistic theories of PCE-induced leukemia development can not be ruled out.

A statistically significant increase in tumor incidence cannot be arbitrarily dismissed without firm evidence showing that mononuclear cell leukemia in rats is a type of tumor response isolated to this species and not relevant to other potential tumor endpoints in other species. Rather, EPA assumes that the experimental animal evidence identifies the potential for a carcinogenic response in humans unless there is evidence to the contrary.

(4) *Male Rat Kidney Tumor.* PCE increases the occurrence of an uncommon renal tubular cell tumor in male rats. Recent research and conventional toxicological thinking have suggested at least three plausible explanations for the tumor occurrence, i.e., the presence of a unique male rat renal protein, alpha-2u-globulin; presence of a secondary metabolic pathway which produces a genotoxic compound in the kidney; and chronic nephrotoxicity and cellular regeneration independent of the alpha-2u-globulin. The EPA is presently developing criteria which will define a weight-of-evidence approach for evaluating, on a case by case basis, the role of alpha-2u-globulin in rat kidney tumor formation. For instance, if the PCE data are subsequently judged to be the only definitive explanation for the occurrence of male rat kidney tumors, this tumor endpoint may have minimal relevance for human health hazard assessment. This can be further evaluated by EPA as criteria and PCE-specific data become available.

Given the presence of other plausible mechanistic explanations, and the currently incomplete picture about the role of the PCE-rat kidney protein, EPA views the rat kidney tumor endpoint to be indicative of PCE exposure and relevant for consideration in the overall weight of evidence for potential PCE human health hazards.

Consequently, based on the information available to the Agency and the public comments received on the May, 1989 proposal, EPA for the reasons cited above continues to place tetrachloroethylene in Category I and promulgates an MCLG of zero.

h. Toluene.

EPA proposed an MCLG of 2.0 mg/l for toluene in the November 1985 proposal and again in the May 1989 proposal based on a NOAEL of 1,130 mg/m^3 from an animal study.

Public Comments. Two commenters submitted information in response to EPA's proposal for regulation of toluene. The major health effect issues raised are (1) use of rat ventilatory volume and body weight in calculating the rat total absorbed dose instead of human ventilatory volume and body weight, and (2) use of a recently available 13-week National Toxicology Program (NTP) oral administration study rather than the inhalation study used by EPA.

EPA Response. EPA agrees with the commenter that the rat ventilatory volume and body weight, instead of that of humans, be used for the calculation of total absorbed dose. EPA also agrees with the suggestion by the commenter that the NTP 1989 oral administration study is acceptable for the derivation of the MCLG, because it is preferable to use valid oral studies, if available, for the calculation of the MCLG.

In the NTP study, groups of rats were administered toluene in corn oil at dosage levels of 0, 312, 625, 1,250, 2,500, or 5,000 mg/kg for five days/week for 13 weeks. Liver-to-brain ratio was increased ($p < 0.05$) in males receiving the 625-mg/kg dose. This study established a NOAEL of 312 mg/kg, adjusted to 223 mg/kg/day for exposure of five days per week. From this dose, an RfD of 0.2 mg/kg/day and a DWEL of 7 mg/l were determined.

Calculations using the NTP study result in the MCLG for toluene decreasing from 2 mg/l (the proposed

value) to 1 mg/l. Therefore, for the reasons stated above, EPA places toluene in Category III and promulgates an MCLG of 1 mg/l.

i. Xylenes. EPA proposed an MCLG of 10 mg/l (rounded from 12 mg/l) for xylenes. EPA's proposal of 10 mg/l was based on the NTP study involving the administration of 0, 250, or 500 mg/kg xylenes in corn oil by gavage to groups of rats of each sex for 103 weeks.

Public Comments. A total of six individuals or organizations provided comments in response to the MCLG proposal regarding xylenes. Three commenters felt that EPA should not round the proposed MCLG for xylenes down from 12 mg/l to 10 mg/l. One commenter felt that given the uncertainty of the data presented in the NTP study and the lack of clear difference between the administered dosages, EPA should have considered the low dosage (250 mg/kg) in the NTP study as the LOAEL rather than the NOAEL. Another commenter stated that the NTP study of rats given xylenes in corn oil by gavage for 103 weeks was not an appropriate study for the MCLG for xylenes and suggested a teratogenic study in animals instead.

EPA Response. EPA believes the rounded figure was appropriate because using more than one significant figure would have implied a degree of precision that was not warranted given the large uncertainty factor (100) that was used in deriving the MCLG. EPA considered the low dosage of 250 mg/kg from the NTP study in rats as the NOAEL since the mean body weights of low-dose and vehicle control male rats and those of dosed and vehicle control female rats were comparable. EPA also considered that the NTP oral study in animals was more representative of xylene's toxicity in drinking water than was the inhalation teratogenic study (Mirkova et al., 1983) suggested by the commenter. The NTP oral study in animals entailed 103 weeks of exposure to xylenes as compared to only 21 days of exposure to xylenes via inhalation. Available cancer information on xylenes has been reviewed by EPA and was found to be inadequate for determining potential carcinogenicity in humans.

For these reasons, EPA places xylenes in Category III and promulgates an MCLG of 10 mg/l.

6. Pesticides/PCBs MCLGs

a. Alachlor. EPA proposed an MCLG of zero for alachlor in the May 22, 1989 proposal. The MCLG was based on sufficient evidence of carcinogenicity in animals (classification of Group B2 by EPA guidelines: Probable human carcinogen) in the November 13, 1985 **Federal Register** Notice. No new data that change the conclusions presented in that notice have become available since its publication.

Public Comments. EPA addressed the public comments received to the previous proposal of November 13, 1985 in the **Federal Register** Notice of May 22, 1989. In response to this 1989 notice, one commenter on the MCLG for alachlor indicated that EPA should consider establishing a value other than zero as the MCLG for B2 carcinogens. The commenter indicated that although the Agency classified alachlor in Group B2, this chemical is unlikely to cause cancer in people under usual conditions of exposure. The commenter urged the Agency to consider the modification of its "standard" approach in quantitative risk assessment in the case of alachlor and use the weight-to-weight extrapolation instead of "surface area correction" to extrapolate risk from animal to human.

EPA Response. EPA believes there is sufficient data to conclude that alachlor is carcinogenic in animals since the compound was shown to be carcinogenic in both rats and mice. EPA therefore has classified alachlor in Group B2: Probable human carcinogen. EPA's policy in the calculation of the quantitative risks for carcinogens is based on the weight-to-surface extrapolation from animal to human data (U.S. EPA Cancer Guidelines, 1986). Accordingly, EPA places alachlor in Category I and an MCLG of zero is promulgated.

b. Atrazine. EPA did not propose an MCLG for atrazine in the November 13, 1985 **Federal Register** Notice due to limited toxicological data on the chemical at that time. However, since then, sufficient new data became available to EPA to propose an MCLG for atrazine in May 1989.

Accordingly, EPA proposed an MCLG of 0.003 mg/l for atrazine in the May 22, 1989 proposal. The MCLG was derived from a DWEL of 0.2 mg/l, applying a 20 percent contribution from drinking water and an additional 10-fold uncertainty factor by classifying atrazine in Group C.

The proposed MCLG was based upon non-carcinogenic effects in a one-year dog feeding study (Ciba-Geigy, 1987, No. 852008 and Pathology Report No. 7048, MRID 40313–01). A NOAEL of 0.5 mg/kg/day was identified based upon the finding of discrete myocardial degeneration at the highest dose level (43 mg/kg/day) and findings at the 5.0 mg/kg/day dose level that suggested a trend toward the development of the cardiac pathology seen at the higher dose.

After the May proposal, a detailed analysis of these cardiac effects identified by Ciba-Geigy in 1989 (MRID 412938–01) was reviewed by the Agency. The review resulted in EPA increasing the NOAEL from 0.5 mg/kg/day to 5.0 mg/kg/day. Subsequently, the existing study supporting the dog study, the two-generation reproduction study in rats with a NOAEL of 0.5 mg/kg/day and a LOAEL of 2.5 mg/kg/day (Ciba Geigy, 1987, MRID 404313–03), became the basis for the RfD, DWEL, and MCLG calculations. Consequently, the RfD for atrazine remains the same at 0.005 mg/kg/day (based on the use of a NOAEL of 0.5 mg/kg/day and a 100-fold uncertainty factor). Both the DWEL and MCLG remain unchanged at 0.2 mg/l and 0.003 mg/l, respectively.

In this two-generation study, atrazine was mixed in the diet at 0, 10, 50, and 500 ppm (equivalent to 0, 0.5, 2.5, and 25 mg/kg/day). Pup weights at postnatal day 21 were statistically significantly reduced at the two higher doses, 2.5 and 25 mg/kg/day, in the second generation. The NOAEL in this study is also supported by adverse findings at dose levels higher than 0.5 mg/kg/day in both the rat chronic feeding/oncogenic study by Ciba-Geigy (1986, Study #401–1102, Accession Nos. 26714–262727) and the two-year feeding study in dogs by Woodard Research Corporation (1964, MRID 0059213).

Public Comments. Four individuals or organizations commented on the MCLG and MCL proposal for atrazine. Two commenters agreed with EPA on the proposed MCLG and MCL; however, one of these two commenters indicated that when new data become available to the Agency, the proposal should include an update of the MCLG and MCL values based on this new information. This commenter also indicated that the Agency's citation of adverse effects on liver and kidney of dogs and rats at high levels as the basis for setting the MCL at 3 ppb is inconsistent with the statement on page 22081 of the May 22, 1989 **Federal Register** Notice which says the absence of cardiac lesions in dogs at a dose of 0.48 mg/kg/day provided the basis for the MCL. The commenter noted that since these effects occurred at high levels only, they are not the primary effect of atrazine; therefore, the statement on page 22081 should be corrected to reflect the effects noted at the lowest effect level. The third commenter was concerned with the selection of the NOAEL for the calculation of the DWEL; he indicated that the Agency should use the higher NOAEL of 0.5 mg/kg/day in the rat study instead of the lower NOAEL of

0.35 mg/kg/day in the two-year dog study to calculate the MCLG for atrazine. The fourth commenter indicated that atrazine should be classified in Group B2 instead of C because, in his opinion, the rat study provided "sufficient evidence" of carcinogenicity; therefore, the MCLG should be zero. In addition, he argued that the Agency's rationale for classifying atrazine in Group C (see 54 FR 22062 at 22082) is misleading and should have read: "Limited evidence of carcinogenicity, which means that the data suggest a carcinogenic effect but are limited because (a) the studies involve a single species, strain, or experiment and do not meet criteria for sufficient evidence (see Section IV.B.1.c); * * *) (52 FR 33999, emphasis added)."

EPA Response. New information became available to the Agency on the 1987 one-year dog study (Ciba-Geigy, MRID 40313–01) that was used in the calculation of the RfD and DWEL. This new information (Ciba-Geigy, 1989, MRID 412938–01) caused the NOAEL in this study to change from 0.5 mg/kg/day to 5.0 mg/kg/day. Since the Agency usually uses the highest NOAEL in the most sensitive species to calculate the RfD, the two-generation rat study discussed above with a NOAEL of 0.5 mg/kg/day (Ciba-Geigy, 1987, MRID 404313–03) was selected as the most appropriate study to determine the RfD. Since the new RfD is the same in value as the previous RfD, which was calculated from the one-year dog study in the May 22, 1989 proposal, the DWEL and MCLG will remain as proposed at 0.2 and 0.003 mg/l, respectively.

In response to the comment that atrazine should be classified in Group B2, the Agency disagrees based on the fact that the increased incidence of the mammary tumors (a tumor with a generally high spontaneous background in the rat) was noted only in one species and one strain of rat.

Accordingly, EPA places atrazine in Category II and promulgates an MCLG of 0.003 mg/l for atrazine, as proposed in the May 1989 proposal based on the changed basis for the RfD, as discussed above.

c. Carbofuran. EPA proposed an MCLG of 0.04 mg/l for carbofuran in the May 22, 1989 proposal. The MCLG was derived from a DWEL of 0.2 mg/l, applying a 20 percent contribution from drinking water. Carbofuran is classified in Group E (no evidence of carcinogenicity) by EPA. The MCLG of 0.036 mg/l in the November 13, 1985 proposal was rounded in the May 1989 proposal to 0.04 mg/L No new data that would change the conclusions presented in that notice have become available since its publication.

Public Comment. EPA previously addressed the public comments received in response to the previous proposal of November 13, 1985 in the **Federal Register** notice of May 22, 1989. In response to this notice of 1989, three individuals or organizations commented on the MCLG proposal for carbofuran. One commenter indicated that the proposed standard does not protect from immune system depression in humans. Another commenter indicated that additional negative immunological studies were not discussed in the carbofuran criteria document, in addition, this commenter provided corrections and editings to the chemistry, occurrence and fate sections of the criteria document. A third commenter requested a change in the NOAEL used in the calculation of the RfD from 0.5 to 0.25 based on cholinesterase activity, thus indicating that the MCLGs should be two-fold lower.

EPA Response. EPA addressed the issue of cholinesterase inhibition as the endpoint of toxicity in a special forum. The 15 to 20 percent inhibition in blood cholinesterase activity may be considered a LOAEL. This level of inhibition may be considered adverse or non-adverse on a case-by-case basis depending on the toxicological profile of the chemical. In the case of carbofuran, the NOAEL is based on the effects noted on both the reproductive and nervous systems. The chosen NOAEL of 0.5 mg/kg/day was the appropriate NOAEL for both systems; the uncertainty factor applied to this NOAEL is 100-fold, resulting in an MCLG of 0.04 mg/l. If the lower dosage of 0.25 mg/kg/day was selected as the basis of these calculations, the applied uncertainty factor (UF) would have been 10-fold only because a larger UF would not be justified based on the available toxicity profile of carbofuran. Therefore, the MCLG would have been higher than 0.04 mg/l, not two-fold lower. The choice of the NOAEL of 0.5 mg/kg/day in the dog study and the application of a 100-fold UF were more protective to public health because the NOAEL was based on both endpoints of toxicity, testicular effects and blood cholinesterase inhibition, with an appropriate selection of the UF as necessitated by the severity of these endpoints.

In response to the commenters on immunotoxicity, EPA believes further research in this area is needed before any conclusion can be made on the effect of carbofuran on this endpoint. Consequently, EPA places carbofuran in Category III and an MCLG of 0.04 mg/l is promulgated.

d. Chlordane. EPA proposed an MCLG of zero for chlordane based on sufficient evidence of carcinogenicity in animals (Group B2). While the proposed MCLG of zero is based on the carcinogenicity of chlordane, EPA provided a revised DWEL of 0.002 mg/l based on the results of a newer chronic rat dietary study (Yonemura et al., 1983; 30-month chronic toxicity and tumorigenicity test in rats by chlordane). This DWEL was calculated assuming an uncertainty factor of 1,000 (100 for the inter- and intraspecies differences and 10 for the lack of a second chronic toxicity/reproductive study) and consumption of 2 liters of water per day by a 70-kg adult.

Public Comment. One commenter stated that (1) chlordane was not properly considered a "B2" carcinogen since the EPA Carcinogen Assessment Group (CAG) report (1986) could not justify such a classification; therefore the basis for a proposed MCLG of zero was incorrect, and (2) EPA incorrectly used an additional safety factor of 10 because of a lack of a second chronic study in the derivation of the DWEL for chlordane.

EPA Response. According to EPA's guidelines, a Group B2 classification (probable human carcinogen) is used when there is sufficient evidence of carcinogenicity in animals and inadequate data in humans. EPA considers that chlordane is correctly proposed as a Group B2 carcinogen because a number of rodent studies (with four strains of mice of both genders and F344 male rats) had clearly demonstrated the induction of liver tumors in animals following administration of chlordane. In addition, three compounds structurally related to chlordane, aldrin, dieldrin, and chlorendic acid have produced liver tumors in mice. Chlorendic acid has also produced liver tumors in rats.

EPA has correctly applied an additional safety factor of 10 in the derivation of the DWEL due to the lack of a second chronic study in animals. EPA believes that the lack of adequate chronic toxicity data and the lack of data on reproductive effects require an additional factor of 10. Therefore, EPA places chlordane in Category I and an MCLG of zero is promulgated based on sufficient evidence of carcinogenicity in animals and inadequate data in humans.

e. 1,2-Dibromo-3-chloropropane (DBCP). EPA proposed an MCLG of zero for 1,2-dibromo-3-chloropropane in the May 22, 1989 proposal. The MCLG was based on sufficient evidence of

carcinogenicity in animals (classification in Group B2 by EPA guidelines: Probable human carcinogen) in the November 13, 1985 **Federal Register** notice. No new data which change the conclusions presented in that notice have become available since its publication.

Public Comments. EPA addressed the public comments received in response to the previous proposal of November 13, 1985 in the **Federal Register** Notice of May 22, 1989. One commenter stated that there is valid epidemiological evidence to show that 1,2-dibromo-3-chloropropane is not a human carcinogen and that animal studies unreliably predict carcinogenicity. Consequently, this commenter concludes overall evidence adequately supports downgrading 1,2-dibromo-3-chloropropane from Group B2 to Group C by the EPA guidelines. If this is done, the commenter recommends setting the MCLG on the basis of non-carcinogenic toxic effects with an adequate margin of safety. The commenter states that if EPA continues the Group B2 classification for 1,2-dibromo-3-chloropropane, then the MCLG should be set at a level corresponding to a lifetime cancer risk of 10^{-4} to 10^{-5} or on the basis of noncarcinogenic toxic effects with an added margin of safety. Using EPA's risk assessment, the commenter concludes that an increased cancer risk in the range of 10^{-4} to 10^{-5} would be at least 0.001 mg/l (corresponding to a risk of 4×10^{-5}); therefore, the commenter feels the MCLG should be set at 0.001 mg/l or greater. The commenter believes EPA's proposed MCL of 0.0002 mg/l is unreasonably low considering the carcinogenic potential and the commenter's position that the half-life of 1,2-dibromo-3-chloropropane in water guarantees that most water systems will reach the proposed MCL through natural processes within 15 years. Another commenter agreed with the comment that 0.0002 mg/l is unreasonably low for an MCL and felt that an MCL for 1,2-dibromo-3-chloropropane should be 0.05 mg/l or higher.

EPA Response. Regarding the epidemiological data for 1,2-dibromo-3-chloropropane, EPA believes the epidemiology data base is inadequate to either refute or demonstrate that 1,2-dibromo-3-chloropropane causes tumors in humans. EPA believes there is sufficient data to conclude that 1,2-dibromo-3-chloropropane is carcinogenic in animals since the compound has been shown to be carcinogenic in both rats and mice. EPA therefore has classified 1,2-dibromo-3-chloropropane in Group B2: Probable human carcinogen. Consequently, EPA places 1,2-dibromo-3-chloropropane in Category I and an MCLG of zero is promulgated.

f. 2,4-D. EPA proposed an MCLG of 0.07 mg/l for 2,4-D in the November 1985 proposal and again in May 1989 based on adverse effects on the liver and kidney in test animals. EPA based this MCLG on a NOAEL of 1 mg/kg/day, an uncertainty factor of 100, and the assumption that a 70-kg adult consumes 2 liters of water per day. EPA also assumed that 20 percent of total exposure of 2,4-D would be from drinking water. No new relevant data that change EPA's conclusions have become available since publication of the proposals.

EPA also stated that it would consider adopting an MCLG of 0.02 mg/l for 2,4-D, based upon the same study as was used to calculate the proposed MCLG, with the application of an additional uncertainty factor of 3 to the calculations. This uncertainty factor would be applied to account for the fact that supporting long-term data in dogs were not available for 2,4-D.

Public Comments. One commenter stated that EPA ignored the two National Cancer Institute (NCI) studies linking exposure to 2,4-D with an increase of non-Hodgkin's lymphoma, and that since IARC classified chlorophenoxy herbicides in Group B2 (limited evidence of carcinogenicity in humans), EPA should do likewise.

EPA Response. EPA did not ignore the two epidemiological studies published by NCI that reported the possible association of phenoxy herbicides (2,4-D is a member of the class) with cancer. Since the studies dealt with a class of compounds, it is impractical to specifically link 2,4-D as a probable carcinogen. In addition, the contaminants in phenoxy herbicides further cloud the results of these studies.

EPA's proposal for the regulation of 2,4-D was based on inadequate data for the cancer classification and its effects of 2,4-D on the liver and kidney. Controversy regarding the cancer classification of 2,4-D has arisen because of the recently published epidemiological studies on phenoxy herbicides, a class of compounds of which 2,4-D is a member. EPA's Office of Pesticide Programs (OPP) published a notice in the **Federal Register** (October 13, 1989) stating that an external panel of experts would be convened to advise the Agency on the carcinogenic potential of 2,4-D. However, until the panel of experts convenes and the Agency accepts its results, EPA continues to categorize 2,4-D as a category III contaminant. Consequently, EPA is promulgating the MCLG of 0.07 mg/l for 2,4-D as proposed.

g. Heptachlor/Heptachlor Epoxide. EPA proposed an MCLG of zero for both heptachlor and heptachlor epoxide based on sufficient evidence of carcinogenicity (Group B2) in animals. Since the May proposal, EPA has revised the DWELs for heptachlor and heptachlor epoxide. A revised DWEL of 0.02 mg/l (rounded from 0.0175 mg/l) was calculated for heptachlor. For heptachlor epoxide, a revised DWEL of 0.0004 mg/l was derived. These revisions of DWELs for heptachlor and heptachlor epoxide do not affect EPA's conclusions about carcinogenicity of these chemicals; however, they are presented to provide more information on health effects.

Public Comments. One organization provided comments in response to the MCLG proposal regarding heptachlor and heptachlor epoxide. The commenter stated that heptachlor and heptachlor epoxide have been incorrectly classified as Group B2 carcinogens and that EPA's Carcinogen Assessment Group report (1986) could not be used to justify such a classification.

EPA Response. According to EPA's guidelines, Group B2 (probable human carcinogen) is used when there is sufficient evidence of carcinogenicity in animals and inadequate data in humans. These guidelines also state that mouse liver tumor data may be used to support sufficient evidence of carcinogenicity. The evaluation of the carcinogenic potential of heptachlor and heptachlor epoxide was based on a sufficient number of rodent studies in which liver carcinomas were induced in two strains of mice of both genders and in CFN female rats.

Consequently, as discussed above, EPA places both heptachlor and heptachlor epoxide in Category I and promulgates an MCLG of zero as proposed.

h. Lindane. EPA reproposed an MCLG of 0.0002 mg/1 for lindane based upon a DWEL of 0.01 mg/1, an additional uncertainty factor of 10 since lindane was categorized as a category II contaminant (limited evidence of carcinogenicity via drinking water ingestion), and a 20 percent contribution from drinking water. No new data were received that change the conclusions presented in the November 1985 proposal.

Public Comment. One commenter stated that the MCLG should be zero for lindane since lindane was classified as Group C (possible human carcinogen).

EPA Response. The only evidence of carcinogenicity for lindane was in mice and available data do not permit definitive decisions on its oncogenic potential in rats. Since this effect has been reported in only one species, lindane was placed in Category II, and the MCLG values for Category II substances are set based on the RfD. An MCLG of 0.0002 mg/1 for lindane is promulgated as proposed.

i. Methoxychlor. EPA proposed an MCLG of 0.4 mg/1 for methoxychlor based on a rat study which identified a NOAEL of 5 mg/kg/day and applied an uncertainty factor of 100. However, it was also stated in the EPA proposal of May 22, 1989, that a recent teratology study in rabbits for methoxychlor was under review by OPP. No comments were received during the comment period.

Following the review by the OPP and EPA's RfD Workgroup, an RfD of 0.005 mg/kg/day for methoxychlor was recommended based on this teratology study in rabbits (5–7–90). In this teratology study, a NOAEL of 5 mg/kg/day was identified and an uncertainty factor of 1,000 was applied consisting of 100 for the inter- and intraspecies differences and an additional factor of 10 for the steep dose-response curve and the incompleteness of the data base on chronic toxicity. EPA has placed methoxychlor in Category III but for reasons discussed above the MCLG was changed from the 0.4 mg/1 level, as proposed, to 0.04 mg/1 in today's rule.

j. Polychlorinated Biphenyls (PCBs). EPA proposed an MCLG of zero for PCBs in the November 1985 proposal and again in May 1989 based on its classification as a Group B2 carcinogen (sufficient animal evidence, inadequate human evidence).

Public Comments. Several commenters submitted information in response to EPA's May 1989 proposal for regulation of PCBs. Major health effects issues were (1) inadequate evidence of carcinogenicity in humans, (2) extent of chlorination and carcinogenicity, i.e., only PCBs with 60 percent plus chlorinated mixtures have been reported to be carcinogenic in animals, and (3) non-mutagenicity of PCBs. One commenter supported EPA's MCLG of 0.5 μg/1 PCBs in drinking water. One commenter recommended exploring the feasibility of regulating PCBs based on relative toxicity of PCB congeners, citing the article, "Environmental Occurrence, Abundance and Toxicity of Polychlorinated Biphenyl Congeners: Considerations for a Congener Specific Analysis" (McFarland and Clarke, Environ. Health Perspect., Vol. 81, May 1989, p. 225).

EPA Response. EPA agrees with the commenters that there is inadequate evidence of carcinogenicity of PCBs in humans. However, there is sufficient evidence of carcinogenicity of PCBs in animals, which places PCBs in Group B2 according to the Agency's cancer guidelines. Therefore, according, to EPA policy, the MCLG for PCBs is zero. The proposed MCL is 0.0005 mg/1, the practical quantification limit.

PCBs that are 60 percent chlorinated have been reported to be carcinogenic in animals, while PCBs with a lower chlorine concentration (chlorine 54 percent) have produced cancer in animals that was not statistically significant. PCBs are complex mixtures of chlorinated biphenyls, which can contain up to 209 possible isomers; the toxicity of these has not been fully characterized. Therefore, it appears reasonable to regulate PCBs as a class of compounds with a cancer classification of Group B2. FDA also regulates PCBs as a class of compounds rather than individual congeners.

EPA agrees that PCBs are not mutagenic in a bacterial test system; however, this method does not respond to chlorinated hydrocarbons, including PCBs. In addition, a negative mutagenic test does not detract from the carcinogenic potential of PCBs. Therefore, for the above reasons, EPA places PCBs in Category I and promulgates an MCLG of zero.

7. Other Synthetic Organic Contaminant MCLGs

a. Acrylamide. EPA proposed an MCLG of zero for acrylamide in the May 22, 1989 proposal based on a B2 classification for the chemical.

Public Comments. EPA reponded to the public comments received in response to the previous proposal of November 13, 1985 in the Federal Register Notice of May 22, 1989. One commenter questioned the B2 classification citing the results of a new acrylamide bioassay by American Cyanamid which indicated that mouse screening studies were not repeatable, that human epidemiology studies were negative, that acrylamide does not produce point mutations, and the acrylamide reacts preferentially with protein.

EPA Response. The current B2 classification for acrylamide is based primarily on the Johnson et al. study (Toxicol. Appl. Pharmacol. 85:154–169, 1986). In this study, the authors reported increased incidences of scrotal mesotheliomas, mammary gland tumors, thyroid adenomas, uterine adenocarcinomas, clitoral gland adenomas, and oral papillomas. In agreement with the Johnson et al. study, the more recent American Cyanamid study reported statistically significant increases in the incidences of mammary gland tumors (fibroadenomas or fibroadenomas and carcinomas combined), scrotal mesotheliomas, and thyroid neoplasms (adenomas or adenomas and carcinomas combined) in both sexes. The uterine adenocarcinomas, clitoral gland adenomas, and oral papillomas observed in the Johnson et al. study were not found to be increased in the American Cyanamid study. However, there was a positive dose-related trend in the incidence of malignant reticulosis in the brains of females and an increased incidence of astrocytomas (CNS glial tumors) in both sexes at the highest dose level in the American Cyanamid study. After reviewing this study, the Agency has concluded that both studies demonstrate that acrylamide administration resulted in carcinogenicity at more than one site in rats.

Since there are two positive cancer bioassays, the fact that there is some disagreement among the Bull et al. studies (Cancer Res. 44:107–111, 1984a, and Cancer Lett. 24:209–212, 1984b) and the Robinson et al. study (Environ. Hlth. Perspect. 68:141–145, 1986) would not affect the classification of acrylamide.

EPA has reviewed two human epidemiology studies (Collins, American Cyanamid Co., 1984, and Sobel et al., Br. J. Ind. Med. 43:785–788, 1986) and found them to be inadequate for determining the potential carcinogenicity of acrylamide in humans.

Athough acrylamide does not induce point mutations, it is a clastogenic agent, inducing chromosomal aberrations, dominant lethality, sister-chromatid exchanges, and unscheduled DNA synthesis (Dearfield et al., Mut. Res. 195:45–77, 1988). Furthermore, the results of a mouse heritable translocation study (Shelby et al., Environ. Mutagen. 9:3263–368, 1987) has shown that acrylamide is an effective inducer of translocations in postmeiotic germ cells, suggesting that acrylamide may pose a heritable risk concern in mammals.

While it is certainly correct to state that acrylamide preferentially reacts with protein (Sega et al., Mut.. Res. 216:221–220, 1989), it also reacts with nucleic acids *in vivo* (Carlson and Weaver, Toxicol. Appl. Pharmacol. 79:307–313, 1979) and *in vitro* (Solomon et al., Cancer Res. 45:3465–3470, 1985). Accordingly, it is not possible to rule out the possibility of acrylamide-DNA interaction. Due to the two positive acrylamide bioassays and other data,

EPA retains a B2 classification for acrylamide and places it in Category I with an MCLG of zero.

B. Establishment of MCLS

1. Methodology for Determination of MCLs

The SDWA directs EPA to set the MCL "as close to" the MCLG "as is feasible." The term "feasible" means "feasible with the use of the best technology, treatment techniques, and other means, which the Administrator finds, after examination for efficacy under field conditions and not solely under laboratory conditions, are available (taking costs into consideration)." (SDWA section 1412(b)(5)). Each National Primary Drinking Water Regulation that establishes an MCL lists the technology, treatment techniques, and other means which the Administrator finds to be feasible for meeting the MCL (SDWA section 1412(b)(6)).

The present statutory standard for "best available technology" (BAT) under 1412(b)(5) represents a change from the provision prior to 1986, which required EPA to judge feasibility on the basis of "best technologies generally available" (BTGA). The 1986 Amendments to the SDWA changed BTGA to BAT and added the requirement that BAT must be tested for efficacy under field conditions, not just under laboratory conditions. The legislative history explains that Congress removed the term "generally" to assure that MCLs "reflect the full extent of current technology capability" [S. Rep. No. 56, 99th Cong., 1st Sess. at 6 (1985)]. Read together with the legislative history, EPA has concluded that the statutory term "best available technology" is a broader standard than "best technology generally available," and that this standard allows EPA to select a technology that is not necessarily in widespread use, as long as it has been field tested beyond the laboratory. In addition, EPA believes this change in the statutory requirement means that the technology selected need not necessarily have been field tested for each specific contaminant. Rather, EPA may project operating conditions for a specific contaminant using a field tested technology from laboratory or pilot systems data.

Based on the statutory directive for setting the MCLs, EPA derives the MCLs based on an evaluation of (1) the availability and performance of various technologies for removing the contaminant, and (2) the costs of applying those technologies. Other technology factors that are considered in determining the MCL include the ability of laboratories to measure accurately and consistently the level of the contaminant with available analytical methods. For Category I contaminants, the Agency also evaluates the health risks that are associated with various levels of the contaminants, with the goal of ensuring that the maximum risk at the MCL falls within the 1^{-4} to 10^{-6} risk range that the Agency considers protective of public health, therefore achieving the overall purpose of the SDWA.

EPA's initial step in deriving the MCL is to make an engineering assessment of technologies that are capable of removing a contaminant from drinking water. This assessment determines which of those technologies are "best." EPA reviews the available data to determine technologies that have the highest removal efficiencies, are compatible with other water treatment processes, and are not limited to a particular geographic region.

Based on the removal capabilities of the various technologies, EPA calculates the level of each contaminant that is achievable by their application to large systems with relatively clean raw water sources. [*See* H.R. Rep. 1185, 93rd Cong., 2nd Sess. at 13, (1974); 132 Cong. Rec. S6287, May 21, 1986, statement of Sen. Durenberger.]

When considering costs to control the contaminants in this rule, EPA analyzed whether the technology is reasonably affordable by regional and large metropolitan public water systems [see H.R. Rep. No. 93–1185 at 18 (1974) and 132 Cong. Rec. S6287 (May 21, 1986) [statement of Sen. Durengerger)]. EPA also evaluated the total national compliance costs for each contaminant considering the number of systems that will have to install treatment in order to comply with the MCL. The resulting national costs vary depending upon the concentration level chosen as the MCL. The more stringent the MCL, the greater the number of systems that may have to install BAT in order to achieve compliance. In today's rule, EPA has determined that costs for large systems and total national compliance costs at the MCL are reasonably affordable and, therefore, feasible. Therefore, alternative MCLs were not considered.

The feasibility of setting the MCL at a precise level is also influenced by laboratory ability to measure the contaminant reliably. EPA derives practical quantitation levels (PQLs) which reflect the level that can be measured by good laboratories under normal operating conditions within specified limits of precision and accuracy. Because compliance with the MCL is determined by analysis with approved analytical techniques, the ability to analyze consistently and accurately for a contaminant at the MCL is important to enforce a regulatory standard. Thus, the feasibility of meeting a particular level is affected by the ability of analytical methods to determine with sufficient precision and accuracy whether such a level is actually being achieved. This factor is critically important in determining the MCL for contaminants for which EPA sets the MCLG at zero, a number which by definition can be neither measured nor attained. Limits of analytical detection require that the MCL be set at some level greater than the MCLG for these contaminants. In these cases, EPA examined the reduction capability of BAT and the accuracy of analytical techniques as reflected in the PQL to establish the appropriate MCL level.

EPA also evaluates the health risks that are associated with various contaminant levels in order to ensure that the MCL adequately protects the public health. For drinking water contaminants, EPA sets a maximum reference risk range 10^{-4} to 10^{-6} excess individual risk from for carcinogens at lifetime exposure. This policy is consistent with other EPA regulatory programs that generally target this range using conservative models that are not likely to underestimate the risk. Since the underlying goal of the Safe Drinking Water Act is to protect the public from adverse effects due to drinking water contaminants, EPA seeks to ensure that the health risks associated with MCLs for carcinogenic contaminants are not significant.

Below is a detailed discussion of the Agency's response to the comments on the proposed rule and how today's MCLs were determined. EPA is reproposing for public comment the MCLGs and MCLs for aldicarb, aldicarb sulfoxide, aldicarb sulfone, barium, and pentachlorophenol due to a change in the health basis for the standard. However, regardless of the final standards which are established, EPA believes the BAT and analytical methods promulgated today will not be affected by the new standards. Consequently, those requirements are promulgated today.

2. Inorganic Analytical Methods

In the May 1989 notice, the Agency proposed a list of analytical methods to be used for measuring eight inorganic chemicals (IOCs) that it considered economically and technologically feasible for monitoring compliance.

These methods are promulgated today as proposed with the exception of the revisions that will be discussed below (see Table 9). These methods were selected based on the following factors: (1) reliability (i.e., precision/accuracy) of the analytical results; (2) specificity in the presence of interferences; (3) availability of enough equipment and trained personnel to implement a national monitoring program (i.e., laboratory availability); (4) rapidity of analysis to permit routine use; and (5) cost of analysis to water supply systems.

Table 9 lists the analytical methods that EPA is approving for use to comply with the monitoring requirements. EPA has updated the references to the most recent editions of the manuals, including the atomic absorption and emission methods for metals; the transmission electron microscope method for asbestos; and the colorimetric, spectrophotometric, potentiometric, and ion chromatography methods for nitrate and nitrite.

The reliability of analytical methods used for compliance monitoring is critical at the MCL. Therefore, the analytical methods have to be evaluated with respect to the accuracy or recovery (lack of bias) and precision (good reproducibility) at the range of MCL.

When NPDWRs are revised or new regulations are proposed, the Agency examines all appropriate methodologies, including any minor modifications of the method that may have been approved for limited use, and only those methods which meet all the necessary criteria are proposed. Public comments on the applicability of these methods are taken into consideration when the rule is finalized.

In view of this, only the analytical procedures specified in this final rule can be used for compliance monitoring after this rule is promulgated. The Agency is aware that minor modifications to specific methods have been previously approved for limited use by various laboratories. These approvals will cease upon the effective date of this rule. New methods, new applications of current methods, and any modification to method approved in the future will be published in the **Federal Register,** thus making these changes available to all laboratories.

a. Asbestos. Several commenters submitted comments expressing concerns with the following: (1) The expense of Transmission Electron Microscopy (TEM) analysis for asbestos; (2) the number of laboratories available with TEM capabilities; (3) the quantitative analytical precision and accuracy of the TEM method; and (4) the absence of other asbestos methods on the list of methods. EPA recognizes that TEM analysis is somewhat more expensive than other conventional analyses for most analytes that are regulated under the SDWA. However, the overall national cost should be lessened because of the reduced number of systems affected by the monitoring requirements after the vulnerability assessment, resulting in a limited number of samples for analyses.

EPA believes that sufficient analytical capacity will exist for those water systems that are deemed vulnerable because public water systems will have approximately five years from publication of the final rule to complete the monitoring (i.e., December 31, 1995), thus allowing the analytical capability to develop. In addition, EPA is currently participating in a cooperative program with the National Institute of Standards and Technology (NIST) to certify a pool of laboratories that can perform asbestos analysis using the TEM method.

A performance evaluation (PE) sample is currently being developed by the Agency to assess laboratory performance using the TEM method. Furthermore, the EPA facility in Athens has produced interlaboratory and intralaboratory (single laboratory) studies to verify the method's performance and capabilities.

Other asbestos analytical methods were considered and evaluated but they were found to be inadequate and inferior to the TEM method. The Agency has determined that TEM is the best available technique because of its specificity of asbestos fibers (chrysotile versus amphibole), its effectiveness in distinguishing between asbestos and nonasbestos fibers, and its ability to determine the number of fibers per volume and fiber size (length and width). Furthermore, the MCLG for asbestos was assessed using data resulting from TEM analyses. The analysis of waterborne asbestos by different techniques can yield radically different results, unlike the methodology of other analytes. EPA believes it is imperative to ensure comparability that the analytical technique required for monitoring water quality samples be the same as that used to assess the MCLG. EPA, however, continues to desire additional screening methodology and encourages the public to inform the Agency when a potential technique may exist. If additional methods become available that meet the MCL requirement, EPA will promptly update the rule to permit alternatives to the TEM method.

b. Nitrate/Nitrite. Several commenters addressed concerns about the ability of laboratories to analyze nitrite because of its unstable character and associated analytical problems. EPA evaluated the most recent available data resulting from Water Supply (WS) PE studies #022–025, in which various approved methods were used, to determine laboratory performance for nitrite. The acceptance limits calculated from this data for the EPA, State, and non-EPA laboratories that participated in the studies demonstrate successful nitrite analyses as compared to the acceptance limits of the other regulated contaminants as summarized in table 12.

One commenter stated that there are conflicting opinions whether to use single (Waters method B–1011) or dual (EPA Method 300.0) column chromatography for nitrate analysis. EPA evaluated data from a comparability study for both of the methods and concluded that they both were successful in analyzing nitrate, i.e., precision, accuracy, and acceptance limits criteria were met.

Some commenters also objected to the deletion of the colorimetric brucine method for nitrate from the list of methods. EPA evaluated the most recent available data from the laboratories that used the brucine method for WS PE studies #020–025. The review of the data demonstrated the inability of the method to produce results that met the acceptance limits criteria, thus its elimination from the list of approved methods.

c. Other Inorganic Analyses. Several commenters stated that EPA Method 200.7 (Inductively Coupled Plasma-Atomic Emission Spectrometric Method (ICP–AES)) without the appendix (EPA Method 200.7A) is applicable for the analysis of barium and chromium and objected to its omission from the list of methods. EPA concurs with this assessment of the method and will permit its use as an additional optional method for the analysis of barium and chromium. However, the appendix (200.7A) must be followed in processing drinking water samples prior to ICP–AES analysis for cadmium, because Method 200.7 is not sensitive enough for cadmium samples at the MCL level in this rule.

One commenter recommended the deletion of the gaseous hydride EPA Method 270.3 for selenium from the list of methods because of its referral to a method that is no longer cited. EPA recognizes this inconsistency and has deleted this method from the list of approved methods because it is an incomplete method that references

Standard Methods (SM) 404B in the 14th edition for analytical details. SM 404B has been replaced by SM 303E in the 16th edition, which is decidedly improved and is on the list of approved methods.

Several commenters objected to the deletion of the atomic absorption (AA) direct aspiration methods for cadmium and chromium from the list of methods. The Agency deleted these methods from the list because they do not provide adequate sensitivity to meet the specific performance requirements for these analytes. In addition, the evaluation of data when using the method for these analytes, as demonstrated by the review of the most recent available WS PE studies #020–025, revealed high data variability.

d. Method Detection Limits and Practical Quantitation Level. EPA determines practical quantitation levels (PQLs) for each substance for the purpose of integrating analytical chemistry data into regulation development. This becomes particularly important where MCLGs are zero or some other very low number, near or below the detection limit. The PQL yields a limit and specific precision and accuracy requirement which EPA uses to develop monitoring requirements. As such, PQLs are a regulatory device rather than a standard that labs must specifically demonstrate. The following is a discussion of how EPA used PQLs to set the standards in this rule.

(1) Inorganics

The PQLs and the acceptance limits for the inorganic contaminants, except for nitrite and asbestos, were determined using WS PE studies #012–017 as detailed in the proposal and summarized in table 8. One commenter suggested that current WS PE studies should be included in the assessment of the analytical acceptance limits and PQLs for the inorganic contaminants to provide an even broader data base reflective of overall analytical and laboratory performance capabilities. The Agency concurs with this and, in fact, has established the practice of periodically reviewing and evaluating the most recent studies, when they become available, to determine the necessary updates for the regulated contaminants. WS PE studies #020–025, as applicable, were evaluated and they verified that laboratories are continuing to demonstrate the ability to meet the established acceptance limits and PQL criteria as documented in table 16, with the exception of nitrite, which is addressed below.

(2) Nitrite

The "plus or minus percent of true value" acceptance limits for expected performance and the PQL for nitrite, as reported in table 15, were proposed based on the analytical procedures being the same as and the method detection limits similar to nitrate. This approach was used because data (PE studies) were not available to assess the acceptance limits and PQL for nitrite. However, EPA has evaluated the most recent data now currently available from nitrite analyses WS PE studies #022–025, and has determined that the acceptance limits and PQL for nitrite will be ±15 percent and 0.4 mg/l, respectively, in the final rule (see table 16).

TABLE 16.—INORGANIC CONTAMINANT ACCEPTANCE LIMITS AND PRACTICAL QUANTITATION LEVELS

Inorganic contaminant	MCL (mg/l)	Acceptance limits (plus or minus percent of the true value)	PQLs (mg/l)
Barium [1]	2	15	0.15
Cadmium	0.005	20	0.002
Chromium	0.1	15	0.01
Mercury	0.002	30	0.0005
Nitrate	10	10	0.4
Nitrite	1	15	0.4
Selenium	0.05	20	0.01

[1] MCL is the proposed level.

e. *Inorganic Chemical Sample Preservation, Container, and Holding Time.* EPA is specifying that the maximum holding time for mercury in the sample collection table be revised to specify 28 days for glass or plastic containers. This change will provide consistency with the recommended holding time for wastewater (CFR 40 136.6, table II), the source of the specifications for the rule (see table 17).

TABLE 17.—INORGANIC CONTAMINANT SAMPLE PRESERVATION, CONTAINER, AND HOLDING TIME REQUIREMENTS

Contaminant	Preservative [1]	Container [2]	Maximum holding time [3]
Asbestos	Cool, 4 °C	P or G	
Barium	Conc HNO_3 to pH <2	P or G	6 months.
Cadmium	Conc HNO_3 to pH <2	P or G	6 months.
Chromium	Conc HNO_3 to pH <2	P or G	6 months.
Fluoride	None	P or G	1 month.
Mercury	Conc HNO_3 to pH <2	P or G	28 days.
Nitrate	Cool, 4 °C	P or G	48 hours.
Nitrate/Nitrite	Conc H_2SO_4 to pH <2	P or G	28 days.
Nitrite	Cool, 4 °C	P or G	48 hours.
Selenium	Conc HNO_3 to pH <2	P or G	6 months.

[1] If HNO_3 cannot be used because of shipping restrictions, sample may be initially preserved by icing and immediately shipping it to the laboratory. Upon receipt in the laboratory, the sample must be acidified with conc HNO_3 to pH <2. At time of analysis sample container should be thoroughly rinsed with 1:1 HNO_3; washings should be added to sample.
[2] P=plastic, hard or soft; G=glass, hard or soft.
[3] In all cases, samples should be analyzed as soon after collection as possible.

3. SOC Analytical Methods

a. VOC Methods. Most commenters supported the analytical methods as proposed. However, several changes and clarifications of the proposal are made in this notice. Four commenters felt Methods 502.2 and 524.2 should not be implemented at this time. The commenters felt it would be difficult to implement the use of capillary column and that input should have been obtained from the laboratory community that the methods were not technically available for routine use. Three of the commenters felt there was a problem in meeting the quality control (QC) requirements in the methods, particularly for Method 524.2. One of the commenters reported difficulty with water desorbing from the trap (which is used in the purge and trap devices to retain VOCs for analysis). One commenter felt regulating cis- and trans-1,2-dichloroethylene separately forces the use of Method 524.2 to achieve resolution, but permits co-elution of other VOCs. The commenter felt this

situation would necessitate the use of a capillary column.

Methods 502.2 and 524.2 were developed as a result of public comment. EPA proposed MCLs for eight VOCs on November 13, 1985 (50 FR 46902). Commenters recommended the use of capillary column techniques, and EPA agreed and developed methods 502.2 and 524.2. These were proposed in the April 17, 1987 notice (52 FR 12879) and finalized in the July 8, 1987 notice (52 FR 25702).

Water desorption from the trap is a problem common to all purge and trap methods in EPA's 500, 600, and 8000 series. The problem is particularly acute in the gas chromatograph/mass spectrometry (GC/MS) methods, but can be minimized by following the trap bake-out procedures in § 11.4 in both Methods 502.2 and 524.2.

When monitoring a large number of unknown compounds with the possibility of co-eluting substances, use of confirmatory columns is necessary even for GC/MS techniques. Method 524.2 allows the use of three different chromatographic columns under four different sets of operating conditions, allowing a greater differentiation and resolution of VOCs than any other 500 series VOC method.

EPA notes the QC requirements in Method 524.2 are identical to those in Method 524.1. These requirements were demonstrated by three different analysts using three different columns.

Summarized data for WS studies 20–24 for the regulated and unregulated VOCs indicate non-EPA, non-State laboratories can successfully utilize Methods 502.2 and 524.2. Approximately 500 labs now analyze VOCs. The use of Methods 502.2 and 524.2 has also increased as a result of WS studies 20–24. Seventy-five percent of the labs reporting a method use either Method 502.2 or 524.2. For these reasons, EPA will continue to approve Methods 502.2 and 524.2.

b. Method Availability. Ten commenters felt there were too many methods for the individual pesticides and that the available methods required second column confirmation, resulting in excessive costs. The commenters felt EPA should wait until suitable GC/MS methods are available before regulating these pesticides. EPA assessed the impact of regulation, if monitoring was implemented for these pesticides, and found the costs were not excessive, estimated at $180 or less per sample. Furthermore, the vulnerability concept in this regulation should limit the number of water supplies that will monitor any or all of these pesticides. The commenters further stated that if all the pesticides were present at the same time, particularly the multi-peak residues, chlordane, toxaphene, and PCBs, only GC/MS could distinguish them.

EPA has in fact found through numerous national surveys for pesticides and PCBs, including the current National Pesticide Survey (NPS) and other programs like Superfund, that the pesticides in this rule do not all occur at the same sites. However, EPA agrees with the commenters that GC/MS is the most economical procedure and indicated in the May 22, 1989 proposal that it was investigating GC/MS methods. Data supplied by commenters and EPA's Environmental Monitoring and Systems Laboratory (EMSL) demonstrate EPA Method 525, discussed below, which was proposed for monitoring unregulated contaminants, can be utilized as a primary analytical technique for the majority of the pesticides. Consequently, for the reasons cited above, EPA is promulgating Method 525.

c. Cleanup Procedures. Four commenters took issue with the lack of cleanup procedures for the pesticide methods. Laboratory methods addressing contaminants under the SDWA are for finished drinking water. Most of the pesticide methods listed below were derived from the methods used in the National Pesticide Survey; cleanup techniques were not included in most of the methods since experience has shown even a clean groundwater sample does not usually need sample cleanup, which would only add unnecessary cost.

d. Pesticide Methods. Several commenters pointed out that Method 504 is the same as Method 505. EPA agrees that the methods are similar except for temperature programming of the gas chromatograph and that theoretically the compounds run in Methods 504 and 505 could be run in the same analysis. In the absence of persuasive data, however, EPA believes it is better to isolate the two volatility ranges in separate analyses.

In an interlaboratory study of Method 505 (U.S. EPA Method Study 40), no significant differences could be seen in the recoveries of the analytes in reagent water and ground water, which ranged from 90 to 120 percent. Precision as represented by the relative standard deviation (%RSD) ranged from 11 to 30 percent for the analytes in reagant water and from 11 to 40 percent in ground water. Both the interlaboratory studies and Water Supply Studies indicated Method 505 is not recommended to analyze atrazine.

Several commenters complained about the use of diazomethane as the esterifying agent in Method 515.1. While EPA laboratories have used this reagant safely for many years, EPA agrees this is a matter of concern and is attempting to resolve this situation. In the interim, those laboratories that do not wish to use diazomethane can use the derivatization procedure in the packed column methods currently cited in 40 CFR 141.24 (f) for 2,4=D and 2,4,5=TP. Pentachlorophenol can be analyzed by Method 525.

e. Method 525. Eleven commenters commented about the lack of a GC/MS method to cut down on the number of methods, reduce the cost of compliance monitoring, and provide a positive identification.

EPA stated in the proposed rule that it was investigating GC/MS methods for those analytes that use gas chromatography. EPA Method 525, "Determination of Organic Compounds in Drinking Water by Liquid-Solid Extraction (LSE) and Capillary Column Gas Chromatography/Mass Spectrometry," was proposed as an analytical technique for monitoring unregulated contaminants under § 141.40, Special Monitoring for Inorganic and Organic Chemicals. At the time the rule was proposed, sufficient data were not available for the regulated analytes. During public hearings and in the comment period, data supporting expanded use of this method were submitted by three commenters, including EPA's Environmental Monitoring and Systems Laboratory (EMSL), and from WS study 23. An improvement evaluated by EMSL was the use of C–18 LSE discs as well as the C–18 LSE cartridges. In using Method 525, analytes, internal standards, and surrogates are extracted from water by passing a liter sample of water through cartridges or discs coated with chemically bonded C–18 organic phase (liquid-solid extraction, LSE). The sample components are eluted from the LSE with a small quantity of methylene chloride, which then is evaporated a volume of to 0.5–1.0 ml. The sample components are identified and quantified by using a high resolution capillary column/GC/MS system. The pesticides in this rule were run with the two extraction systems on three types of mass spectrometer systems—ion trap, magnetic sector, and quadrupole. Alachlor, atrazine, chlordane, heptachlor, heptachlor epoxide, lindane, methoxychlor, and pentachlorophenol can be extracted by the use of Method 525. The method specifies an accuracy range for analytes and surrogates of 70

to 130 percent and a precision less than or equal to 30 percent, which the listed analytes can meet. Use of Method 525 allows monitoring of regulated and unregulated compounds simultaneously and can eliminate five other analytical methods. Consequently, EPA is promulgating EPA Method 525 for the analysis of alachlor, atrazine, chlordane, heptachlor, heptachlor epoxide, lindane, methoxychlor, and pentachlorophenol.

f. PCB Analytical Methods. In the proposed rule, EPA stated it had evaluated existing methods which, for the most part, are adaptations of chlorinated pesticide procedures. EPA explained the difficulty in applying these procedures to finished drinking water due to the removal of specific congeners by the treatment process. In the proposed rule EPA outlined an approach which would give a quantitative answer for total PCBs while minimizing false positives.

Thirty-two commenters expressed views on PCBs. Sixteen did not like the current EPA procedure of Methods 505 and 508 to screen, and Method 508A for quantitation. Seven commenters wanted EPA to develop a GC/MS procedure before regulating PCBs. Five commenters were concerned about false positives generated by perchlorination of biphenyl and related compounds. Seven commenters felt the method detection limits (MDLs) and PQLs were too low or incorrect; they felt the regulated community could not meet them. The rest of the commenters cited problems with availability and cost of methods, the unsuitability of Method 505, and the lack of performance evaluation data.

EPA has evaluated various available methods, as stated above. None of these analytical schemes gives a reliable quantitative answer to environmentally degraded PCB samples, nor were any provided by the commenters. Accordingly, the proposed procedure for PCB analysis is supported by performance and is made final.

Because of poor participation by the public sector laboratories, data utilized from Water Supply (WS) studies 23–25 were from non-EPA, non-State laboratories. These data showed that these laboratories could screen and quantitate down to 0.1 .μg/1 total PCB, for commonly occurring aroclors such as 1242 and 1254 using the protocol stated in the proposed rule. EPA has determined that these performance data support the PQL of 0.0005 mg/1 for total PCBs. The apparent discrepancy in the MDLs obtained with screening by Method 505 or 508 and quantitation by Method 508A indicate that the MDLs for Method 508A represent the amount of the particular aroclor needed to reach the detection limit of decachlorobiphenyl, which is 71 percent chlorine. Typical aroclor designations 1221 or 1260 represent 21 percent and 60 percent average chlorine content, respectively. Aroclor 1221 is composed mostly of biphenyl, monochloro, and dichlorobiphenyl congeners with poor sensitivity to electron-capture detectors, giving it an MDL of 0.02 mg/1. Conversion to the detection level of decachlorobiphenyl takes only a fraction of this amount. Conversely 1260, as expected, shows little increase in sensitivity as decachlorobiphenyl.

EPA evaluated the problem of false positives with Method 508A. In the proposed rule, EPA required screening using Methods 505 or 508 to ensure PCBs were actually present. EPA explained that these methods are not used for actual quantitation because high resolution capillary chromatographic columns used in Methods 505, 508, and 508A can co-elute compounds such as chlordane, thus adding to the apparent concentration of PCBs. Method 508A, by converting all the PCBs to decachlorobiphenyl, separates this total PCB from potential co-elutants due to its longer retention time in the gas chromatograph. This improved specificity adequately compensates for potential perchlorination of biphenyl or related compounds.

Interlaboratory studies now available for Method 505 and WS data indicate Method 505 is suitable as a screening method for PCBs. WS studies indicate about half the non=EPA, non-State laboratories use Method 505 as a screening method. EPA has looked at the MDL for GC/MS methods, including Method 525, and, at this time, no GC/MS technique will meet its requirements. EPA feels the cost of the analysis is reasonable since the PCB screen is done as part of the chlorinated pesticide analysis.

g. VOC Performance Studies. A number of commenters stated that they were unable to meet the ±20 percent/40 percent performance requirements for VOCs first established July 8, 1987. Updated WS studies 20–24 indicate that EPA's decision to establish acceptance limits for VOCs at ±40 percent of the true value for concentrations less than 10 μg/l and ±20 percent at concentrations 10 μg/l or above was correct. The results of these studies are in the docket for this rule.

EPA originally expected the percentage of private commercial laboratories able to meet the specified performance limits to be much lower. Summarized data for regulated and unregulated VOCs from WS20–24 indicate improvement to the point that there is no significant difference in performance between the public and private laboratories for most VOCs. Private commercial laboratories show continuing improvement as they gain experience using the analytical methodology.

Four commenters questioned the PQLs established for VOCs in Phase II. They felt the original PQLs of 0.005 mg/l (5 μg/l) based upon MDLs of 0.2–0.5 μg/l reported by seven EPA and EPA contract laboratories were erroneous. The commenters felt these stringent PQLs resulted in MCLs for three carcinogens—1,2-dichloropropane, styrene, and tetrachloroethylene—that many laboratories would not be able to accurately measure.

EPA revised its VOC methods in December 1988 with new MDLs. WS data (WS20–24) indicate 60 to 75 percent of reporting laboratories now use the capillary column Methods 502.2 and 524.2. These methods have MDLs ranging from 0.01 to 0.05 μg/l for the VOCs in this regulation. The WS data for WS studies show the laboratories have been challenged with at least one sample at or below the 0.005 mg/l PQL. The performance data indicate that the use of the 0.005 mg/l PQL establishes a level for adequate performance for non-EPA, non-State laboratories.

h. Pesticide/PCB PQL and Performance Acceptance Limits. In the May proposal, EPA estimated pesticide/PCB PQLs based on 10 times the minimum detection limits (five times for EDB and toxaphene). EPA stated that ongoing performance evaluation studies would determine whether the estimated PQLs are achievable. Performance data now available from WS studies 22–24 (23–25 for PCBs) for the non-EPA, non-State laboratories show this approach was justified. WS studies 22–25 had values bracketing the PQL/MCL for most pesticides. In some cases, the WS data indicated the PQL could be lowered from the levels proposed in May 1989.

Fifteen commenters responded to EPA's procedures for setting MDLs and PQLs. Most of these commenters took issue with EPA estimating the PQLs at five times the Interlaboratory Method Detection Limit (IMDL) for EDB and toxaphene. Six commenters complained about using the single laboratory MDL to set the PQL for PCBs. Two of the commenters had the same complaint about atrazine. Several commenters stated that precision and accuracy are sacrificed to attain a lower level of detection.

Performance data now available from WS studies 22–25 indicate non-EPA, non-State laboratories can screen pesticides for PCBs at 0.1 μg/l. The interlaboratory performance data support the PCB PQL of 0.5 μg/l. Data for atrazine from WS studies 22–24 and from EPA Method Study #40 using Method 507 support a PQL of 0.001 mg/l, as proposed.

Several commenters cited the large gap between some of the proposed PQLs and the MCLs. EPA agrees, and in the case of Silvex, 2,4–D, and methoxychlor, has raised the PQL. Raising the PQL should result in increased precision and accuracy for most laboratories. Because the MCLs for Silvex, 2,4–D, and methoxychlor are set at a level equal to the MCLG, raising the PQL has no effect on the MCL or the health basis of the standard. In the case of toxaphene, performance data indicated the PQL should be lowered from 0.005 mg/l to 0.003 mg/l.

Data showed that the PQLs for aldicarb and aldicarb sulfoxide could be lowered from 0.005 and 0.008, respectively, to 0.003 mg/l. Likewise, water supply data showed that the PQL for pentachlorophenol should be raised from 0.0001 mg/l, as proposed, to 0.001 mg/l. The PQLs for aldicarb, aldicarb sulfoxide, aldicarb sulfone, and pentachlorophenol are reproposed elsewhere in today's **Federal Register** for additional comment.

Acceptance limits have been calculated from WS studies 22–25 using regression equations derived from the data. The acceptance limits were calculated at a 95 percent confidence interval at the MCLG or at the MCL if the MCLG was zero. The raw water supply data were plotted both at the acceptance limits and as a percentage around the true value to find a point at which 75 percent of the laboratories passed. Most of the limits were calculated from non-EPA, non-State data due to poor participation of the public sector laboratories. Table 18 lists the acceptance limits for the 18 pesticides/PCBs in this rule.

TABLE 18.—PESTICIDE/PCB PRACTICAL QUANTITATION LEVELS AND ACCEPTANCE LIMITS

Contaminant	Final MCL	Acceptance limits (percent)	Final PQL (mg/l)	Proposed PQL
DBCP	0.0002	±40	0.0002	0.0002
EDB	0.00005	±40	0.00005	0.00005
Alachlor	0.002	±45	0.002	0.002
Atrazine	0.003	±45	0.001	0.001
Carbofuran	0.04	±45	0.007	0.007
Chlordane	0.002	±45	0.002	0.002
Heptachlor	0.0004	±45	0.0004	0.0004
Heptachlor epoxide	0.0002	±45	0.0002	0.0002
Lindane	0.0002	±45	0.0002	0.0002
Methoxychlor	0.04	±45	0.01	0.001
PCBs (as Decachlorobiphenyl)	0.0005	0–200	0.0005	0.0005
Toxaphene	0.003	±45	0.003	0.005
Aldicarb [1]	0.001	±55	0.003	0.005
Aldicarb sulfoxide [1]	0.001	±55	0.003	0.008
Aldicarb sulfone [1]	0.002	±55	0.003	0.003
Pentachlorophenol [1]	0.0001	±50	0.001	0.0001
2,4-D	0.07	±50	0.005	0.001
2,4,5-TP	0.05	±50	0.005	0.0002

[1] MCL is the proposed level.

4. Selection of Best Available Technology

a. Inorganics. To fulfill the requirements of Section 1412(b)(6), regarding the selection of treatment techniques that the Administrator finds to be feasible for meeting each MCL, EPA proposed best available technologies (BATs) for each of the inorganic contaminants, as summarized in Table 16 of the **Federal Register** Notice of May 22, 1989. BATs were selected on the basis of documented efficiency in removal of each contaminant, commercial availability of the technologies, compatibility with other water treatment processes, and feasibility. Among the BATs proposed were conventional processes, such as lime softening and coagulation/filtration, and less commonly applied technologies such as activated alumina and reverse osmosis. All BATs for each inorganic contaminant were discussed in the May 22, 1989 proposal, and extensive review of performance information and lab, pilot, and full-scale data are contained in EPA Technologies and Costs (T & C) documents for each inorganic covered by the proposal. These documents were referenced in the proposal and are part of the official EPA docket for this regulation. Table 6 summarizes the BAT for the inorganics for today's rule. As discussed below, the BATs (except electrodialysis) are identical to those proposed in May 1989.

One commenter supplied information regarding electrodialysis reversal (EDR), a membrane technology, and asserted that the information supplied to EPA confirms the use of EDR as BAT for all but asbestos of the inorganic contaminants addressed in the proposal of May 22, 1989. The information, much of which had previously been submitted to EPA and reviewed by EPA staff, consisted of consulting engineering studies, product literature from the company that markets the technology, correspondence records, historical information regarding applications of electrodialysis for drinking water and industrial wastewater treatment, technology and cost information, and general discussions regarding the capabilities of EDR and other technologies in the treatment of brackish waters.

The commenter sought a detailed response from EPA regarding EDR, formally requesting that EPA address several (a total of six) points which question EPA's rationale for excluding EDR as a BAT for the seven subject inorganics in the proposal. The commenter requested EPA documentation regarding its response to previous electrodialysis related correspondence, and also requested EPA's explanation regarding any exclusions of EDR as BAT in the final regulation. The EPA Comment/Response document contains the

detailed response of EPA to each of the commenter's concerns.

EPA reviewed the comments regarding electrodialysis (EDR), including materials sent by the commenter in January 1990 in response to a request by EPA to provide clear data to support some of the commenter's claims. Field tests and full-scale operating data from electrodialysis plants treating public water supplies confirm that EDR is capable of efficiently removing barium (88 percent on average), nitrate (51 percent to 92 percent), and selenium (71 percent removal). The EDR data, most of which were collected during a study by New Mexico State University, demonstrate that EDR technology is appropriate and feasible, and that it is capable of efficiently reducing source water barium, nitrate, and selenium, as well as other frequently occurring salts found in moderately brackish waters. Based upon the data submitted to the Agency by the commenter, EPA has concluded that EDR is a BAT for removal of barium, nitrate, and selenium.

In regard to the four other inorganic contaminants that are subject to this regulation (i.e., cadmium, chromium, mercury, and nitrite), EPA found that the available data could not support a conclusion regarding EDR as a BAT. Many of the claims made by the commenter were not referenced or supported by actual data. EDR removal efficiencies cited within the comments were generally lower than efficiencies of proposed BATs. Therefore, EDR was found not to be equivalent to the proposed BATs in removal of the four other inorganics. Table 19 illustrates the difference between the efficiencies of removal obtained by applying the proposed BATs and those achieved by EDR.

TABLE 19.—ELECTRODIALYSIS PERFORMANCE COMPARED TO PROPOSED BATS

	Proposed BAT removal efficiencies	Electrodialysis removal efficiencies	BAT
Barium	90–98 percent	58–94 percent [1]	Yes.
Cadmium	80–98 percent	70–75 percent [2]	No.
Chromium	82–99 percent	86–91 percent [2]	No.
Mercury	40–100 percent	Data inconclusive	No.
Nitrate	67–99 percent	51–92 percent [1]	Yes.
Nitrite	67–99 percent	70 percent [2]	No.
Selenium	75–99 percent	71 percent [1]	Yes.

[1] Data from drinking water pilot study.
[2] Data from industrial wastewater applications of electrodialysis technology.

In addition to the low EDR efficiencies evident in the commenter-supplied reports, many of the data are inappropriate because they were collected at sites employing EDR to separate and/or recover industrial wastewater contaminants. Operating conditions at plants treating drinking water would clearly be different than at plants treating industrial wastes. To determine efficacy of treatment, EPA relies on quality data obtained under verifiable conditions which would be replicated under typical drinking water treatment conditions.

EPA would welcome reports, data, and any additional test results on the EDR process applied to drinking water so that in the future the Agency may be able to determine the status of this technology as a potential BAT for removal of any contaminant to be regulated under the SDWA.

Because EDR is a newly recognized BAT for barium, nitrate, and selenium, EPA feels that it is appropriate to describe some aspects of the EDR process and address treatment costs associated with EDR application to drinking water. Electrodialysis is a membrane process that separates ionized or charged (anionic and cationic) substances in feed water by allowing ions to pass through transfer membranes. The membranes are configured in "stacks," parallel to one another, and each successive membrane carries a direct electric current which is either positive (cathode) or negative (anode), in alternate fashion. Cations migrate through the cathode membrane and anions migrate through the anode membrane, yielding partially deionized water and concentrated wastewater in alternating stacks which flow out of the unit, or are recycled or recirculated through additional treatment stages to reach the desired product.

A modification and improvement to the electrodialysis process is the automatic reversal of polarity, from positive to negative, of direct current across each membrane at regular 15 to 30 minute intervals. Automatic polarity reversal causes ion movement to reverse, switching product and concentrate streams. By this process, foulants and scale tend to slough off of membranes and are purged along with the waste stream. This self-cleaning mechanism appears to extend membrane life to 5 to 10 years. Another advantage of EDR over other membrane processes is EDR's apparent ability to achieve greater product recovery (up to 95 percent), thus producing a smaller water stream to dispose (Zelver, 1989; Zelver 1990). Others have reported on pilot-scale performance and cost of EDR compared to reverse osmosis (RO) and demonstrated the near equivalence of these two processes in terms of feasibility and projected cost (Robinson et al., 1988; Boyle Engineering, 1989).

All available information was reviewed in regard to conformity of EDR with other SDWA BAT requirements. Compatibility of EDR with other technologies, feasibility, ability to achieve compliance at a reasonable cost and commercial availability of EDR are equivalent to RO, another BAT for many inorganics. In addition, electrodialysis has a history of performance in the water supply and industrial waste treatment fields (about 25 years). As with RO, EDR is more economically applied where raw water is moderately brackish, i.e., 500 to 2,000 ppm dissolved solids, which is fairly common in the southern, central, and western United States.

Cost analyses provided by the commenter and those published by others (OTA, 1988 JAWWA, 1989; Buros, 1989; Dykes and Conlon, 1989; Conlon and McClellan, 1989) indicate the cost feasibility of applying EDR and RO for general desalting and for removal of specific contaminants from water supplies. Production costs are in the range of $1.00 to $2.50 per 1,000 gallons, including amortized capital and operations and maintenance, for 1 to 10 MGD plants. Waste disposal via deep well injection would be in the range of $0.20 to $0.30 per 1,000 gallons.

EPA estimated electrodialysis waste treatment/disposal costs in the September 1986 waste T&C documents (EPA, 1986). Waste disposal options and

design and cost criteria for EDR were assumed to be equivalent to those for RO, leading to identical cost curves. EDR and RO water treatment costs could also be assumed to be equivalent: EDR capital costs tend to be lower than RO, but the consumption of electrical power to run an EDR plant offsets the total production costs to the point of nearly equalizing the overall cost of applying the two technologies.

There should be no substantial changes to the final regulatory impact analysis (RIA) as a result of a new BAT (i.e., EDR) in the final rule because (1) water production and waste treatment costs for RO and EDR are nearly equivalent and (2) a relatively small percentage, about 5 percent, of systems estimated by the RIA would use RO to comply with an MCL.

Other technology related issues were raised in response to the proposal. Each comment is fully addressed by EPA in the Comment/Response document; however, a brief overview of comments and EPA responses is provided below.

One commenter noted the "limited capability" or effectiveness of lime softening in removing selenium, and of ion exchange (IE) and RO in removing nitrates from water. EPA refers to the T & C documents (one for each of the inorganic contaminants, as cited in the proposal) which bring together all treatment data available at the time of document preparation, and which to a great extent form the basis of EPA's BAT determinations in regard to treatment efficiency.

One commenter questioned the practicality of RO and IE technologies due to the wastes generated and the attending difficulties related to waste disposal. As referenced in the above EPA response regarding EDR as a BAT, EPA and others have studied and documented the costs related to the treatment and disposal of water treatment waste by-products. The same referenced literature discusses waste disposal options and the site-specific nature of available options. In EPA's view, RO and IE are clearly practical technologies and, in some cases, the technologies of choice due to their ability to soften, desalt, or otherwise demineralize water intended for potable supply. The historical usage of RO membranes to treat municipal water supplies in Florida, and the application of ion exchange resins to soften water in the Midwest, are rather substantial arguments that these technologies are not impractical. Waste management is, however, a concern and is recognized as an integral part of water treatment which will take a significant portion of the resources available in the planning and management of public water systems (PWSs).

Three commenters suggested that pretreatment costs should be factored into EPA's cost estimates, because pretreatment could double the cost of treating water at very small PWSs. One of the comments specifically addressed potential problems in removing nitrate from surface water supplies. EPA responds that adding pretreatment costs would be unnecessary in most cases because existing supplies would presumably already have been treating water contaminated with high levels of turbidity, sulfate, iron, or other fouling, or competing agents that would impede RO and IE efficiencies. EPA generally assesses technologies under relatively clean source water conditions to determine BATs. However, EPA agrees with the commenter's assessment of pretreatment costs; with pretreatment added, very small installations would cost approximately twice as much as with the IE or RO alone. Medium-sized systems would cost approximately 30 percent more with pretreatment added onto the IE or RO treatment.

The issue of compliance cost for each BAT for the inorganics received additional scrutiny by EPA. In September 1989, EPA revised flow assumptions to calculate all inorganic technology costs ("Analysis of Flow Data," Michael D. Cummings, EPA–ODW/TSD, October 1987).

Based on a re-analysis of the original flow models for systems in the smallest flow category, EPA now estimates these systems would on the average be designed to deliver 24,000 gallons per day but would only be required to provide 5,600 gallons per day. The net effect of these changes is to greatly increase the cost to remove each inorganic contaminant per gallon of water delivered.

For example, the removal of chromium using two-bed ion exchange treatment in a water system serving 25–100 people was estimated in the May 22, 1989 proposal (FR 22106) as $3.40/1,000 gallons. As a result of updating the flow assumptions, the cost of water treatment and waste disposal for chromium is now estimated at $10.16/1,000 gallons.

Consequently, with the changes noted above (i.e., regarding electrodialysis reversal), the BATs are promulgated as proposed.

b. Synthetic Organic Contaminants. In the 1986 SDWA amendments, Congress specified in section 1412(b)(5) that "Granular activated carbon is feasible for the control of synthetic organic chemicals, and any technology, treatment technique, or other means found to be the best available for the control of synthetic organic chemicals must be at least as effective in controlling synthetic organic chemicals as granular activated carbon."

The following discussion addresses the major concerns expressed in the public comment period regarding the proposed rule published May 22, 1989. Table 7 lists the BATs for the SOCs. As discussed below, the BAT for each SOC in today's rule is unchanged from the May 1989 proposal.

(1) Why PTA Is BAT for Air Stripping

Several types of aeration technology are useful for stripping volatiles from water. Packed columns or towers have been more widely studied and used to reduce the compounds at the levels that occur in drinking water. Diffused aeration has been shown to effect removal of certain SOCs and may have some advantages under hydraulic or space constraints. Other aeration methods such as slat tray, spray, and airlift pumping have shown good removals in certain applications for volatile organics. In all cases, results vary depending on physical, chemical, and design factors. Packed column aeration appears to be the most efficient method in terms of gas transfer, and may also lend itself better to emissions controls than would other aeration methods. EPA considers PTA the best of the aeration treatments, thus its designation as BAT. A utility is free to choose any method, however, BAT or other, to reduce a contaminant to the MCL as long as it performs adequately.

(2) PTA and Air Emissions

EPA received five comments expressing concern that emissions from PTA facilities were simply transferring the chemical and the risk from the water to the air. In the preamble to the proposed rule, EPA addressed this concern for two carcinogenic compounds—EDB and DBCP. By modeling the risks to populations downwind from a packed tower aeration facility, "it was apparent in the cases examined that the risk resulting from exposure to EDB or DBCP by inhalation is several orders of magnitude lower than that resulting from drinking the contaminated water, and that the amount of EDB or DBCP added to the air did not significantly increase risks from airborne contaminants." The maximum individual lifetime risks ranged from 10^{-6} to 10^{-9} for inhalation and 10^{-3} to 10^{-6} for drinking the same level. There was at least three orders of magnitude difference for any scenario examined comparing ingestion to inhalation, as

depicted in table 26 of the May 22, 1989 proposal.

However, since several States regulate emissions from PTA facilities, EPA is providing a table of costs for emission controls on PTA units by the use of vapor phase carbon. Table 20 presents the costs for different compounds based upon a matrix of combinations for ease of stripping and the adsorbability of the compound. These costs are in addition to the cost of the packed tower stripping itself.

TABLE 20.—ADDITIONAL COSTS FOR VAPOR PHASE CARBON EMISSION CONTROLS FOR PACKED TOWER AERATION FACILITY

	Additional cost over PTA treatment cents/1,000 gallons		
	Small system	Medium system	Large system
Good Strippability (40:0):[4]			
cis-1,2-Dichloroethylene [1]	270	15	13
trans-1,2-Dichloroethylene [1]	270	15	13
Ethylbenzene [2]	270	11	9
Monochlorobenzene [2]	270	11	9
Tetrachloroethylene [2]	270	11	9
Toluene [2]	270	11	9
Xylenes [2]	270	11	9
Average Strippability (120:1):[4]			
1,2-Dichloropropane [1]	350	22	18
o-Dichlorobenzene [3]	340	16	11
Styrene [3]	340	16	11
Difficult Strippability (200:1):[4]			
EDB [1]	390	29	22
DBCP [2]	380	26	19

[1] Poor vapor phase carbon adsorbability.
[2] Moderate vapor phase carbon adsorbability.
[3] Strong vapor phase carbon adsorbability.
[4] Air:water ratio.

Source: Malcolm Pirnie, Inc. Memorandum to Dave Huber, U.S. EPA, February 26, 1990.

(3) BAT Field Evaluations

EPA received 14 comments that the SDWA requires field testing, not just laboratory testing, of the applicability of a technology to specific compounds before the technology can be designated "best available" to achieve the MCL. The SDWA directs EPA to set the MCL as close to the MCLG as "feasible." The SDWA defines "feasible" as "feasible with the use of the best technology * * * which the Administrator finds, after examination for efficacy under field conditions and not solely under laboratory conditions, [is] available (taking costs into consideration)." Section 1412(b)(3)(D). EPA interprets this provision to require field trials for a technology, not for the application of that technology to each individual contaminant. Consequently, EPA has not required full-scale field validation of a technology's feasibility for treating a specific contaminant if its effectiveness has been demonstrated at bench or pilot scale for that compound. The technology, however, must reasonably be expected to perform in a similar manner under field conditions regardless of aberrations due to scale-up factors.

(4) Carbon Disposal Costs

Four commenters were concerned that the cost of disposal of spent carbon was not taken into account in the costing assumptions for the design and O&M for a facility. The cost of carbon "disposal" is essentially the cost of regenerating the spent carbon (and replacing the 12 to 15 percent lost in the process). For plants whose daily carbon use is less than 1,000 pounds per day, EPA assumes that the carbon would be regenerated off-site by the carbon supplier and that cost is included in the cost of replacement carbon. For plants whose carbon demand is more than 1,000 pounds per day, it is generally economical to regenerate on-site. The cost of the incinerator used to regenerate the carbon and its operation and maintenance costs are part of the facility capital and O&M costs already factored into total costs. The revised model that EPA now uses in developing costs (Adams and Clark, AWWA, Jan. 1989) factors into total costs the expense of carbon regeneration and replacement.

When powdered activated carbon (PAC) is used, it is usually disposed of with the alum sludge in a sanitary landfill. Commenters expressed some concern over the disposal costs should the carbon prove to be a hazardous waste. Because this rule does not consider PAC to be BAT, EPA is not addressing the issue of PAC costs, including the costs of disposal.

(5) Powdered Activated Carbon as BAT

Five commenters suggested that PAC be considered BAT since it can be used for removal of pesticide contamination in surface waters and is the same substance as GAC. EPA's position is that the use of PAC may be an appropriate choice of technology in certain instances. PAC treatment of surface water that is only intermittently contaminated by pesticides or other SOCs could be both economical, in combination with an existing filtration plant, and effective.

While PAC has proven effective in taste and odor control, its efficacy for trace SOC removal in drinking water is variable due to factors such as carbon particle size, background organics, and plant efficiency. If application of PAC will reduce the contaminant below the MCL, it may be used in lieu of another less cost effective technology, even if the latter is BAT.

(6) Empty Bed Contact Time

EPA received one comment suggesting the 7.5-minute design empty bed contact time (EBCT) for GAC plants was shorter than the times recommended by several experts, including EPA's Adams and Clark (JAWWA, Jan. 1989). EPA has used the 7.5-minute contact time because multiplying it by the ratio of design to average flows results in at least a 15-minute contact time for all but the largest three systems, where 11.9 minutes was the lowest average. A 15-minute average contact time strikes a balance between the lower carbon usage rates obtainable with longer contact times and the higher capital costs necessary to obtain the longer contact times by increasing contractor size. Long contact times also increase the preloading of natural organics which may actually increase carbon usage rates somewhat. The model, which was used to develop costs in the proposal, considered cost for EBCTs of 7.5 and 12.5 minutes. A 7.5-minute design EBCT was selected for the proposal as a reasonable time, based upon peer review.

However, based on this comment and the study by Adams and Clark (JAWWA, 1989), EPA decided to revise the contact time. The EBCT was revised to 10 minutes at design flow using the Adams and Clark model, which provide a more complete and accurate estimate of costs. The 10-minute contact time at design flow resulted in average flows above 15 minutes for all 12 system sizes, and three minutes shorter at the 90 percentile level. Designing a 12-minute contact time for a 90 percentile flow rate for each system size resulted in very short design contact time for the smaller systems.

GAC costs as presented in Table 21 of today's rule increased from those presented in Table 27 of the proposal as a result of (1) differences in the cost equations between the CWC model used in the proposal and the Adams and Clark model used in this rule; (2) the costs for carbon storage labor and water requirements for on-site carbon transport were included in the revised costs; and (3) the design EBCT in the revised costs was 10 minutes, which required a larger facility, resulting in larger capital costs, than did the 7.5-minute EBCT in the proposal. The

increases ranged from $2 to $6/household/year (a 25 to 75 percent increase) for large systems to $300 to $310/household/year (a 46 to 55 percent increase) for smaller systems. It is significant that differences between models, rather than the increase in EBCT, caused most of the cost increase. In calculations for 0.1 and 0.45 lb/1,000 gal carbon usage rates, the differences between models resulted in total production cost increases of 21 to 44 percent for large systems and 38 to 53 percent for small systems. However, changing the contact time alone from 7.5 to 10 minutes resulted in only a change of 12 percent for large systems and 5 percent for small systems.

(7) Carbon Usage Rates

Two commenters pointed out that due to the presence of background organics the carbon usage rate (CUR) obtained from distilled water isotherm data is smaller than that obtained from full-scale testing with natural water. The concern was that costs of carbon replacement and regeneration would be much higher in actual practice than those calculated in theory using the lower CUR. The mass transfer model EPA used to develop CURs was the constant pattern homogeneous surface diffusion model, which uses distilled water isotherm parameters and kinetic coefficients determined using literature correlations.

Section 4 of the T & C document lists CURs adjusted for background organics in natural waters by using an adjustment coefficient derived from a linear regression of data points. This adjustment reflects a ratio of field to model CUR as a function of model CUR. This coefficient was developed after the May 22, 1989 proposal and improves the utility of the model. This improved model is used as the basis for the costs in today's rule.

EPA is aware that the correlation between costs and CURs is not as good for the well-adsorbed compounds such as the pesticides, typically with low CURs. Additional field data are needed in this area. However, costs are very insensitive to changes in the CURs of 0.5–0.1 lb/1,000 gallons. Most of the pesticides in question have low CURs. Adams and Clark (1989) observed that "there is only a small gradual increase in cost between a two-year and a six-month reactivation frequency." Therefore, even though more data would be useful, EPA believes that overall costs for removal of the well-adsorbed compounds would not be greatly affected, if at all. Because the prediction is only as good as the uniformity of the water, the effect of the organic matrix on the carbon will change as the matrix changes in the influent water, despite accurate scale-ups at specific points in time. GAC adsorption behavior, and therefore the CUR, typically varies among different water matrices with the same contaminant and operating conditions. For the well-absorbed compounds, longer contact times and higher costs typically result from the impact on CURs due to the adsorption sites deeper in the bed being occupied by natural organics that interfere with SOC adsorption.

5. Determination of MCLs (Feasibility and Cost)

EPA proposed MCLs for 36 chemicals based upon an analysis of several factors, including:

(1) The effectiveness of BAT in reducing contaminant levels from influent concentrations to the MCLG.

(2) The feasibility (including costs) of applying BAT. EPA considered the availability of the technology and the costs of installation and operation for large systems (serving more than 100,000 people).

(3) The performance of available analytical methods as reflected in the PQL for each contaminant. In order to ensure the precision and accuracy of analytical measurement of contaminants at the MCL, the MCL is set at a level no lower than the PQL.

After taking into account the above factors, EPA then considered the risks at the MCL level for the EPA Group A and B carcinogens to determine whether they would be adequately protective of public health. EPA considers a target risk range of 10^{-4} to 10^{-6} to be safe and protective of public health when calculated by the conservative linear multistage model. The factors EPA used in its analysis are summarized in tables 22 and 23 for the Category I and Category II and III contaminants, respectively.

a. Inorganic Contaminant MCLs. The MCLs for the inorganic contaminants promulgated today are at the same level as those proposed in May 1989 (see table 1). EPA is reproposing the MCL for barium due to changes in the MCLG. The MCL for each inorganic contaminant is also at the same level as the promulgated MCLG for each contaminant. EPA has determined that each inorganic MCL has one or more BATs to reduce contaminant levels to the MCLG, and that the BAT(s) is feasible (as defined by the Act), analytical methodologies are available to ensure accurate and precise measurement for each MCL, and each MCL adequately protects public health. Consequently, the MCLs (except for barium) are promulgated as proposed.

b. Synthetic Organic Contaminant MCLs

(1) Category I Contaminants

EPA considered the same factors in determining the proposed MCLs for Category I contaminants as for Category II and III contaminants. However, the proposed MCLGs for Category I contaminants are zero, a level that by definition is not "feasible" because no analytical method is capable of determining whether a contaminant level is zero. The lowest level that can be reliably measured is the PQL. As described above, EPA calculated PQLs for the SOCs based on WS studies 20–25.

In most cases, the PQL is identical to that proposed in May 1989. In the case of toxaphene, EPA lowered the PQL based upon the WS studies. The MCL for toxaphene is changed from 0.005 to 0.003 mg/l. Results of WS studies 20–25 indicate that the PQL for pentachlorophenol should be set at 0.001 mg/l rather than the proposed 0.0001 mg/l level. Consequently, EPA is reproposing the MCL for pentachlorophenol at the revised PQL. This issue is discussed more fully elsewhere in today's **Federal Register** reproposing the pentachlorophenol MCL. Because the PQL for toxaphene represents the lowest level feasible, EPA is promulgating this MCL at a level equal to the PQL.

In the May proposal, EPA estimated the PQL for EDB as five times the MDL. Results of WS studies 22–25 confirm that EDB can reliably be detected at 0.00005 mg/l. Consequently, the MCL is promulgated as proposed.

EPA also calculated the per capita costs for large systems to remove the SOC contaminants to or below the MCL using GAC or PTA. These costs range from $10.00 to $44.00 per household per year. EPA believes these costs are reasonable and promulgates the MCLs at the levels listed in Table 22.

TABLE 21.—GAC AND PACKED COLUMN COSTS TO REMOVE SOCs

[$/household/year] [1]

Compound	Carbon usage rate [3]	GAC			PTA			Percent removal [2]
		Small [4]	Medium [4]	Large [4]	Small [4]	Medium [4]	Large [4]	
Volatile SOCs:								
cis-1,2-Dichloroethylene	0.3966	$950	$76	$19	$140	$11	$7	90
Dibromochloropropane (DBCP)	.0448	910	36	10	325	60	41	90
o-Dichlorobenzene	.1234	930	51	15	325	60	41	90
1,2-Dichloropropane	.2867	930	51	14	190	17	12	93
Ethylbenzene	.1687	930	51	14	140	10	7	93
Ethylene dibromide (EDB)	.1453	930	51	14	210	23	16	90
Monochlorobenzene	.1930	930	51	14	150	12	8	90
Styrene	.0605	910	36	10	160	13	9	90
Tetrachloroethylene	.1144	930	51	14	130	9	6	90
Toluene	.3050	950	76	19	150	12	8	96.7
trans-1,2-Dichloroethylene	.3793	950	76	19	130	9	6	90
Xylenes:								
m-Xylene	.2148	930	51	14	140	10	7	90
o-Xylene	.3619	950	76	19	140	10	7	90
p-Xylene	.3718	950	76	19	140	10	7	90
Non-Volatile SOCs:								
Alachlor	.0371	910	36	10	N/A			
Aldicarb (sulfoxide & sulfone)	.1032	930	51	14	N/A			
Atrazine	.0543	910	29	10	N/A			
Carbofuran	.0570	910	36	10	N/A			
Chlordane	.0379	910	36	10	N/A			
2,4-D	.1224	930	51	14	N/A			
Heptachlor	.0556	910	36	10	N/A			
Heptachlor epoxide	.0271	910	36	10	N/A			
Lindane	.0203	910	36	10	N/A			
Methoxychlor	.2137	910	51	14	N/A			
PCBs	.0222	910	36	10	N/A			
Pentachlorophenol	.0883	910	36	10	N/A			
Toxaphene	.0432	910	36	10	N/A			
2,4,5-TP (Silvex)	.0813	910	36	10	N/A			

[1] Costs include amortized capital and annual operation and maintenance.
[2] Percent removals from maximum influent levels to at or below the MCL.
[3] (With background TOC) Table 4–5, Technology and Cost document.
[4] Small systems serve 25–100 persons; medium systems serve 10,000 to 25,000 persons; large systems serve greater than 1,000,000. Cost in $/household/year. Production in cents/1,000 gallons is equal to dollars per household per year (i.e., 8 ct./1,000 gallons = $8.00/household per year.

TABLE 22.—MCL ANALYSIS FOR CATEGORY I SOCs

SOC contaminant	MCLG [1] (mg/l)	MCL (mg/l)	PQL (mg/l)	Annual household costs using BAT [2]		10 −4 risk level (mg/l)	Notes
				GAC	PTA		
Alachlor	0	0.002	0.002	$10.00	.....	0.04	
Chlordane	0	.002	.002	10.00	.....	.003	
Dibromochloropropane (DBCP)	0	.0002	.0002	10.00	$41.00	.003	
1,2-Dichloropropane	0	.005	.005	14.00	17.00	.05	
Ethylene dibromide (EDB)	0	.00005	.00005	14.00	16.00	0.00004	MCL is 1.25 × 10−4 risk.
Heptachlor	0	.0004	.0004	10.00	.....	0.0008	
Heptachlor epoxide	0	.0002	.0002	10.00	.....	0.0004	
Pentachlorophenol [3]	0	.001	.001	10.00	.....	0.03	
Polychlorinated biphenyls	0	.0005	.0005	10.00	.....	0.0005	
Tetrachloroethylene	0	.005	.005	14.00	9.00	0.07	
Toxaphene	0	.003	.003	10.00	.....	0.003	

[1] EPA policy is that for all Category I contaminants the MCLG IS zero.
[2] For large surface systems serving >1,000,000 people.
[3] Proposed MCLG and MCL level. EPA intends to promulgate a final MCL by July 1991.

(2) Category II and III Contaminants

For the Category II and III contaminants listed in table 23, each of the MCLs was proposed equal to its proposed MCLG. Because MCLGs for methoxychlor, styrene, and toluene changed from the levels proposed in May 1989, as discussed above, the MCLs also changed. The MCL for methoxychlor changed from 0.4 to 0.04 mg/1; styrene changed from 0.005/0.1 to 0.1; and toluene changed from 2 to 1 mg/1. Each changed MCL is based on a reassessment of the health data as discussed above.

Although PQLs for 2,4-D, methoxychlor, and 2,4 5-TP change from the levels listed in the May 1989 proposal, each is below the MCLs promulgated today and, consequently, does not impact these MCLs.

Section 1412 of the SDWA requires EPA to set MCLs as close to the MCLGs as is feasible (taking costs into consideration). EPA believes that it is feasible to set the MCLs at the MCLGs because (1) the PQL for each contaminant is at or below the level established by the MCLG; (2) BAT can remove each contaminant to a level equal to or below the MCLG; and (3) the annual household cost to install BAT in

large systems is a maximum of $19.00 per household per year and generally around or below $10.00 per household per year. EPA believes that these costs are affordable for large systems.

TABLE 23.—MCL ANALYSIS FOR CATEGORY II AND III SOCs

SOC contaminant	MCLG (mg/l)	MCL (mg/l)	PQL (mg/l)	Annual household costs using BAT [1]	
				GAC	PTA
Aldicarb [2]	0.001	0.003	0.003	$10.00	.....
Aldicarb sulfoxide [2]	.001	.003	.003	14.00	.....
Aldicarb sulfone [2]	.002	.003	.003	14.00	.....
Atrazine	.003	.003	.001	10.00	.....
Carbofuran	.04	.04	.007	10.00	.....
o-Dichlorobenzene	.6	.6	.005	14.00	$4.00
cis-1,2-Dichloroethylene	.07	.07	.005	19.00	7.00
trans-1,2-Dichloroethylene	.1	.1	.005	19.00	6.00
2,4-D	.07	.07	.001	14.00	.....
Ethylbenzene	.7	.7	.005	14.00	.....
Lindane	.0002	.0002	.0002	10.00	.....
Methoxychlor	.04	.04	.001	14.00	.....
Monochlorobenzene	.1	.1	.005	14.00	7.00
Styrene	.1	.1	.005	10.00	9.00
Toluene	1	1	.005	19.00	8.00
2,4,5-TP (Silvex)	.05	.05	.005	10.00	.....
Xylenes (total)	10	10	.005	19.00	6.00

[1] For large surface systems serving >1,000,000 people.
[2] Proposed MCLG and MCL levels. EPA intends to promulgate final levels by July 1991.

C. Treatment Technique Requirements

The principle sources of acrylamide, epichlorohydrin, and styrene in drinking water are impurities in water treatment chemicals and surfaces in contact with drinking water.

Because no standardized analytical methods are available for acrylamide and epichlorohydrin at low levels in drinking water, EPA proposed a treatment technique for acrylamide and epichlorohydrin and provided guidance for styrene.

EPA proposed to limit the allowable monomer levels in products used during water treatment, storage, and distribution. These levels are:

Acrylamide: 0.05 precent acrylamide in polyacrylamide dosed at 1 ppm.

Epichlorohydrin: 0.01 percent residual epichlorohydrin concentration dosed at 20 ppm.

Styrene: 1 ppm styrene in styrene copolymers used as direct additives and as resin. Also, MCLs were proposed at 0.005 mg/1 (as Category I) and 0.1 mg/1 (as Category II).

Under the proposed rule, a water system using a product containing acrylamide and epichlorohydrin must certify to the State that the amount of residual monomer in the polymer and the dosage rate would not cause the concentration in finished water to exceed the specified level.

Summary of Comments: EPA received 25 comments on the proposal relating to these chemicals. All but six commenters were generally supportive of the proposal. Three commenters supported the approach adopted by EPA. Among the comments received, 22 were on acrylamide, 21 on epichlorohydrin and 5 on styrene.

Most commenters expressed concern that the language in the proposal does not clarify who does the testing for monomer—the water system or the manufacturer. It was suggested that the language state that in annual certification to the States, water systems can rely on manufacturer's certification. The commenters overwhelmingly opposed the idea of water systems performing the test for residual monomer.

Today's rule is modified to make it clear that a water system does not need to test for monomers. A water system can either test or rely on manufacturer's certification or on third-party certification, whichever mechanism the State is willing to accept.

Nine commenters suggested that the issue of monomers in treatment and distribution aids should be handled either by the States through a third-party certification program or through federal labeling requirements.

Under the SDWA, EPA can establish and enforce maximum contaminant levels or treatment requirements but does not have the authority for establishing labeling requirements for proprietary products. As stated above, a water system can either test the product or rely on the manufacturer's certification or on third-party certification (e.g., National Sanitation Foundation (NSF)), whichever mechanism the State is willing to accept.

One commenter suggested establishment of MCLs for these chemicals. Since no analytical methods (EPA-approved or otherwise) are available for analysis of low levels of acrylamide and epichlorohydrin in drinking water, however, establishment and enforcement of an MCL would be impractical. Therefore, EPA has proposed a treatment-related requirement rather than an MCL. Furthermore, EPA feels that the proposed treatment-related approach is a valuable preventive measure for drinking water contamination.

One commenter felt that there is no factual or procedural basis for regulating styrene. This commenter offered two supporting reasons: (1) Two manufacturers looked for styrene in ion exchange resins but did not find any (sensitivity of the method: 1 ppb); and (2) styrene containing polymers and co-polymers are subject to the third-party certification program which should be able to ensure safety.

According to the information available to EPA, styrene is present at low levels in styrene copolymers intended for use in water treatment as a secondary direct additive. This, combined with the fact that styrene is in wide industrial use and has been found in 22 hazardous waste sites listed on the National Priority List, indicates that it can be anticipated to occur in drinking water. National Organics Reconnaissance Survey (NORS) detected styrene in the water of three of eight cities monitored.

One commenter believed epichlorohydrin should not be allowed in flocculating agents for drinking water as it is a powerful contact mutagen. With the proposed treatment requirement, nominal epichlorohydrin concentration in drinking water would be 0.0022 mg/1. The upper bound lifetime cancer risk at this concentration is calculated to be 6×10^{-7}. This is an extremely low risk considering that the use of epichlorohydrin polymers and co-polymers is widespread and highly desirable because these materials are effective in removing other drinking water contaminants.

Consequently, with the modification as noted above, the treatment technique requirements for acrylamide and epichlorohydrin are promulgated as proposed. The guidance for styrene is finalized as proposed.

D. Compliance Monitoring Requirements

1. Introduction

The proposed compliance monitoring requirements (54 FR 22062) included specific monitoring requirements for inorganic contaminants (barium, chromium, cadmium, mercury, and selenium); nitrate/nitrite; asbestos; volatile organic contaminants (VOCs); and pesticides/PCBs. EPA did not propose compliance monitoring requirements for acrylamide and epichlorohydrin because adequate analytical methods did not exist for these contaminants at low levels in drinking water.

EPA proposed that all community and non-transient water systems comply with the monitoring requirements for all contaminants (except acrylamide and epichlorohydrin) because of long-term chronic exposure of these system's consumers. Transient non-community water systems were required to comply with the requirements for nitrate/nitrite only because of the acute nature of exposure of these chemicals. The compliance monitoring requirements that EPA is promulgating today are the minimum necessary to determine whether a public water supply delivers drinking water that meets the MCLs. Though MCLGs and MCLs are being reproposed for aldicarb, aldicarb sulfoxide, aldicarb sulfone, barium, and pentachlorophenol, EPA anticipates these will be promulgated by July 1991. EPA believes that whatever level is promulgated for aldicarb, aldicarb sulfoxide, aldicarb sulfone, barium, and pentachlorophenol would not affect the monitoring requirements. Consequently, the requirements promulgated today also apply to aldicarb, aldicarb sulfoxide, aldicarb sulfone, barium, and pentachlorophenol.

The monitoring requirements that are promulgated today generally follow the three-tier approach first outlined on October 5, 1983 (48 FR 45502). Nitrate is the only contaminant promulgated today that falls in Tier I. The remaining contaminants are regulated as Tier II contaminants, a status that allows States the discretion to increase or decrease monitoring based upon established criteria and site-specific conditions. Because of the low occurrence of nitrite at levels above the MCL, EPA has placed nitrite in Tier II in this rule.

In developing the compliance monitoring requirements for these contaminants, EPA considered (1) the likely source of drinking water contamination, (2) differences between ground and surface water systems, (3) how to collect samples that are representative of consumer exposure, (4) sample collection and analysis costs, (5) the use of historical monitoring data to identify vulnerable systems and subsequently specify monitoring requirements for vulnerable systems, (6) the limited occurrence of some contaminants, and (7) the need for States to tailor monitoring requirements to system- and area-specific conditions.

Although base monitoring requirements for surface and groundwater systems are the same for all contaminants (except inorganic and nitrate/nitrite), groundwater systems will qualify more frequently for reduced monitoring and return more quickly to the base monitoring requirements because (1) the sources and mechanisms of contamination for ground and surface water systems are different, (2) the overall quality of surface waters tends to change more rapidly with time than does the quality of ground waters, and (3) seasonal variations tend to affect surface waters more than ground waters. Spatial variations are more important in ground waters than in surface waters since groundwater contamination can be a localized problem confined to one or several wells within a system. Therefore, monitoring frequency is an important factor to determine baseline conditions for surface water systems, while sampling location within the system generally is more important for groundwater systems. Today's monitoring requirements generally require surface water systems to monitor at an increased frequency for longer periods than groundwater systems.

EPA monitoring requirements are designed to ensure that compliance with the MCLs is met and to efficiently utilize State and utility resources. EPA's goal in today's rule is to ensure these monitoring requirements are consistent with monitoring requirements promulgated previously by EPA and with known occurrence trends. The monitoring requirements promulgated today focus monitoring in individual public water systems on the contaminants that are likely to occur, an approach that includes:

- Allowing States to reduce monitoring frequencies based upon system vulnerability assessments for the SOCs (VOCs and pesticides/PCBs) listed in § 141.61(a) and (c) and for asbestos.
- Allowing States to target monitoring to those systems that are vulnerable to a particular contaminant.
- Allowing the use of recent monitoring data in lieu of new data if the system has conducted a monitoring program generally consistent with today's requirements and using reliable analytical methods.
- Encouraging the States to use historical monitoring data meeting specified quality requirements and other available records to make decisions regarding a system's vulnerability.
- Requiring all systems to conduct repeat monitoring unless they demonstrate through an assessment or other data that they are not vulnerable.
- Designating sampling locations and frequencies that permit simultaneous monitoring for all regulated source-related contaminants, whenever possible.
- Elsewhere today in the **Federal Register** EPA is proposing changes to the monitoring frequencies that were promulgated July 8, 1987 for eight VOCs. This change, when final, will require all VOC sample collection for the 10 VOCs in this rule and the eight VOCs in the July 8, 1987 rule to occur at the same time.

2. Effective Date

In the May 22, 1989 **Federal Register** Notice, EPA proposed to promulgate the monitoring requirements under section 1445 within 30 days of promulgation because section 1445 imposes no limitations on when monitoring requirements would be effective. After 18 months, the compliance monitoring requirements would be effective under section 1412. The MCLs and other requirements would continue to be promulgated under section 1412 and effective in 18 months.

Most commenters did not support making the requirements effective within 30 days citing the confusion

between "new" and "old" regulatory requirements. Other commenters cited the lack of laboratory capacity for new analytical methods. These commenters stated that laboratories frequently do not invest in capital equipment until the rules are promulgated; consequently, the 18-month lead time before analysis must be conducted is necessary. Most States cited their inability to adopt regulations in less than 18 months and pointed out that if they did not adopt regulations by the effective date, EPA would have primacy for the "new" rule while the States would retain primacy for previous rules. The question of who retains primacy could potentially confuse water systems. One commenter indicated that promulgating monitoring requirements is beyond the intent of section 1445. Numerous commenters cited the impact on State resources to review vulnerability assessments, enforcement, reduced monitoring decisions, etc., as a rationale for allowing States sufficient time (i.e., 18 months before the monitoring requirements are effective).

After reviewing the public comments, EPA agrees that there is the potential for confusion in moving forward the effective date for monitoring. In addition, the Agency agrees that implementation problems may occur in beginning monitoring early. Consequently, in today's action EPA will promulgate the compliance monitoring requirements for regulated substances under section 1412. All monitoring requirements will be effective 18 months after promulgation. For contaminants that have existing regulatory requirements (inorganics and nitrate), the water systems must continue to comply with the existing requirements until they are superseded by the new requirements.

3. Standard Monitoring Framework

EPA received extensive comments stating that the proposed monitoring requirements are complex and would lead to confusion and misunderstanding among the public, water utilities, and State personnel. Commenters also cited the lack of coordination among various regulations. Many commenters suggested that EPA simplify, coordinate, and synchronize this regulations with previous regulations. In response to these comments, EPA has developed a standard monitoring framework to address the issues of complexity, coordination of monitoring requirements among various regulations, and synchronization of monitoring schedules. This framework will serve as a guide for future source-related monitoring requirements adopted by the Agency. The framework was developed based on the proposed requirements, the options and requests for comments EPA discussed in the proposal, and the comments received by EPA.

EPA believes that the framework will in large measure address the comments that recommended that reducing complexity, synchronizing monitoring schedules, standardizing regulatory requirements, and giving regulatory flexibility to States and systems to manage monitoring programs. EPA believes these changes have the potential to reduce costs by combining monitoring requirements (including vulnerability assessments) for several regulations on the same schedule and promote greater voluntary compliance by simplified and standardized monitoring requirements.

This framework will first be used in today's regulation. EPA intends to apply this framework to future requirements for source-related contamination (i.e., VOCs, inorganics, pesticides, and radionuclides).

Use of the framework envisions a cooperative effort between EPA and States. The monitoring requirements promulgated today are the minimum federal requirements necessary to ascertain systems' compliance with the MCLs. In some cases, States will increase the monitoring frequencies above the federal minimums to address site-specific conditions.

For all contaminants contained in today's rule, minimum (or base) monitoring requirements may be increased or decreased by States based upon prior analytical results and/or the results of a vulnerability assessment. The monitoring requirements outlined today follow to a large extent the requirements proposed on May 22, 1989. In the May proposal EPA stated as a goal to efficiently utilize State and utility resources and be consistent with monitoring requirements previously promulgated by EPA. EPA believes that today's requirements meet that goal.

a. Three-, Six-, and Nine-Year Cycles. In order to standardize monitoring cycles in this regulation (and in future regulations), EPA is establishing nine-year compliance cycles. Each nine-year compliance cycle consists of 3 three-year compliance periods. All compliance cycles and periods run on a calendar year basis (i.e., January 1 to December 31). This regulation establishes the first nine-year compliance cycle beginning January 1, 1993 and ending December 31, 2001; the second cycle beginning January 1, 2002 and ending December 31, 2010; etc. (see § 141.2—Definitions). Within the first nine-year compliance cycle (1993 to 2001), the first compliance period begins January 1, 1993 and ends December 31, 1995; the second begins January 1, 1996 and ends December 31, 1998; and the third begins January 1, 1999 and ends December 31, 2001. EPA in this regulation is also requiring that initial monitoring (defined as the first full three-year compliance period beginning 18 months after the promulgation date of a rule) must begin in the first full compliance period after the effective date. For today's regulation, the effective date is July 30, 1992. Since the next full three-year compliance period begins January 1, 1993, the initial monitoring period for today's regulation occurs in the compliance period 1993–1995.

b. Base Monitoring Requirements. In order to standardize the monitoring requirements, EPA has established base (or minimum) monitoring frequencies for all systems at each sampling point. These base monitoring frequencies apply to all community and non-transient water systems. In cases of detection or non-compliance, EPA has specified increased monitoring frequencies from the base. These increases are explained below. Systems will also be able to decrease monitoring frequencies from the base requirements by obtaining waivers from the State where a State permits such waivers. Decreases from base monitoring requirements through waivers are discussed in general under the section on decreased monitoring and in the discussion of monitoring frequency for each class of contaminants.

In most cases, these increased or decreased frequencies in most cases are similar to the frequencies proposed in May 1989. Specific changes are discussed below under each contaminant group.

Inorganic contaminant base requirements are the same as proposed—one sample at each sampling point every three years for groundwater systems and annually for surface water systems. Modification of base requirements for VOCs is discussed below in the section on VOC monitoring frequency.

For asbestos and pesticides, EPA proposed that monitoring was not required unless the State determined that the system was vulnerable based upon a State-conducted assessment. States were required to complete all assessments within 18 months of promulgation. If the State determined that a system was vulnerable to pesticides/PCBs, systems were required to monitor on a three- or five-year schedule depending upon system size

and whether contaminants were detected. For systems vulnerable to asbestos contamination, repeat monitoring frequencies for asbestos of every three years generally were required based upon ground/surface water distinctions and the analytical result of the initial sample.

The May 1989 notice also included an alternative monitoring scheme which would require all CWSs and non-transient, non-community water systems (NTWSs) to monitor for asbestos and pesticides/PCBs at specified (base) frequencies. Most comments EPA received opposed a round of initial monitoring by all systems. These commenters cited the lack of occurrence of pesticides/PCBs in drinking water and the expense of monitoring, particularly for asbestos. Several commenters questioned the availability of sufficient laboratory capacity.

According to the proposed rule, if States did not conduct a vulnerability assessment for any one of the 80,000 water systems within 18 months and determine system vulnerability, then the system was deemed to be not vulnerable and would not be required to monitor. EPA's evaluation of the comments revealed that States, in particular, believed that their ability to conduct all vulnerability assessments within 18 months would be limited because of resource constraints on funds and staff. Most States that commented cited this resource shortfall as a major impediment.

After reviewing and evaluating the comments, EPA is adopting the alternative monitoring approach discussed in the proposal for asbestos, pesticides/PCBs, and unregulated contaminants. EPA is making this change for several reasons. First, EPA believes requiring all systems to monitor for pesticides/PCBs and asbestos is more protective of health because systems will be required to monitor if a vulnerability assessment is not conducted. Second, after reviewing the comments, EPA believes that the proposed rule was deficient in not considering the inability of States to conduct vulnerability assessments within 18 months. This change in today's rule creates an enforceable requirement. Finally, EPA believes the impact of requiring a system to monitor for a particular contaminant or not, is the same under the proposed scheme and today's requirements—provided a vulnerability assessment is conducted and a waiver is granted.

EPA has combined the above change with the provision that systems may conduct the vulnerability assessment and, at the State's discretion, obtain a waiver (see waiver discussion below). EPA has shifted the responsibility to conduct vulnerability assessments from States to systems because the vulnerability assessment is a monitoring activity that historically has been a system responsibility. Each individual system can decide whether to conduct a vulnerability assessment (rather than monitor) based on cost, previous monitoring history, and coordination with other vulnerability type assessments (i.e., sanitary surveys, Wellhead Protection Assessments). In addition, because of States' indicated resource shortfalls, vulnerability assessments would not occur in many States. Though EPA permits systems to conduct vulnerability assessments, approval of waivers based on those vulnerability assessments rests with the States. EPA believes the changes outlined above address, in part, the State resource issue and will result in an enforceable drinking water standard.

In addition, EPA has simplified the waiver procedures to more fully apply to situations involving pesticides (see the discussion of waivers below). The changes outlined above will allow all systems to apply for a waiver from the monitoring requirements where States provide for such waivers. Based on limited occurrence data, EPA anticipates that most systems should be granted a waiver for most pesticides, asbestos, and unregulated contaminants. In cases where a system is not granted a waiver by the State, it will be required to monitor at the specified base frequency. Consequently, for the reasons specified above, all systems will be required to monitor for all pesticides/PCBs, asbestos, and unregulated contaminants with an opportunity for reduced monitoring based upon an assessment.

c. Eight VOCs Regulated July 8, 1987. In order to standardize the monitoring requirements for all VOCs, the repeat monitoring frequencies promulgated for the eight VOCs (July 8, 1987 rule) are being proposed elsewhere in today's **Federal Register** so that the requirements in today's rule will be identical for all 18 VOCs. EPA intends to promulgate a final rule for the eight VOCs by July, 1991. EPA is proposing this change so a system that has completed unregulated VOC monitoring can monitor for all 18 VOCs using today's increased or decreased repeat monitoring criteria beginning in January 1993.

d. Increased Monitoring. Although it is not possible to standardize requirements for all contaminants, EPA in this final rule seeks to standardize the criteria that require a system to increase monitoring from the base requirements and that allow the system to return to the base requirement. In general, today's rule requires monitoring frequencies to increase when a contaminant is measured at a certain concentration. These concentrations are specified in federal rules, and vary by class or toxicity of the contaminant. In today's rule, these "trigger" concentrations are set variously at the MCL, 50 percent of the MCL, or the detection limit of the analytical method used to measure the contaminant. Specifically, the trigger concentrations are (1) 0.5 mg/l for nitrite, 5 mg/l for nitrate, and 5 mg/l for nitrate/nitrite combined (each of which is 50 percent of the MCL); (2) the MCLs for asbestos and five other inorganic contaminants; and (3) the analytical detection limits for VOCs, PCBs, and pesticides. The detection limit for each VOC is 0.0005 mg/l. The PCBs and pesticides detection limits are given in Table 24. The rationale for varying the detection limits for increased monitoring is addressed in each section for the contaminant monitoring frequencies below.

After exceeding the trigger concentration for each contaminant, systems must immediately increase monitoring to quarterly (beginning in the subsequent quarter after detection) to establish a baseline of analytical results. Groundwater systems are required to take a minimumm of two samples and surface water systems must take four samples before the State may permit less frequent monitoring. EPA is requiring surface water systems to take a minimum of four samples (rather than two for groundwater systems) because surface water is generally more variable than ground water and, consequently, additional sampling is required to determine that the system is "reliably and consistently" below the MCL. Today's rule allows a State, after a baseline is established, to reduce the quarterly monitoring frequency if the system is "reliably and consistently" below the MCL. "Reliably and consistently" means that the State has enough confidence that future sampling results will be sufficiently below the MCL to justify reducing the quarterly monitoring frequency. Systems with widely varying analytical results or analytical results that are just below the MCL would not meet this criterion. In all cases, the system remains on a quarterly sampling frequency until the State determines that the system is "reliably and consistently" below the MCL. EPA is adopting this approach based on comments received on the proposed rule that suggested the EPA allow States to modify the monitoring schedules in

those systems which are less than the MCL. EPA believes this approach will result in consistency among the regulatory requirements for the different classes of contaminants.

In the proposal, EPA required a minimum of 12 quarters before the State could reduce the monitoring frequency. Several commenters suggested that a minimum of 12 quarters after monitoring had been increased by a trigger level was too long. These commenters suggested that EPA should require sufficient monitoring to establish a baseline. As noted, EPA believes that the minimum number of samples necessary to establish a baseline is two for groundwater systems and four for surface water systems. EPA is adopting this approach because the Agency agrees with commenters who pointed out that systems whose analytical results remain below the MCL do not pose a health threat.

In the May 1989 proposal, a system with any sample exceeding 50 percent of the MCL for asbestos and pesticides/PCBs would be required to take a minimum of 12 quarterly samples. If all 12 were <50 percent of the MCL, the State could reduce monitoring. Most commenters objected to the 50 percent trigger, stating it was "arbitrary" and not related to the MCL. Although EPA continues to believe that it is appropriate to require additional monitoring in cases of detection, consistent with the May proposal, the Agency has modified today's rule from that proposal to give States additional flexibility to reduce monitoring for those systems whose analytical results are "reliably and consistently less than the MCL." Systems meeting this criterion are eligible for reduced monitoring from the specified increased monitoring frequency. EPA is retaining the 50 percent trigger for increased monitoring for nitrate and nitrite because detection for nitrate/nitrite is significantly below the MCL (e.g., as low as 0.004 mg/l) and most systems would be required to increase monitoring with little benefit of increased health protection.

e. *Decreased Monitoring.* Systems may decrease monitoring from the base requirement by receiveing a waiver from the State. State waivers may either eliminate the requirement for that compliance period (i.e., pesticides/PCBs and asbestos) or reduce the frequency (i.e., inorganics and VOCs). Waivers are either based on a review of established criteria ("a wavier by rule") or by a vulnerability assessment. In either a waiver by "rule" or "vulnerability assessment," the criteria for waiver are specified. Each is discussed in more detail below.

All waivers must be granted on a contaminant-by-contaminant basis. However, systems and States will find it economical to apply for and grant the waivers for those contaminants that may be analyzed using the same analytical methods. For example, since measurement of pesticides or PCBs with each analytical method would cost $800 for four quarterly samples, systems should consider doing a vulnerability assessment and applying for a waiver for all contaminants covered by a specific analytical method. This packaging of assessments and State decision making will yield significant cost savings to both systems and State primacy programs.

Waivers for the pesticides/PCBs and VOCs may be granted after the system conducts a vulnerability assessment and the State determines the system is not vulnerable based on that assessment. A waiver must be renewed during each compliance period. Waivers for asbestos, based on a vulnerability assessment, are also for three years but only need to be renewed in the first compliance period of each nine-year compliance cycle. Waivers for inorganic contaminants (except nitrate/nitrite) may be granted for up to nine years. If a system does not receive a waiver by the beginning of the year in which it is scheduled to monitor, it must complete the base monitoring requirement.

One change that EPA is adopting in § 142.92 is that EPA may rescind waivers issued by a State where the Agency determines that the State has issued a significant number of inappropriate waivers. EPA does not intend to utilize this provision except in special situations where the State has not followed its own established protocols and procedures that have been EPA–approved during the adoption of rules and procedures for this rule (see also the discussion on State primacy requirements). If a waiver is rescinded, the system must monitor in accordance with the base requirements in today's rule.

f. Vulnerability Assessments. The concept of vulnerability assessments generated considerable comment. Most commenters supported the concept of using vulnerability assessments to reduce monitoring but had questions about how to conduct the assessments. Comments ranged from requesting EPA to provide specific guidance on how to conduct an assessment to agreeing that the criteria EPA specified in the proposal were correct. EPA has decided that a detailed protocol for what is usually a very site-specific analysis is not appropriate. Instead, EPA desires that each State develop its own specific vulnerability assessment procedures that use the general guidelines established by EPA. If a State chooses not to develop these procedures, systems cannot receive waivers and must monitor at the base requirements.

In today's rule EPA made several changes to the vulnerability assessment criteria for VOCs and pesticides/PCBs. In the proposal, EPA listed six criteria systems must consider in conducting vulnerability assessments for pesticides/PCBs: Previous analytical results; proximity of the system to sources of contamination; environmental persistence; protection of the water source; nitrate levels; and use of PCBs in equipment. For VOCs, the criteria were previous monitoring results, number of people served, proximity to a large system, proximity to commercial or industrial use, storage or disposal of VOCs, and protection of the water source.

EPA is making several changes to the vulnerability assessment criteria and the process to simplify the procedure. First, a two-step waiver procedure is available to all systems. Step #1 determines whether the contaminant was used, manufactured, stored, transported, or disposed of in the area. In the case of some contaminants an assessment of the contaminant's use in the treatment or distribution of water may also be required. "Area" is defined as the watershed area for a surface water system or the zone of influence for a groundwater system and includes effects in the distribution system. If the State determines that the contaminant was not used, manufactured, stored, transported, or disposed of in the area, then the system may obtain a "use" waiver. If the State cannot make this determination, a system may not receive a "use" waiver but may receive a "susceptibility" waiver, discussed below. Systems receiving a "use" waiver are not required to continue on to Step #2 to determine susceptibility. EPA anticipates that obtaining a "use" waiver will apply mostly to pesticides/PCBs where use can be determined more easily than for VOCs. Obtaining a "use" waiver for the VOCs will be limited because VOCs are ubiquitous in the United States. If a "use" waiver cannot be given, a system may conduct an assessment to determine susceptibility, Step #2.

Susceptibility considers prior occurrence and /or vulnerability assessment results, environmental persistence and transport of the

chemical, the extent of source protection, and Wellhead Protection Program reports. Systems with no known "susceptibility" to contamination based upon an assessment of the above criteria may be granted a waiver by the State. If "susceptibility" cannot be determined, a system is not eligible for a waiver. A system must receive a waiver by the beginning of the calendar quarter in which it is scheduled to begin monitoring. For example, if a system is scheduled to begin monitoring in the calendar quarter beginning January 1, 1993, it must receive a waiver by December 31, 1992 for reduced monitoring to apply.

Several commenters requested that EPA permit "area wide" or geographical vulnerability assessment determinations. Though EPA at this time is skeptical that "area wide" determinations can be conducted with sufficient specificity to predict contamination over a large area, EPA will allow this option when States submit their procedures for conducting vulnerability assessments determine "use" waivers.

EPA's goal is to combine vulnerability assessment activities in other drinking water programs with today's requirements to create efficiencies. EPA also desires to use the results of other regulatory program requirements, such as Wellhead Protection Assessments, to determine a system's vulnerability to VOC and pesticide/PCBs contamination. Systems and States may schedule today's asssessments with sanitary surveys required under the Total Coliform Rule (54 FR 27546), watershed assessments, and other water quality inspections so that all regulatory, operational, and managerial objectives are met at the same time.

EPA intends to issue a guidance that will give flexibility to States in conducting vulnerability assessments and allow them and local public water systems to meet these and similar requirements under the Wellhead Protection Program, satisfying the requirements of both programs with one assessment. Additionally, this combined assessment approach may be used to meet similar requirements under the evolving Underground Injection Control (UIC)—Shallow Injection Well Program.

g. Relation to the Wellhead Protection (WHP) Program. The Agency planned to integrate particular elements of the Public Water System Wellhead Protection, and UIC programs related to contaminant source assessments around public water supply wells prior to receiving comments to that effect. Comments received on the proposed Phase II Rule reinforce and support this interest. Specifically, the Agency plans to prepare a guidance document on groundwater contaminant source assessment that merges the vulnerability assessment of the PWSS program for pesticides and VOCs with the wellhead delineation and contaminant source which can be used to establish priorities of UIC wells. This integration is expected to assist State and local drinking water program managers responsible for goundwater supplies to more efficiently and effectively administer the portion of their programs addressing source protection and will be the basis for determining monitoring frequency. The guidance will give States flexibility in revising vulnerability/contaminant source assessments, a concern of several commenters.

Notably, Section 1428 of the SDWA requires each State to submit a WHP program for EPA review and approval. The implementation of WHP programs by States may be phased in to allow resources to be used most effectively. This matter can be addressed in the State WHP submittal.

When States submit WHP programs for approval in the future, program documents should address how the State will phase requirements for Wellhead Protection Areas (WHPAs) with other PWSS regulations. In some States, to be most effective, this program integration may need to be accomplished through a coordinating agreement or other mechanism among several State agencies. The guidance would allow States to tailor their program provisions to conditions in the States, within broad guidelines. Information from the other related groundwater programs (such as Superfund, RCRA) will be useful in this assessment, as pointed out by one commenter. This information also includes identification of sources not regulated under federal programs, but perhaps regulated by States, such as septic tanks. Therefore, States may be able to meet similar requirements of these three programs through following a general set of guidance procedures.

One commenter was concerned about the difficulty of delineating wellhead protection areas. A State may choose from several methods to delineate WHPAs. As long as the method is determined to be protective, a State may choose a simplified method described in "Guidelines for the Delineation of Wellhead Protection Areas" (June 1987, available from the Office of Ground-Water Protection, U.S. EPA, EPA 440/6–87–010). If a State desires more information for use in the decision-making process, it may choose more sophisticated methods identified in the "Guidelines." EPA had made available to States and local agencies computer software and training for use of the "Guidelines" to make the process of WHPA delineation less difficult.

Additionally, one commenter was concerned about inclusion of recharge areas in WHPAs. WHPAs may incorporate recharge areas as long as they are within the jurisdiction of the agencies identified in the EPA-approved programs. However, WHPAs must meet the requirements of this rule if they are to be used to make monitoring waiver determinations. The State cannot accept a WHP program in lieu of a vulnerability assessment if the recharge area is not covered to meet all the requirements of this rule.

Once a WHPA is delineated, a State may desire to apply a range of assessment measures to define hydrogeologic vulnerability within the delineated area. A State may decide a method of assigning priorities to the public water systems based on vulnerability, size, or other criteria acceptable to EPA. While one commenter indicated that DRASTIC (one method of characterizing a hydrogeologic setting) was useful in that State for describing hydrogeologic factors affecting the physical-geologic vulnerability of an area, it does not take the place of delineating the zone of contribution to wells. Furthermore, the use and disposal of chemicals and other wastes are also factors affecting an area's vulnerability to contamination.

EPA's Office of Ground-Water Protection is developing a Comparative Risk Ranking and Screening System to help States and local water supply managers prioritize potential contaminant sources in carrying out their programs for resource protection, a concern of one commenter. This system could also be used in setting monitoring priorities but was not designed specifically for that application. As another commenter indicated, the States may use the regulatory mechanisms available to them (RCRA permits, NPDES permits) to determine the point sources of regulated, and potentially contaminating, substances in or near areas needing protection, such as wellhead and recharge areas.

One commenter believed that drought planning was more important than contingency planning for alternate sources of drinking water due to contamination by chemicals. Drought planning is very important in many locations and needs to be conducted. However, section 1428 specifically calls for contingency planning in the event of

contamination of public water wells in wellhead protection areas. Contingency planning could be integrated with drought planning, and in many locations the same sources of water may be used in either situation as alternate sources of drinking water.

One commenter was concerned about funding for both the Wellhead Protection Program and the Sole Source Aquifer Demonstration Program in Critical Aquifer Protection Areas. In fiscal year 1990, EPA is supporting State's activities in developing WHP programs. To date, 29 States have submitted documents for approval. Of these, four State wellhead protection program have been approved at this time. It is expected that more programs will be approved by the end of the fiscal year.

With respect to the Sole Source Aquifer Demonstration Program for Critical Aquifer Protection Areas, no funding has been appropriated for this program for the period FY 1987–1990, and as a result, no such areas have been identified.

h. Initial and Repeat Base Monitoring. Initial monitoring is defined as the first full three-year compliance period that occurs after the regulation is effective. As discussed earlier, all systems must monitor at the base monitoring frequency unless a waiver is obtained. The initial monitoring period for today's regulation begins January 1, 1993 and ends December 31, 1995. After the system fulfills the initial (or first) base monitoring requirement, it must monitor at the repeat base frequency. Generally the repeat base frequency is the same as the initial monitoring frequency but in several instances the base monitoring frequency is reduced based on previous analytical results (e.g., pesticides/PCBs).

In the May 1989 proposal, for the VOCs and pesticides/PCBs, community systems serving more than 10,000 persons were required to complete all monitoring within 18 months of promulgation, systems serving 3,300 to 10,000 persons were required to complete monitoring within 30 months, and systems serving fewer than 3,300 persons were required to complete monitoring within 54 months. Non-transient water systems were required to complete all monitoring within 48 months. In today's rule EPA eliminates the phase-in of monitoring based on system size.

In today's rule, EPA requires all systems to complete initial monitoring (either by sampling or obtaining a waiver) by December 31, 1995, which is the end of the first compliance period. It is possible that this change may delay monitoring for some large systems, but otherwise all monitoring in this rule will be completed approximately five years after promulgation rather than the four and one-half years in the May 22, 1989 proposal. Most systems will monitor sooner because today's rule does not delay completion of initial monitoring for the smallest systems (those less than 3,300) for four and one-half years. Systems serving less than 3,300 persons constitute approximately 80 percent of the regulated systems. Instead, under today's rule, EPA is requiring the States to establish a sampling schedule that will result in approximately one-third of the systems monitoring during each of the three years of a compliance period. States will have the flexibility to designate which systems must monitor each year based upon criteria such as system size, vulnerability, geographic location, and laboratory access. This change will result in earlier completion of initial monitoring for most systems. EPA believes that allowing States the discretion to schedule monitoring for each system during the compliance monitoring period will enable States to manage their drinking water programs more efficiently.

In cases where the State has not adopted regulations by January 1, 1993, and in States and on Indian lands where EPA retains primary enforcement responsibility, systems will be required to complete monitoring within 12 months after notification by EPA. In cases where States have not yet adopted regulations and EPA is the primacy agent for this regulation, EPA intends to use the priority scheme envisioned by the State to minimize the disruption to the regulated community when the State does adopt the requirements and schedules systems to monitor.

Once a system is scheduled for the first, second, or third year of a compliance period, the repeat schedule is set for future compliance periods. For example, if a system is scheduled by the State to complete the initial base requirement by the end of the first year, all subsequent repeat base monitoring for that system must be completed by the end of the first year in the appropriate three-year compliance period. This is necessary to prevent systems from monitoring in the first year of the first compliance period and the third year of the repeat base period.

4. Monitoring Frequencies

a. Inorganics (1) Initial and Repeat Base Requirements. In the May 1989 proposal, surface water systems were required to monitor annually and groundwater systems every three years. Most commenters supported that frequency. The monitoring frequencies in today's rule are identical to these proposed frequencies. Systems will be required to take the initial base sample for each inorganic during the initial compliance period of 1993 to 1995 (subject to State scheduling). Surface water systems on annual sampling schedule are required to start in 1993.

(2) Increased Monitoring. EPA has added a requirement that systems that exceed the MCL (either in a single sample or with the average of the original and repeat sample) and which, consequently, are out of compliance must immediately (i.e., the next calendar quarter after the sample was taken) begin monitoring quarterly. Systems must continue to monitor quarterly until the primacy agent determines that the system is "reliably and consistently" below the MCL. Groundwater systems must take a minimum of two samples and surface water systems must take a minimum of four samples after the last analytical result above the MCL, before the State can reduce monitoring frequencies back to the base requirement (i.e., annually for surface systems and every three years for groundwater systems).

EPA is promulgating this change for several reasons. First, it is consistent with the monitoring requirements contained elsewhere in this rule that more frequent monitoring occur in instances of non-compliance. Second, EPA believes that systems that are out of compliance should monitor more frequently to determine the extent of the problem. If EPA had not made this change, groundwater systems that exceed the MCL could continue to monitor every three years. EPA believes the previous frequencies for ground and surface systems were not protective of public health in those cases where systems exceeded the MCL.

(3) Decreased Monitoring. In the May 1989 Notice, EPA proposed that systems be allowed to reduce the monitoring frequency to no less than 10 years provided a system had previously taken three samples that were all less than 50 percent of the MCL. States should base their decision on prior analytical results, variation in analytical results, and system changes such as pumping rates or stream flows/characteristics.

EPA receives numerous comments on the 50 percent trigger for reduced monitoring with most commenters opposing the 50 percent trigger, calling it arbitrary and with no health significance. Other commenters suggested that the 50 percent trigger would result in a pseudo MCL. After reviewing the comments, EPA has decided to eliminate the 50 percent

trigger and change the requirement to three previous compliance samples (including one that was taken after January 1, 1990) that are "reliably and consistently" less than the MCL to give the States additional flexibility to decide which systems are eligible for reduced monitoring. Systems meeting this criterion are eligible for reduced monitoring (e.g., a waiver).

Most commenters supported the 10-year time frame as a reasonable monitoring frequency for reduced monitoring. Because EPA is adopting a 3/6/9 compliance cycle, EPA is changing the maximum reduced monitoring frequency from the proposed 10 years to 9 years to gain consistency in its regulations. EPA believes this change will have a minimal impact on systems. EPA is requiring one of the three previous samples to be taken since January 1, 1990. The other two samples could be taken at any time after June 24, 1977 when monitoring for inorganics started. Because the reduction in monitoring to every nine years begins in the 1993–2001 compliance cycle, EPA believes that one sample must be recent (i.e., taken after January 1, 1990) to preclude unduly long time frames occurring between samples. Systems receiving a waiver may monitor at any time during the nine-year compliance cycle, as designated by the State.

EPA believes that systems should use the same criteria outlined in the preamble of the proposal (as modified above) to reduce monitoring. Several commenters suggest that systems that meet the criteria automatically qualify for a waiver without State approval. EPA has rejected this approach because it believes that State approval is crucial in certain circumstances such as where the system is adjacent to a toxic waste site or other anthropogenic sources of contamination. EPA anticipates that in most cases, States will grant waivers expeditiously.

b. Asbestos—(1) Initial and Repeat Base Requirements. In the proposal, systems were not required to monitor for asbestos unless the State determined that the system was vulnerable to contamination within 18 months of promulgation. If vulnerable, systems were required to take one sample within five years of promulgation. EPA also proposed an alternative approach requiring all systems to monitor unless the system conducted a vulnerability assessment and the State determined the system was not vulnerable to asbestos contamination.

Most commenters supported the proposed approach, although several commenters suggested that the alternative approach was preferable. EPA, in today's rule, is promulgating the alternative approach, which requires all systems to monitor for asbestos during the 1993 to 1995 compliance period. This approach, as discussed previously, results in an enforceable requirement, but the number of systems judged to be vulnerable should be the same as with the proposal, provided vulnerability assessments are conducted.

The base repeat frequency is once in the first three-year monitoring period of each nine-year cycle, which means that after the initial base monitoring requirement is completed, systems would not be required to monitor again until the 2002 to 2005 compliance period. EPA has not eliminated the repeat base requirement because of concern that there may be occurrence in a limited number of systems. Systems that are not vulnerable would continue to be eligible to receive waivers. EPA is requiring infrequent base monitoring requirements because of the low probability of occurrence, the limited analytic capabilities to measure asbestos, and the high analytical costs, and because of regulatory activities such as the corrosion control activities and asbestos/cement pipe ban, which EPA believes will reduce the future occurrence of this contaminant.

(2) Increased Monitoring. In the May 1989 proposal, ground and surface water systems exceeding 50 percent of the MCL in the initial sample were required to monitor every three years and annually, respectively. Several commenters suggested that the source of the water was not a valid criterion for determining repeat monitoring frequencies. EPA agrees and has modified the rule as described below to use the analytical result as the "trigger" for any repeat monitoring.

Most comments on the asbestos monitoring frequencies were in response to the 50 percent trigger for repeat monitoring. For the reasons discussed earlier, EPA has decided to eliminate the 50 percent trigger and use the MCL to determine repeat monitoring frequencies. EPA is prescribing the "baseline" approach described above for inorganics. Systems that exceed the MCL must initiate quarterly monitoring in the next calendar quarter. When the State determines that the system is "reliably and consistently" less than the MCL (a minimum of two samples for ground water and four for surface water), then the system can reduce its monitoring frequency to that set by the State but not less than the base requirement.

(3) Decreased Monitoring. Today's rule allows States to grant waivers based on a vulnerability assessment by systems that considers contamination in the raw water supply and/or from the corrosion of asbestos/cement pipe (including pipe tapping and repair) in the distribution system. Systems not receiving a waiver must monitor at the base frequency. Because monitoring is not required in the second and third three-year periods, no waiver is needed in those monitoring periods.

Most commenters agreed with EPA's criteria for reducing monitoring. Consequently, the requirements are promulgated as proposed.

c. Nitrate (1) *Initial and Repeat Base Requirements.*—(A) Community and Non-Transient Water Systems. The proposed rule required ground and surface water systems to monitor at annual and quarterly intervals, respectively. Commenters were mixed in both supporting and opposing the increased frequency compared to the current requirements. Many commenters said that although nitrate occurrence was widespread, nitrate levels over time were steady. After reviewing the comments and reviewing occurrence data, EPA is convinced that nitrate occurrence is widespread and often has seasonal fluctuations resulting from factors such as when fertilizer is applied and rainfall events. Consequently, EPA believes nitrate monitoring frequencies should be increased, as proposed, to protect against the acute effect of methemoglobinemia. Therefore, today's rule retains the requirements as proposed. Under today's rule, monitoring for surface water systems will begin in the first quarter of 1993; CWS and NTWS groundwater systems and transient non-community systems (TWSs) must take one sample annually beginning in 1993.

The proposed rule required systems to monitor at the time of highest vulnerability, which most commenters suggested they were unable to determine. Since EPA agrees that determinning the time of highest vulnerability is difficult, the Agency has decided to change the time when monitoring must be conducted. When a system changes its monitoring frequency from quarterly to annually, the annual sample must be taken in the calendar quarter(s) that previously yielded the highest previous analytical result. For example, if a system sampled in the first, second, third, and fourth quarters in the previous year and the analytical results were 1 mg/l, 3 mg/l, 4 mg/l, and 2 mg/l, respectively, the system is required to take its annual sample in the third quarter in the next year. Today's rule considers the third quarter the time of "highest vulnerability" for the system.

(B) Transient Non-Community Water Systems. The proposed rule required ground and surface water systems to monitor at three- and one-year intervals. In the proposal, EPA requested comment on the frequency of monitoring requirements for transient system. Most commenters supported the proposed frequencies; however, several commenters suggested that additional monitoring was appropriate since nitrate is regulated as an acute toxin.

EPA now believes that a monitoring frequency of every three years is not protective of health for nitrate, an acute toxin which is ubiquitous. Based on a review of the comments, EPA has decided to require all TWS systems (including groundwater systems) to monitor annually. Because analysis of nitrate is relatively inexpensive and a sample can be taken at the time the system takes a coliform sample, EPA believes the impact of this change on TWS will be minimal yet offer greater health protection. Consequently, EPA is promulgating annual sampling for groundwater systems.

(2) *Increased Monitoring (CWS, NTWS, TWS).* The proposed rule required groundwater CWSs and NTWSs to monitor at quarterly frequencies when the concentration is greater than 50 percent of the MCL for any one sample. The sampling frequency remains quarterly until four consecutive samples are less than 50 percent of the MCL. As discussed earlier, most commenters suggested deleting the 50 percent trigger for increased or decreased monitoring. Even though elsewhere in this rule the 50 percent trigger is eliminated, EPA has decided to retain the 50 percent trigger for increased nitrate monitoring in the case of nitrate and also to extend this requirement to TWSs. For this contaminant, EPA believes the 50 percent trigger constitutes an early warning signal for an acute contaminant. Although EPA considered other options as triggers for increased monitoring, such as the level of detection or the MCL, EPA believes these are not appropriate both because nitrate can be detected at levels far below the MCL and because the MCL represents the level where above this level acute effects may occur in some individual. Consequently, EPA believes that 5 mg/l remains the best trigger for increased nitrate monitoring. EPA believes that it is appropriate to extend the increased monitoring frequencies to include transient water systems because of the acute hazard posed by this contaminant.

EPA has decided to modify the requirement for decreased monitoring. In today's rule, a system that exceeds 50 percent of the MCL in any sample must remain on a quarterly monitoring schedule until a minimum of four consecutive samples are judged by the State to be "reliably and consistently" less than the MCL. EPA believes that this change allows States the flexibility to reduce the monitoring for those systems that, while they have detectable nitrates, are very unlikely to exceed the MCL until the next monitoring cycle.

(3) *Decreased Monitoring (Surface CWS and NTWS).* The proposed base monitoring requirement for surface water systems was quarterly. A reduction to annual sampling was permitted when four consecutive samples were less than 50 percent of the MCL. For the reasons explained above, EPA has decided to change the proposal somewhat to allow surface water systems to decrease to an annual frequency provided four consecutive samples are "reliably and consistently" less than the MCL.

d. Nitrite (1) *Initial and Repeat Base Requirements.* In the proposal, systems were required to monitor for nitrite at the same frequencies as for nitrate. After reviewing comments and reexamining limited occurrence information (i.e., State of Wisconsin, Public Water Supply Data, 1970), which indicates occurrence above 50 percent of the MCL was very infrequent, EPA has decided to require all systems to monitor once for nitrite in the first compliance period (1993 to 1995). If the analytical result is less than 50 percent of the MCL (0.5 mg/l), additional monitoring is at State discretion. However, future measurements under the nitrate requirement will mandate combined measurement of nitrate plus nitrite, both measured as nitrogen using a single analytical technique.

If the analytical result in the initial sample is equal to or greater than 50 percent of the MCL (i.e., $\geq$0.5 mg/l), systems must then monitor quarterly (with a minimum of four samples) until the State determines that the system is "reliably and consistently" less than the MCL. After that determination, systems must monitor at an annual frequency.

e. Volatile Organic Contaminants (VOCs)—(1) *Initial and Repeat Base Requirements.* In the VOC rule promulgated in July 1987, EPA required all systems to take four consecutive quarterly samples. Groundwater systems that conducted a vulnerability assessment and were judged not vulnerable, however, could stop monitoring after the first sample provided no VOCs were detected in that initial sample. Repeat frequencies for all systems vary by system size, detection, and vulnerability status.

EPA has made several changes to the proposed VOC requirements. EPA is also today proposing to amend the July 1987 monitoring requirements for VOCs to streamlining the requirements and to make all VOC requirements consistent. In the May 1989 notice and in the VOC regulations promulgated in July 1987, distinctions in base requirements were made between ground and surface water systems, less than and more than 500 service connections, and vulnerable and non-vulnerable systems. EPA, in streamling the requirements in today's rule, will require all systems to take four quarterly samples. Systems that do not detect VOCs in the original round of quarterly sampling are required to monitor annually beginning in the next calendar year after quarterly sampling is completed. The State may allow groundwater systems which conducted three years of sampling and did not detect VOCs to take a single sample every three years. For example, systems which complete quarterly monitoring in calendar year 1993 are required to being annual monitoring in 1994. EPA is making this change for several reasons. First, the occurrence of VOCs in approximately 20 percent of systems indicates that shortening the time frame between when each sample is collected for vulnerable groundwater systems from every three to five years to an annual sample is appropriate. Second, the cost of analysis for VOCs has decreased since the original proposal. Most VOC analyses now cost approximately $150 per sample versus the $200 per sample EPA estimated in the 1987 VOC rule. Trihalomethanes (THMs) may also be measured in these samples, thereby creating efficiencies with current and future THM monitoring requirements. Consequently, the monitoring burden on most systems is less than previously thought. Third, most commenters preferred annual monitoring, stating that quarterly monitoring presented managerial and logistical problems. Where groundwater systems have a demonstrated history of non-detects for VOCs, EPA believes a reduction of monitoring to one sample during each compliance period, if allowed by the State, is protective of health. For the above reasons, EPA is promulgating the above monitoring requirement changes.

In the May 1989 notice, EPA requested comment on whether vulnerable systems may take only one sample if no VOCs are detected in the initial year of

monitoring. EPA's intent was to require quarterly sampling in vulnerable systems, but most commenters opposed a change to more frequent monitoring. Based on the comments received, EPA is requiring vulnerable systems to take an annual sample beginning in 1993 (instead of four quarterly samples) if no VOCS were detected in the initial (or subsequent) monitoring.

In today's rule, EPA is requiring systems to conduct an initial round of quarterly monitoring. In the 1987 VOC rule, however, EPA required systems to conduct unregulated contaminant monitoring for all VOCs contained in today's rule, and stated that those results could be grandfathered in for future regulatory requirements. Consequently, EPA will allow systems that have conducted monitoring under § 141.40 to use those results to satisfy the initial monitoring requirement for those VOCs included in today's rule even if a single sample, rather than four quarterly samples, was taken. Only new systems, existing systems with new sampling points, or systems that did not conduct monitoring under § 141.40 prior to December 31, 1992, are required to conduct initial base monitoring for the VOCs in today's rule during the 1993–1995 compliance period.

(2) *Increased Monitoring.* In the proposal, systems detecting VOCS (defined as any analytical result greater than 0.0005 mg/l) were required to monitor quarterly. In today's rule, EPA is requiring systems that detect VOCs to monitor quarterly until the State determines that the system is "reliably and consistently" below the MCL. However, groundwater systems must take a minimum of two samples and surface water systems must take a minimum of four samples before the State may reduce the monitoring to the base requirement (i.e., annual sampling).

Systems remain on an annual sampling frequency even if VOCs are detected in subsequent samples, unless an MCL is exceeded (or if the State otherwise specifies). In this case, the system returns to quarterly sampling in the next calendar quarter until the State determines that the new contamination has decreased below the MCL and is expected to remain reliably and consistently below the MCL. This determination shall again require a minimum of four quarterly samples for surface water systems and two quarterly samples for groundwater systems.

EPA is making this change because some systems may detect VOCs at a level slightly above the detection limit. EPA believes that where the State can determine that contamination is "reliably and consistently" less than the MCL, those systems should be able to return to the base monitoring requirement (i.e., annually). Giving States the discretion to determine whether systems meet this criterion may allow States to give monitoring relief to some systems.

(3) Decreased Monitoring. States may grant waivers to systems that are not vulnerable and did not detect VOCs while conducting base monitoring. Vulnerability must be determined using the criteria specified above in the discussion of vulnerability assessments. EPA anticipates that most systems will not be able to qualify for a "use" waiver because of the ubiquity of VOCs. However, systems conducting an assessment that considers prior occurrence and vulnerability assessments (including those of surrounding systems), environmental persistence and transport, source protection, Wellhead Protection Assessments, and proximity to sources of contamination may apply to the State for a "susceptibility" waiver. If the waiver is granted, systems are required to take one sample and update the current vulnerability assessment during two consecutive compliance periods (i.e., six years). The vulnerability assessment update must be completed by the beginning of the second compliance period. EPA is increasing the time frame from five to six years to bring the five-year monitoring frequency in the proposal in line with the 3/6/9/-year frequencies specified in the standard monitoring framework.

EPA proposed that States have the discretion to set subsequent frequencies in systems that did not detect VOCs in the initial round of four quarterly samples and that are designated as not vulnerable based on assessment. Most commenters supported this provision, and it is promulgated as proposed. The repeat monitoring frequency for groundwater systems meeting this criteria shall be not less than one sample every six years as discussed above. For surface water systems meeting this criteria, the repeat frequency is at State discretion.

f. Pesticides/PCBs—(1) Initial and Repeat Base Requirements. In the May 1989 proposal, systems were not required to monitor unless the State, on the basis of a vulnerability assessment, determined the system vulnerable. If vulnerable, systems were required to take four consecutive quarterly samples. EPA requested comment on an alternative approach that would require all systems to monitor for all contaminants. As discussed above, today's requirements specify that all systems must take four quarterly samples every three years. However, all systems are eligible for waivers from the quarterly monitoring requirement, as discussed in the section on decreased monitoring below.

Most comments on the proposal revolved around two issues—the requirement that systems monitor quarterly and the requirement that all systems monitor at the time of highest vulnerability. Many commenters stated that quarterly monitoring was not necessary to detect changes in contamination. Many commenters recommended annual monitoring for pesticides. After reviewing the information and comments submitted, EPA believes that quarterly monitoring remains the best scheme to determine contamination. Occurrence information available to EPA indicates that seasonal fluctuations from runoff and applications of pesticides may occur; thus, quarterly monitoring is better than annual monitoring to determine pesticide contamination. In some cases, it may be appropriate to monitor at greater frequencies than those specified by today's rule to better determine exposure. States and systems have the option to monitor at greater frequencies than the federal minimums.

Most commenters opposed the requirement to monitor at the time of highest vulnerability, stating that highest vulnerability cannot be predicted or determined. Several commenters stated that the requirement to monitor at the time of highest vulnerability was unenforceable. EPA agrees and eliminates this requirement from today's rule. However, States are advised to examine sampling practices of systems to assure that periods of likely contamination are not avoided. This is especially true for surface water systems monitoring for pesticides after rainfall and/or application of pesticides.

In the May 1989 notice, EPA proposed that systems conduct repeat monitoring every three or five years, depending on system size and ground/surface distinctions. In today's rule, the repeat monitoring frequency for all systems is four consecutive quarterly samples each compliance period. However, EPA has made several adjustments for systems that do not detect contamination in the initial compliance period. After the initial monitoring round is completed, systems that serve $\geq$3,300 persons may reduce the sampling frequency to two samples in one year during each compliance period. Systems serving $<$3,300 persons may reduce the sampling frequency to one sample. EPA has increased the frequency small

systems must monitor in this rule from every five years to every three years, because EPA believes that this change will offer greater health protection. EPA believes that every six years is too long an interval to determine changes in consumer exposure. In addition, because EPA has coupled this change with revised procedures for granting "use" waivers, the impact of this change will be minimal.

EPA has made the granting of "use" waivers for pesticides easier in this rule and will permit States to grant "area wide" or "Statewide" waivers based upon pesticide use information. EPA anticipates in adopting this scheme, along with the other changes outlined in today's rule, that many systems will be able to obtain a "use" waiver. For those systems not able to obtain a waiver (i.e., vulnerable systems), EPA believes it is appropriate to monitor at three-year intervals to determine contamination.

(2) Increased Monitoring. In the May 1989 notice, systems with less than 500 service connections that detect contamination were required to monitor annually. Systems with more than 500 service connections that detect pesticides are required to monitor quarterly. EPA defined detection as greater than 50 percent of the MCL. Most comments revolved around the 50 percent trigger. As discussed above, EPA is redefining detection for pesticides to mean using the method detection limit (see table 24). EPA believes it is appropriate to use the method detection limit as the trigger for reduced monitoring because detection implies that a pathway to contamination exists. Consequently, additional monitoring is required to determine the extent and variability of pesticide contamination. In today's rule, all systems that detect pesticides/PCBs must monitor quarterly until a reliable baseline has been established.

TABLE 24.—METHOD DETECTION LIMITS—PESTICIDES/PCBS

Contaminant	Detection limit
Alachlor	0.0002 mg/l
Aldicarb	0.0005 mg/l
Aldicarb sulfoxide	0.0005 mg/l
Aldicarb sulfone	0.0008 mg/l
Atrazine	0.0001 mg/l
Carbofuran	0.0009 mg/l
Chlordane	0.002 mg/l
Dibromochloropropane (DBCP)	0.00002 mg/l
2,4-D	0.0001 mg/l
Ethylbenzene	
Ethylene dibromide (EDB)	0.00001 mg/l
Heptachlor	0.00004 mg/l
Heptachlor epoxide	0.00002 mg/l
Lindane	0.0002 mg/l
Methoxychlor	0.0001 mg/l

TABLE 24.—METHOD DETECTION LIMITS—PESTICIDES/PCBS—Continued

Contaminant	Detection limit
Polychlorinated biphenyls (PCBs) (as decachlorobiphenyl).	0.0001 mg/l
Pentachlorophenol	0.00001 mg/l
Toxaphene	0.001 mg/l
2,4,5-TP (Silvex)	0.0002 mg/l

As described previously, upon detection, all systems must immediately begin quarterly monitoring. The State may reduce the system to annual monitoring after determining it is "reliably and consistently" below the MCL. A reduction to annual monitoring may occur after a minimum of two samples for groundwater and four samples for surface water systems. After three years of annual monitoring which remains "reliably and consistently" below the MCL, systems can return to the base monitoring requirement (i.e., four quarterly samples every three years).

(3) Decreased Monitoring. Systems that obtain a waiver from the monitoring requirements are not required to monitor. All systems are eligible for waivers in the first three-year compliance period of 1993 to 1995. As discussed above, EPA has simplified the vulnerability assessment procedures by allowing the system to assess whether the contaminant has been used, transported, mixed, or stored in the watershed or zone of influence. Where previous pesticide/PCB use in the area can be ruled out, systems may apply to the State for a use waiver. EPA's intent in promulgating this change is to make it easier for systems to obtain waivers in those situations where the chemical has not been used. States may be able to determine that the entire State or specific geographic areas of the State have not used the contaminant and consequently granted "area wide" waivers. Systems that cannot determine use may still qualify for a waiver by evaluating susceptibility according to the criteria discussed in the VOC section above. Waivers must be renewed every three years.

EPA requested comments on whether systems that did not detect canceled pesticides in the initial monitoring round should be presumed to be non-vulnerable and therefore not required to monitor. After reviewing the comments and information on illegal pesticide use, EPA continues to believe that no occurrence improves the likelihood that the State will grant a waiver from continued monitoring of a canceled pesticide. Due to possible persistence in the environment, however, EPA does not agree with commenters who believe that waivers should be granted automatically.

5. Other Issues

a. Compliance Determinations. Several commenters suggested that, for a compliance determination, a single sample or four quarterly samples are not representative of water delivered to consumers. Several commenters suggested that EPA adopt an averaging period of longer than one year for compounds posing chronic health hazards. EPA continues to believe that any excursion above an MCL presents a risk to health and should be addressed immediately. However, in a practical sense, most systems would not immediately install treatment until establishing a baseline based on additional monitoring to determine the extent of the problem. Several years will elapse after a violation before treatment is installed. Consequently, the concern of the commenter that a single sample may result in treatment is unfounded. EPA wishes to point out that water systems can always submit a sampling plan (subject to State approval) that includes more monitoring than the minimum established by EPA, if that will result in a better representative sample.

Several commenters opposed the proposed requirement that a system is immediately out of compliance and must give public notice if the initial or the total of subsequent samples is more than four times the MCL. The commenters were concerned that non-compliance may be based on a single sample. EPA points out that any quarterly sample that exceeds the MCL by four times would result in an annual average that exceeds the MCL. EPA continues to believe that this approach gives early warning to consumers that a health problem may exist. EPA has clarified how the annual average is calculated by specifying that any analyses below the detection limit shall be calculated as zero.

Several commenters opposed the requirement that if a single sampling point is out of compliance, then the entire system is out of compliance. As previously stated, EPA has adopted this policy because EPA determines system compliance, not sampling point compliance.

EPA wishes to point out and clarify that once a system is waived from specific measurement of nitrite, as discussed above, compliance will be determined through a measurement of combined nitrate and nitrate (measured

as N). The MCL for this combined measurement remains at 10 mg/l as N.

b. Confirmation Samples. EPA proposed that if an analytical result greater than 10 mg/l for nitrate and 1 mg/l for nitrate indicates that the system may exceed the MCL, then that system must take a confirmation sample within 24 hours of notification of the analytical result. Results from both samples must be reported to the State within two weeks of the date the initial sample was taken. Most commenters opposed the requirement to take a confirmation sample within 24 hours of notification, stating that it was impractical to require a system to monitor that quickly. EPA agrees with the commenters and has modified today's rule to allow systems in which the first sample exceeds the MCL to notify the public within 24 hours of receipt of the analytical results through posting, mail notification, or radio/TV that the system may be in violation. If the system decides to take this option, then it must take a confirmation sample within two weeks of the original notification.

c. Compositing. In the May 1989 proposal EPA allowed systems, at the discretion of the State, to composite up to five samples. Compositing must be done in the laboratory. Most commenters supported compositing as a methodology to cut costs. In this final rule, EPA is limiting compositing among different systems to only those systems serving fewer than 3,300 people. Systems serving greater than 3,300 persons will be allowed to composite but only within their own system. EPA also requested comments on whether State discretion on compositing is necessary or whether systems can composite automatically without State approval. Several States opposed this change; consequently, the final rule is unchanged from the proposal. EPA believes that compositing is to be used only when cost savings are important and systems alone should not make that determination.

d. Asbestos. Some commenters were confused by the wording used to specify sampling points in a distribution system for measuring asbestos when a system or part of a system is judged vulnerable. EPA wishes to clarify that collecting a sample at a consumer tap is not necessary. It is sufficient to collect at a convenient place in those parts of the distribution system that have been deemed vulnerable to asbestos contamination.

6. Unregulated Contaminant Monitoring

EPA proposed requirements to monitor for other "unregulated" contaminants. "Unregulated" contaminants are those contaminants for which EPA establishes a monitoring requirement but which do not have an associated MCLG, MCL, or treatment technique (see table 25). EPA may regulate these contaminants in the future.

TABLE 25.—UNREGULATED INORGANIC AND ORGANIC CONTAMINANTS

	EPA analytical method
Organic contaminants	
Aldrin	505, 508, 525
Benzo(a)pyrene	525, 550, 550.1
Butachlor	507, 525
Carbaryl	531.1
Dalapon	515.1
Di-2(ethylhexyl)adipate	506, 525
Di-2(ethylhexyl)phthalates.	506, 525
Dicamba	515.1
Dieldrin	505, 508, 525
Dinoseb	515.1
Diquat	549
Endothall	548
Glyphosate	547
Hexachlorobenzene	505, 508, 525
Hexachlorocyclopentadiene.	505, 525
3-Hydroxycarbofuran	531.1
Methomyl	531.1
Metolachlor	507, 525
Metribuzin	507, 508, 525
Oxamyl (vydate)	531.1
Picloram	515.1
Propachlor	507, 525
Simazine	505, 507, 525
2,3,7,8-TCDD (Dioxin)	513
Inorganic contaminants	
Antimony	Graphite Furnace Atomic Absorption; Inductively Coupled Plasma.
Beryllium	Graphite Furnace Atomic Absorption; Inductively Coupled Mass Spectrometry Plasma; Spectrophotometric.
Nickel	Atomic Absorption; Inductively Coupled Plasma; Graphite Furnace Atomic Absorption.
Sulfate	Colorimetric.
Thallium	Graphite Furnace Atomic Absorption; Inductively Coupled Mass Spectrometry Plasma.
Cyanide	Spectrophotometric.

EPA proposed monitoring requirements for approximately 110 "unregulated" organic chemicals and six inorganic chemicals. These "unregulated" contaminants were divided into two priority groups. The monitoring requirements for contaminants in the priority #1 group only apply to those systems vulnerable to the contaminant. EPA proposed that States may require additional monitoring for those contaminants in the priority #2 list based upon local concerns and priorities.

For priority #1 contaminants, EPA proposed that States must conduct a vulnerability assessment within 18 months of promulgation for each contaminant. The vulnerability assessment would determine the specific contaminants for which community and non-transient systems must monitor. EPA also proposed an alternative scheme that would require all systems to monitor unless a vulnerability assessment determined that the system was not vulnerable.

Most commenters supported the concept of vulnerability assessments to determine which systems monitor. EPA, in today's rule, is making several changes to the proposal based on the comments. First, EPA is adopting the alternative monitoring scheme that requires all systems to monitor for the organics unless a vulnerability assessment determines the system is not vulnerable. Second, all systems must complete the monitoring by the end of the first monitoring period (i.e., December 31, 1995) rather than four years after publication of the rule in the **Federal Register**, as discussed previously. Third, EPA is dropping the priority #2 list of contaminants for which States may use their discretion in monitoring. Systems, however, are encouraged to monitor for all contaminants contained in a specific analytical methodology. Fourth, EPA is adding three contaminants, which were proposed in the list of 24 contaminants on July 25, 1990 (55 FR 30370). Fifth, EPA is eliminating 2,4,5-TP (Silvex) from the list, as it is a regulated contaminant in today's rule.

Most commenters expressed concern about the resource requirements for conducting vulnerability assessments for the unregulated contaminants. EPA believes the incremental resources required to conduct vulnerability assessments for unregulated contaminants are minimal because all systems will be required to monitor and/or conduct a vulnerability assessment for the regulated contaminants.

E. Variances and Exemptions

1. Variances

Under section 1415(a)(1)(A) of the SDWA, EPA or a State that has primacy may grant variances from MCLs to those public water systems that cannot comply with the MCLs because of characteristics of their water sources. At the time a variance is granted, the State must prescribe a compliance schedule and may require the system to implement additional control measures.

The SDWA requires that variances may only be granted to those systems that have installed BAT (as identified by EPA). However, in limited situations a system may receive a variance if it demonstrates that the BAT would only achieve a *de minimus* reduction in contamination (see § 142.62(d)). Before EPA or a State issues a variance, it must find that the variance will not result in an unreasonable risk to health.

Under section 1413(a)(4) of the Act, States with primacy that choose to issue variances must do so under conditions and in a manner that is no less stringent than EPA allows under section 1415. Before a State may issue a variance, it must find that the system is unable to (1) join another water system, or (2) develop another source of water and thus comply fully with all applicable drinking water regulations.

The Act permits EPA to vary the BAT established under section 1415 from that established under section 1412 based on a number of findings such as system size, physical conditions related to engineering feasibility, and the cost of compliance. Paragraph 142.62 of this rule lists the BAT that EPA has specified under section 1415 of the Act for the purposes of issuing variances. This list mirrors the proposed list except that electrodialysis is considered BAT for barium, nitrate, and selenium as discussed in "Selection of Best Available Technology" above.

EPA received several comments on its proposed list of section 1415 BAT. The commenters agreed with EPA that coagulation/filtration and lime softening should be excluded as BAT for those systems serving ≤500 service connections. In the proposal, EPA requested comment on whether reverse osmosis, activated alumina, and ion exchange should be considered BAT for small systems because of the relatively high costs of these technologies. EPA also stated that it was continuing to evaluate what costs are feasible for public water systems and that it was currently examining alternative affordability criteria. EPA also requested comments on whether PTA should be BAT for DBCP and EDB because of high air-to-water ratios resulting in increased costs.

In the proposal, EPA based its cost estimates on designs reflecting best engineering practice. Some of the assumptions underlying these cost estimates may be unrealistic, considering the nature of small water systems and their ability to procure, finance, or operate facilities. In other cases, the assumptions did not reflect EPA's best understanding of design and average flows in water systems, the cost of waste treatment, or the costs of engineering more likely to be used by small water systems. A reexamination of these assumptions has led EPA to conclude that the costs of treatment to a water system and its customers may lie within a very wide range depending on site-specific conditions and requirements.

EPA has produced a draft report entitled "Small System Technology Cost Revisions" (U.S. EPA, Office of Drinking Water, May 1990), which describes the cost of treatment trains that are more likely to be used in small water systems. The costs in that report are based on engineering assumptions different from those used to cost very small system technologies at the time of the proposal. Differences between engineering assumptions and those used in the proposal include, for example, purchase of prebuilt sheds rather than full construction of a shed.

Cost estimates in the "Small System Technology Cost Revisions" draft report of technologies with contaminant removal capability equivalent to those discussed in the proposal are significantly lower. For example, the cost of removing chromium using two-bed ion exchange treatment in a water system serving 25–100 people was listed in the proposal at $3.40/1,000 gallons. As a result of updating flow and waste disposal assumptions, the cost is now estimated at $10.18/1,000 gallons. This is equivalent to about $1,000 per year per household served by the water system. In the draft report, the cost of using ion exchange treatment (as described in the May 1990 draft report) is only $0.91/1,000 gallons, or about $90 per year per household in this size water system, assuming no need for off-site waste disposal. If off-site waste disposal is necessary, costs per household might grow to about $200–$300/yr, still significantly less than the $1,000/yr associated with more expensive engineering assumptions.

EPA recongizes that its May report is not only a draft, but also only a preliminary investigation into the actual costs likely to be incurred by very small water systems. The report, however, confirms substantial anecdotal evidence that EPA's previous small systems costs may be overestimated in some circumstances. As a result of this reevaluation of costing assumptions, EPA concludes that low-cost treatment trains using the section 1415 technologies could be affordable. Therefore, EPA finds that all technologies as listed in tables 26 and 27 are section 1415 BAT.

2. Point-of-Use Devices, Bottled Water and Point-of-Entry Devices

Under section 1415(a) of the SDWA, when the State grants a variance or exemption, it must prescribe an implementation schedule and any additional control measures that the system must take. States may require the use of point-of-use (POU) devices, bottled water, and other mitigating devices as "additional" control measures if an "unreasonable risk to health exists." One commenter stated that EPA should also include point-of-entry (POE) devices as an additional option. EPA agrees and has amended §§ 142.57 and 142.62 in today's rule to allow POE devices as an interim control measure while a variance or exemption is in effect. Public water systems may also use POE devices for full compliance with the MCLs if they meet certain criteria and procedures specified in 40 CFR § 141.100.

3. Exemptions

Under section 1416(a), a State or EPA may grant an exemption extending deadlines for compliance with a treatment technique or MCL if it finds that (1) due to compelling factors (which may inlcude economic factors), the PWS is unable to comply with the requirement; (2) the exemption will not result in an unreascnable risk to human health; and (3) the system was in operation on the effective date of the NPDWR, or, for a system not in operation on that date, no reasonable alternative source of drinking water is available to the new system.

In determining whether to grant an exemption, EPA expects the State to determine whether the facility could be consolidated with another system or whether an alternative source could be developed. Another compelling factor is the affordability of the required treatments. It is possible that very small systems may not be able to consolidate or find a low-cost treatment. EPA anticipates that States may wish to consider granting an exemption when the requisite treatment is not affordable.

EPA believes that, as a rule of thumb, a total annual household water bill becomes unaffordable when it is greater than 2 percent of the median household income, or about $650/household/year, if calculated based on median national income. EPA realizes that affordability cannot be characterized by a single threshold, and believes that in cases where local median income is very low, a total annual household water bill as small as $450 may be unaffordable. EPA

believes that any total annual bills below that amount are affordable.

EPA considered a wide variety of information when formulating this unaffordability rule of thumb. Today, the average annual household water bill is about $250. To supplement centrally treated and piped water with bottled water costs about $400 more per year, a cost many people throughout the nation are willing to pay on an increasingly frequent basis. This mirrors the market costs of various POU and POE devices intended to provide safe drinking water and which now constitute an active household products market. In addition, EPA's rule of thumb is similar to that used by the Department of Agriculture's Farmers' Home Administration (FmHA) guidance on the use of grants in place of loans, based on hardship. Finally, the 2 percent of median income, $650/yr, value is about equal to the highest existing annual water bills, although abnormally high rates (greater than $1,000/yr) have been documented in a handful of communities. EPA believes its rule of thumb reflects both what many people consider affordable for high quality water and established federal policy with regard to enonomic hardship.

When considering the appropriateness of an exemption based on affordability, the States should ensure that a full faith effort has been made to consider low-cost solutions similar to those examined in the May 1990 draft EPA report.

Several commenters also indicated that affordability considerations should include all treatments that might need to be applied by a water system, not merely those associated with this rule. EPA agrees with these comments, and expects States will review all the treatment requirements of water systems to add as many treatment techniques as are affordable. Where the total treatment need is not affordable, those treatments should be required that result in the greatest risk reduction, while remaining affordable under the criteria given above.

Under section 1416(b)(2)(B) of the Act, an exemption may be extended or renewed (in the cases of systems that serve less than 500 service connections and that need financial assistance for the necessary improvements) for one or more two-year periods. EPA believes that information on low-cost technologies will receive a considerable amount of attention over the next several years and States giving exemptions based on affordability should be prepared to required small water systems to regularly reexamine the available technologies to ensure that any new low-cost opportunities are applied, where appropriate.

TABLE 26.—SECTION 1415 BAT FOR INORGANIC COMPOUNDS

Chemical	BATs
Asbestos	2, 3, 8
Barium	5, 6, 7, 9
Cadmium	2, 5, 6, 7
Chromium	2, 5, 6 [3], 7
Mercury	2 [1], 4, 6 [1], 7 [1]
Nitrate	5, 7, 9
Nitrite	5, 7
Selenium	1, 2 [3], 6, 7, 9

[1] BAT only if influent HG concentrations are <10 µg/1.
[2] BAT for Chromium III only.
[3] BAT for Selenium IV only.

Key to BATs in Table 26

1=Activated Alumina.
2=Coagulation/Filtration (not BAT for systems with <500 service connections).
3=Direct and Diatomite Filtration.
4=Granular Activated Carbon.
5=Ion Exchange.
6=Lime Softening (not BAT for systems with <500 service connections).
7=Reverse Osmosis.
8=Corrosion Control.
9=Electrodialysis.

TABLE 27.—SECTION 1415 BAT FOR ORGANIC COMPOUNDS

Chemical name	Packed tower aeration	Granular activated carbon
Benzene	x	x
Carbon tetrachloride	x	x
1,2-Dichloroethane	x	x
Trichloroethylene	x	x
para-Dichlorobenzene	x	x
1,2-Dichloroethylene	x	x
1,1,1-Trichloroethane	x	x
Vinyl chloride	x	
cis-1,2-Dichloroethylene	x	x
1,2-Dichloropropane	x	x
Ethylbenzene	x	x
Monochlorobenzene	x	x
ortho-Dichlorobenzene	x	x
Styrene	x	x
Tetrachloroethylene	x	x
Toluene	x	x
trans-1,2-Dichloroethylene	x	x
Xylenes (total)	x	x
Alachlor		x
Aldicarb		x
Aldicarb sulfoxide		x
Aldicarb sulfone		x
Atrazine		x
Carbofuran		x
Chlordane		x
Dibromochloropropane	x	x
2,4-D		x
Ethylene dibromide	x	x
Heptachlor		x
Heptachlor epoxide		x
Lindane		x
Methoxychlor		x
PCBs		x
Pentachlorophenol		x
Toxaphene		x
2,4,5-TP		x

F. Laboratory Certification

Commenters inquired whether EPA would be utilizing method certification for laboratory approval or certifying laboratories for each individual contaminant. EPA recognized this need and adopted this former system in the VOC final rule (52 FR (130) 25720, July 8, 1987). Under the performance requirements for the July 1987 VOC regulation, laboratories had to pass certification requirements for six out of seven VOCs (excluding vinyl chloride). EPA would like to extend this philosophy to all its regulated analytes to reduce the burden on the regulated community, since it recognizes that even the best laboratories cannot achieve 100 percent success every time they participate in performance studies. At this time, however, only the VOCs have a large enough group of regulated analytes to make this method useful.

Today's rule will require laboratories to pass 80 percent of the regulated analytes that are present in a performance sample, including vinyl chloride, at the current acceptance limits set for VOCs. The other inorganic and organic analytes will continue to be approved at the limits set for them on an individual basis. When this rule is effective, 18 VOCs will be analyzed; a performance sample may include all 18 or only a portion (e.g., 10 VOCs). A laboratory will have to pass 15 out of 18 or 8 out of 9 to stay certified.

G. Public Notice Requirements

1. General Comments

Three commenters stated that the notification language is too vague and alarming. Two commenters thought the notices may unduly alarm the public about minor violations or, conversely, the public may become immune to the notices when there are serious health concerns. One of these commenters stated that the public notification language should be guidance, and States should be allowed to determine what language is appropriate. Another commenter thought the notifications should be left to State health officials. One commenter recommended that EPA specifically state that water systems can

append the notification to include information on the nature, severity and context of potential health effects, as well as other useful information. One commenter stated that more detail and explanation is needed to define "little or no risk," which is the generic conclusion of each notification. This commenter suggested that more of the risk assessment assumptions be included (e.g., lifetime consumption of 2 liters per day with a *x*-fold safety factor). One commenter similarly felt some indication that a margin of safety is used to establish MCLs is needed.

EPA Response. EPA believes the public notification language is sufficiently detailed for the public and should not be unnecessarily alarming. Some language has been modified based on the chemical-specific comments that were received.

EPA believes that mandatory language is the most appropriate (if not the only) way to inform the affected public of the health implications of violating a particular EPA standard. It is appropriate for EPA to specify the language because the Agency is familiar with the specific health implications of violating each standard which were documented in the course of developing the NPDWRs. EPA is aware that the health implications of these violations of vary in their magnitude. Public water systems are free to make that point in their public notices as long as the mandatory language is included as well. For instance, the system may want to note that its violation is only slightly above the standard. In fact, the public water system or State may supplement the notice as long as the notice informs the public of the health risks which EPA has associated with violation of the standards and the mandatory health effects language remains intact.

EPA believes the public notifications should be in non-technical terms. Providing the specific risk assessment assumptions or discussing the margin of safety would be too detailed and raise confusion.

2. Contaminant-Specific Comments

a. Asbestos. Four commenters stated that the language for asbestos should not state that the standard is based on reducing cancer risks, since asbestos is not a carcinogen. Two commenters asked that the statement be revised to separate the insulating and fire retardant uses from A/C pipe uses. One commenter suggested the following modification for asbestos: "Ingestion of asbestos is associated with polyps (benign tumors) in rats."

EPA Response. EPA agrees with most of the comments received on asbestos and has modified the public notification language accordingly. The standard for asbestos is based on reducing possible human cancer risks from drinking water exposure.

b. Other Contaminants. One commenter stated that the language for selenium should be revised to explain the nutritional essentiality of selenium. One commenter stated that the nitrate language should state that alternate water sources should be provided to children under one year of age. One commenter recommended modified wording for styrene. One commenter agreed with the notification language for alachlor and monochlorobenzene. One commenter recommended the following replacement wording for pesticides: "Under certain soil and climatic conditions (e.g., sandy soil and high rainfall), substance 'X' may leach into ground water after normal agricultural applications or may enter drinking water supplies as a result of surface runoff." One commenter believes the statement concerning liver and kidney effects from atrazine is an error. This same commenter provided suggested changes for 20 chemicals. One commenter believes the cadmium language, "Smoking of tobacco is a common source of general exposure," is inappropriate; this commenter believes that the notifications should only include information on occurrence or exposure from drinking water. This same commenter believes the language for the polymers acrylamide and epichlorohydrin is too alarming considering the minimal risk. Another commenter suggested changes for the acrylamide notice.

EPA Response. EPA believes that the current language stating the nutritional essentiality of selenium is sufficient. Consumers may obtain additional information concerning essentiality from the appropriate State regulatory agency. For nitrate/nitrite, EPA agrees that the age should be specified. However, EPA disagrees with an age of one year as all data suggest that infants under the age of six months are the sensitive population. EPA has modified the notice accordingly.

EPA agrees with most of the comments received on styrene and with the proposed generic changes for pesticides and has modified the public notification accordingly.

EPA also agrees that the atrazine language should better reflect the study used to derive the MCLG, and the public notification language has been modified accordingly.

EPA believes the potential risks from misuse of acrylamide and epichlorohydrin are properly qualified in the proposed public notification language, and therefore should not result in under public alarm.

EPA has considered other chemical-specific changes and has modified the language in some cases (see the Comment/Response Document for detailed response to comments).

H. Secondary MCLs

EPA proposed secondary maximum contaminant levels (SMCLs) based on taste and odor detection levels for seven organic chemicals (o-dichlorobenzene, p-dichlorobenzene, ethylbenzene, pentachlorophenol, styrene, xylene, and toluene) and for silver and aluminum. These organic chemicals had reported taste or odor detection levels lower than the proposed (or final) MCLs. EPA believed it appropriate to set SMCLs for these compounds to protect against aesthetic effects (such as odor) which could be present at levels below the proposed MCLs.

1. Organics

After reviewing the public comments, EPA has decided to defer promulgating SMCLs for the seven organic chemicals for the following reasons:

A number of commenters opposed SMCLs for the seven organics due to an inadequate experimental basis for setting SMCLs for ethylbenzene, styrene, toluene, and xylene. While the literature citation used for these chemicals (Amoore and Hautala, 1983) was based on theoretical extrapolation (from air odor thresholds) and while it appeared to provide valid levels, it was not confirmed in any published literature.

The experimental identification of any chemical concentration in drinking water with a perceived aesthetic effect presents a difficult and currently unresolved task. Minimum detection levels, although different in different waters, might be identified but the point of consumer complaint for each chemical, in different waters, would require more study and research.

EPA is none the less convinced that taste and odor problems represent a significant continuing and unresolved problem for drinking water suppliers and their consumers. Accordingly, EPA may initiate a "National Task Force of Experts" to review and assess the data, information, and opinions available with respect to taste and odor problems in public water supplies including problem definition, possible SMCL and analytical options available, and means for implementing solutions. If initiated, the task force would develop one or more SMCL approaches with developed

analytical technology for possible adoption in a proposed future secondary regulation amendment. The task force may also provide supplementary guidance relating to detectable and aesthetically displeasing levels for specific organic chemicals.

EPA wishes to alert the States, utilities, and consumers that it is retaining the existing odor SMCL of 3 Total Odor Number (TON) (see 40 CFR 143.3). Utilities are urged to find imaginative ways to meet the objective of having more pleasing odor characteristics for their finished water using the current 3 TON standard.

Where officials and consumers find contaminated drinking waters, they may expect to detect (possibly slight) tastes or odors at the concentrations indicated below:

o-Dichlorobenzene 0.01 mg/l,
p-Dichlorobenzene 0.005 mg/l,
Ethylbenzene 0.03 mg/l,
Pentachlorophenol 0.03 mg/l,
Styrene 0.01 mg/l,
Toluene 0.04 mg/l,
Xylene 0.02 mg/l.

2. Aluminum

A total of 17 individuals or organizations provided comments in response to the proposed SMCL of 0.05 mg/1 for aluminum. All of these commenters agreed that the proposed SMCL is too low and should either be increased or eliminated.

Pertinent points from the comments are summarized as follows:

- The American Water Works Association (AWWA) no longer backs the quality goal of 0.05 mg/1 which it initially adopted on January 28, 1968 but does support a "recommended operating level of 0.2 mg/1."
- The proposed SMCL of 0.05 mg/l would be very difficult for many utilities to meet; a 1987 AWWA/Research Foundation Survey of 90+ utilities indicated an average aluminum concentration of 0.09 mg/l in finished water. Individual utilities also expressed concern with difficulty in meeting the 0.05 mg/l SMCL.
- There is insufficient experimental data to define the level at which an aesthetic effect might occur in various waters and treatments.

EPA believes that in some waters post-precipitation of aluminum may take place after treatment. This could cause increased turbidity and aluminum water quality slugs under certain treatment and distribution changes. EPA also agrees with the World Health Organization (WHO, 1984) that "discoloration of drinking water in distribution systems may occur when the aluminum level exceeds 0.1 mg/l in the finished water." WHO further adopts a guidance level of 0.2 mg/l in recognition of difficulty in meeting the lower level in some situations. While EPA encourages utilities to meet a level of 0.05 mg/l where possible, it still believes that varying water quality and treatment situations necessitate a flexible approach to establish the SMCL. What may be appropriate in one case may not be appropriate in another. Hence, a range for the standard is appropriate. The definition of "secondary drinking water regulation" in the SDWA provides that variations may be allowed according to "other circumstances." The State primacy agency may make a decision on the appropriate level for each utility on a case-by-case basis. Consequently, for the reasons given above, the final SMCL for aluminum will be a range of 0.05 mg/l to 0.2 mg/l, with the precise level then being determined by the State for each system.

3. Silver

On May 22, 1989, EPA proposed to delete the current MCL for silver (Ag), because the only potential adverse effect from exposure to silver in drinking water is argyria (a discoloration of the skin). EPA considers argyria a cosmetic effect since it does not impair body function. Also, silver is seldom found at significant levels in water supplies and drinking water has never been identified as the cause of argyria in the United States. While the health effects of silver may only be cosmetic, many home water treatment devices use silver as an antibacterial agent. These devices may present a potential contamination threat when used in a system. Therefore, EPA proposed (54 FR 22062) an SMCL for silver at 0.09 mg/l based on the skin cosmetic effect called argyria. EPA also asked the public to comment on the selection of an uncertainty factor (UF) in the alternate calculation of SMCL, assuming an oral absorption factor of 4 percent.

Public Comments. A total of six individuals or organizations provided comments in response to the proposed rule regarding silver. All commenters agreed that the MCL for silver (0.05 mg/l) should be deleted. Several commenters agreed with EPA's proposal of an SMCL for silver. Other commenters disagreed with this proposal, citing the following reasons for support:

- Silver does not affect the taste, odor, color, or appearance of the drinking water.
- There is no evidence that the low level of silver that might be found in drinking water causes argyria in humans.

In response to a specific question posed in the **Federal Register** Notice on the selection of a UF for the alternate calculations of the SMCL, different opinions were expressed. Several commenters suggested using an uncertainty factor of 2 in support of 25 mg/l), while one proposed to keep the SMCL at the current MCL of 0.05 mg/l.

EPA Response. EPA has decided a SMCL of 0.1 mg/l is needed to protect the general public from the cosmetic effect of argyuria (from lifetime exposure to silver). While the health effects of silver may only be cosmetic, many home water treatment devices use silver as an antibacterial agent, thus presenting a potential contamination threat when such devices are used in a system. Therefore, EPA has decided to keep the SMCL at 0.1 mg/l to protect the welfare of the general public from the cosmetic effect of argyria.

EPA is proposing to use the same data base as before to calculate the SMCL for silver. Assuming 1 g of silver by i.v. will cause argyria in the most sensitive individuals (Gaul and Staud, Am. Med. Assoc. 104:1387–1390, 1935; Hill and Pillsbury, 1939) and assuming an oral absorption rate of 4 percent (Fuchner et al., Health Physics 15:505–514, 1968), a lifetime exposure of 70 years, and a UF of 3, an SMCL of 0.1 mg/l is derived. For more detail, see the following derivation of SMCL.

a. Derivation of SMCL for Silver. The cosmetic DWEL is calculated assuming 1 g of silver administered i.v. will produce a mild argyria in the most sensitive individuals (Gaul and Staud, 1935; Hill and Pillsbury, 1939). Assuming 4 percent absorption of silver (Furchner et al., 1968) following oral exposure, the i.v. dose corresponds to an oral dose of 25 g (1 g/0.04=25 g). This dose is then averaged over a lifetime, assumed to be 70 years:

$$25\ \text{g} \times \frac{\text{lifetime}}{25{,}550\ \text{days}} = 978\ \mu\text{g/day}$$

Based on an adult body weight of 70 kg, this corresponds to 14 μg kg/day (978 μg/day / 70 kg=14 μg/kg/day).

Step 1—Cosmetic RfD Derivation

$$\text{Cosmetic RfD} = \frac{14\ \mu g\ Ag/kg/day}{3} = 4.7\ \mu g\ Ag/kg/day$$

where:

14 μg Ag/kg/day=Lowest Observed Cosmetic Effect Level based on argyria.
3=uncertainty factor.

An uncertainty factor of 3 was applied for the following reasons. First, a 10-fold uncertainty factor is usually applied to human data to account for intraspecies variability. However, since this derivation has already included sensitive individuals, a 10-fold uncertainty factor is not warranted. Second, an uncertainty factor less than 10 (i.e., 3) is sufficiently protective since the estimated dose causing argyria within one to three years is being apportioned over a lifetime. Finally, the effect is based on argyria, which is considered a cosmetic effect, and not an adverse health effect.

Step 2—Cosmetic DWEL Derivation

$$\text{Cosmetic DWEL} = \frac{4.7\ \mu g\ Ag/kg/day \times 70\ kg}{2\ 1/day}$$

= 164 μg/1 (rounded to 200 μg/1)

where:

4.7 μg Ag/kg/day = Cosmetic RfD.
70 kg = assumed body weight of an adult.
2 1/day = assumed water consumption by an adult.

The Cosmetic DWEL is derived on the assumption that 100 percent of the silver intake comes from drinking water. As estimated by the World Heath Organization (WHO, 1980), the upper bound of intake level for silver from food is 20 to 80 μg per day; from air it is essentially negligible. Therefore, the SMCL for the cosmetic effect of silver can be calculated by subtracting the amount obtained in food.

Step 3—SMCL

$$\text{SMCL} = \frac{(0.0047\ mg/kg/day)(70\ kg) - 0.08\ mg/day}{2\ 1/day}$$

= 0.12 mg/1 (rounded to 0.1 mg/1 or 100 μg/1)

I. State Implementation

The Safe Drinking Water Act provides that States may assume primary implementation and enforcement responsibilities. Fifty-four out of 57 jurisdictions have applied for and received primary enforcement responsibility (primacy) under the Act. To implement the federal regulations for drinking water contaminants, States must adopt their own regulations which are at least as stringent as the federal regulations. This section of today's rule describes the regulations and other procedures and policies the States must adopt to implement today's rule. EPA previously promulgated program implementation requirements in 40 CFR part 142 on December 20, 1989 (54 FR 52126).

To implement today's rule, States will be required to adopt the following regulatory requirements when they are promulgated: § 141.23, Inorganic Chemical Sampling and Analytical Requirements; § 141.24, Organic Chemical Other Than Total Trihalomethanes Sampling and Analytical Requirements; § 141.32, General Public Notice Requirements (i.e., mandatory health effects language to be included in public notification or violations); § 141.40, Special Monitoring for Inorganic and Organic Chemicals; § 141.61 (a) and (c), Maximum Contaminant Levels for Inorganic and Organic Chemicals; and § 141.111, Treatment Techniques for Acrylamide and Epichlorohydrin.

In addition to adopting drinking water regulations no less stringent than the federal regulations listed above, EPA is requiring that States adopt certain requirements related to this regulation in order to have their program revision application approved by EPA. In various respects, the proposed NPDWRs provide flexibility to the State with regard to implementation of the monitoring requirements under this rule. Because State determinations regarding vulnerability and monitoring frequency will have a substantial impact with implementation of this regulation, the proposed rule requires States to submit as part of their State program submissions their policies and procedures in these areas. This requirement will serve to inform the regulated community of State requirements and also help EPA in its oversight of State programs. These requirements are discussed below under the section or special primacy requirements. Today, EPA is also promulgating changes to State recordkeeping and reporting requirements.

1. Special State Primacy Requirements

To ensure that the State program includes all the elements necessary for an effective and enforceable program, the State's request for approval must contain the following: (1) If the State issues waivers, the procedures and/or policies the State will use to conduct and/or evaluate vulnerability assessments; (2) the procedures/policies the State will use to allow a system to decrease its monitoring frequency; and (3) a plan that ensures that each system monitors by the end of each compliance period.

In general, commenters supported the proposed primacy requirements. However, one commenter characterized the provisions as "resource constraining," "confusing," "redundant, "cumbersome," and "not necessary." Several commenters were concerned about the resource impact of vulnerability assessments on State programs. Several States desired sufficient flexibility to tailor monitoring requirements to site-specific conditions. Another commenter urged the Agency to allow "area wide" or geographic vulnerability determinations.

EPA has made several changes to address the commenters' concerns. First, as described elsewhere in today's rule, EPA has adopted a standard monitoring framework which synchronizes monitoring schedules and standardizes monitoring requirements. These changes should reduce the confusion and redundancy cited by one commenter. One of the changes EPA is promulgating, which is described in the section on

monitoring, is shifting the responsibility for conducting vulnerability assessments from the State to the system. The State retains, however, the responsibility to approve the results of vulnerability assessments and to issue waivers. EPA believes that this change, in part, addresses the resource constraint issue cited by the commenters. States, by implementing the standard monitoring framework and by issuing waivers, will be able to tailor monitoring requirements to site-specific conditions in most cases. EPA will allow States to issue "geographic" or "area wide" waivers. This change is also described in the section on monitoring.

The special primacy requirements have been revised to establish criteria for State descriptions of the waiver programs the State will administer. EPA will develop detailed guidance for use by Regional Administrators in reviewing primary applications, and in administering this rule in non-primacy States. As insurance against State 'abuse of discretion' in reducing individual sampling frequency requirements, EPA added § 142.16(f) to establish authority for federal rescission of State waivers that do not meet the criteria established in §§ 141.23, 141.24, and 141.40.

To encourage careful planning of the framework's implementation, EPA has added a special primacy provision in today's rule that requires the development of State monitoring plans that are enforceable under State law. EPA is making this change to ensure that all water systems complete monitoring (or conduct a vulnerability assessment) by the end of each three-year compliance period. In general, State monitoring plans should require approximately one-third of the systems to monitor each year during each three-year compliance period to provide for an even flow of samples through State-certified laboratories. States will be able to establish their own criteria to schedule the systems to monitor. If a State does not have primacy for today's provision at the time the initial compliance period begins (i.e., January 1, 1993), then EPA will be the primacy agent. Because water systems may be confused as to when each system must monitor, EPA has established procedures (§§ 141.23(k), 141.24(f)(23), and 141.24(h)(18)) that require systems to monitor at the time designated by the State. If EPA implements today's provisions because a State has not yet adopted the regulatory requirements in today's rule, EPA intends to use the State's monitoring schedule to schedule systems during each compliance period. EPA believes this approach will reduce confusion over when each system monitors once the State adopts today's requirements.

2. State Recordkeeping Requirements

In §§ 141.16(d)(11) through 142.16(d)(16), EPA proposed that States would maintain records of: (1) Each vulnerability determination and its basis; (2) each approval of reduced monitoring and its basis; (3) each determination that a system must perform repeat monitoring for asbestos and its basis; (4) each decision that a system must monitor unregulated contaminants; (5) each letter from a system serving fewer than 150 service connections that it is available for monitoring of unregulated contaminants; and (6) annual certifications that acrylamide and epichlorohydrin are used within Federal limits for the combination of dose and monomer levels. EPA also requested comment on whether the existing record retention requirement of 40 years is reasonable, or should be modified.

In general, commenters (mostly States) characterized the proposed recordkeeping requirements as "absurd," "terrible," "excessively burdensome," and "unwarranted." The most substantive comments are listed below. EPA has revised this part to conform to the standard monitoring framework, and to provide auditable records during Federal oversight reviews.

One commenter said that the unduly diverse and complex sampling periods will exacerbate the complexity of the record/file systems. In response, the Agency notes that the sampling periods have been consolidated into the Standard Monitoring Framework, in order to simplify the program requirements for local, State, and federal personnel. This framework consists of repeating three-year compliance periods within repeating nine-year compliance cycles.

Another commenter stated that maintaining documentation of assessments resulting in non-vulnerable status or reduced sampling frequencies is less important than addressing CWSs with real problems. System by system documentation of vulnerability assessments is unnecessary; State summaries of each assessment should suffice. Many States either have inadequate resources to manage complex record systems, or will have to divert resources from more important activities, such as technical assistance for small communities.

In response, EPA does not disagree with the commenter's priorities, but the Agency also believes that a precise record of each decision affecting public health is necessary. The commenter should note that States are not required to conduct vulnerability assessments, and States may reduce the resource impact of these regulations by applying uniform monitoring requirements to all CWSs. However, if vulnerability assessments are used as the basis for granting waivers from the uniform monitoring requirements, there must be complete documentation of those assessments and the basis for each decision. In the final rule, EPA has clarified that records of only the most recent assessment and monitoring frequency determination need be maintained.

One commenter stated that since authority to enter and inspect is a primacy requirement under § 142.10(b)(6)(iii), the requirement for records of sampling availability letters, and the letters themselves, is superfluous. In response, EPA agrees with this comment, and has deleted the State recordkeeping requirement of systems which serve less than 150 service connections which send letters of availability.

Another comment asserted that annual certifications of proper acrylamide and epichlorohydrin applications are unnecessary; the application requirements should be sufficient.

In response, EPA believes the requirement is a reasonable means of attempting to confirm proper application of these chemicals, considering that the minimum frequency for sanitary surveys is five years.

Another commenter pointed out that the 40-year record retention requirement is an unreasonable burden on State resources.

In response, EPA has reduced the standard monitoring records retention requirement to 12 years. This covers a nine-year monitoring cycle plus a three-year monitoring period, to allow time for more current records to replace older records.

3. State Reporting Requirements

In §§ 142.15(a)(12) through 142.15(a)(17), EPA proposed that States would report lists of: (1) Systems for which vulnerability assessments have been conducted, the assessment results, and their bases; (2) systems that have been permitted to reduce their monitoring frequencies, the bases for the reduction, and the new frequencies; (3) systems that must conduct repeat monitoring for asbestos; (4) systems serving fewer than 150 service

connections that have notified the State of their availability for sampling of unregulated contaminants; and (5) systems that have certified compliance with treatment requirements for acrylamide and epichlorohydrin. EPA also proposed that States report the results of monitoring for unregulated contaminants.

Generally, commenters characterized the proposed rule as "redundant," "useless," "onerous," "excessive," "burdensome," "unnecessary," and "inconsistent with other reporting requirements."

In addition, many comments raised the following points:

- The appropriate vehicles for EPA oversight are review of primacy applications and annual on-site program management audits.
- The proposed reporting requirements are redundant to those activities and therefore inappropriate.
- EPA's need for, or prospective use of, the data to be reported is unclear.
- Reporting should be standardized with other rules, and conducted through a computerized data base.

In response, EPA agrees with these points after reviewing the Agency's information needs. EPA has determined that the core reporting requirements of the Primacy Rule, December 20, 1989, are sufficient for purposes of routine program oversight. Therefore, the Agency has deleted the proposed reporting requirements, except for the requirement to report results of monitoring for unregulated contaminants in § 142.15(a)(15). These results are needed for development of future MCLs.

IV. Economic Analysis

Executive Order 12291 requires EPA and other regulatory agencies to perform a Regulatory Impact Analysis (RIA) for all "major" regulations, which are defiend as those regulations which impose an annual cost to the economy of $100 million or more, or meet other criteria. The Agency has determined that this action constitutes a "major" regulatory action for the purposes of the Executive Order. Therefore, in accordance with the Executive Order, the Agency has conducted an assessment of the benefits and costs of both the proposed and final rules.

The RIAs supporting the proposed rule (see "Regulatory Impact Analysis of Proposed Inorganic Chemical Regulations," March 31, 1989, and "Regulatory Impact Analysis of Proposed Synthetic Organic Chemical Regulations," April 1989) estimated an incremental annualized cost to the nation of $42 million for treatment and waste disposal. Monitoring costs for the proposed rule were estimated to be about $29 million/year incrementally. Thus, the total incremental annualized cost to the nation of the proposed requirements was about $71 million/year. In addition, unregulated contaminants were estimated to result in a one-time cost of $42 million.

In response to public comments and receipt of new data or information, EPA made several changes to the proposed rule which resulted in an overall increase in the projected compliance costs for the final rule. In addition, revised unit cost and occurrence data were incorporated into the final RIAs. These changes, and their corresponding effects on the original cost estimates are described below. The cost of compliance for aldicarb, aldicarb sulfoxide, aldicarb sulfone, barium and pentachlorophenol continue to be included in the RIA supporting today's rule.

A. Cost of Final Rule

Table 28 shows the results of the Regulatory Impact Analyses which support today's final rule. MCLs promulgated in today's rule for barium, chromium, and selenium are all less stringent than existing National Interim Primary Drinking Water Regulations (NIPDWR). As a result, the incremental annualized treatment and waste disposal cost of $64 million/year are associated with the more stringent MCLs for cadmium and the SOCs which are promulgated in today's final rule. Incremental monitoring costs are estimated to be about $24 million/year. Thus, the incremental annualized compliance cost to the nation of about $88 million/year is somewhat higher than the $71 million/year estimated for the proposed rule. In addition, unregulated contaminants are expected to result in a one-time cost of $39 million, which is lower than the $42 million estimated for the proposal.

Approximately 3,242 community and non-transient, non-community water systems are not currently in compliance with existing NIPDWRs and would not be in compliance with this rule either. As a result, these systems will incur compliance costs associated with enforcement of today's rule. The cost of these 3,242 systems to come into compliance would be $666 million per year for treatment and waste disposal and $1.5 million per year for monitoring.

TABLE 28.—SUMMARY ESTIMATES FOR FINAL IOC AND SOC REGULATIONS

	SOC estimates	IOC estimates	Total
Systems in Violation	[1] 3,110	165	3,265
Costs (millions/yr):			
Compliance Costs	$78	$10	$88
—Monitoring	21	2.5	24
—Treatment and Waste Disposal Costs at 3%	[2] 57	7.0	64
Unregulated Contaminant Costs ($M)			39
State Implementation Costs Initial ($M)			21
Outyear ($M/yr)			17
Benefits:			
Population With Reduced Exposure (millions)	2.7	0.2	2.9
Cancer Cases	72		72

[1] Includes an estimated 825 systems which will violate the proposed MCL for pentachlorophenol.
[2] Includes $19 million to treat for pentachlorophenol, which is being reproposed elsewhere today in the **Federal Register**.

Table 28 also shows the benefits of today's final rule. Compliance with the IOCs MCLs is expected to provide reduced exposure to almost 200,000 people resulting from lowering the MCL for cadmium. The types of health effects expected to be avoided include chronic toxic effects such as kidney toxicity. Compliance with the SOCs MCLs is expected to provide reduced exposure to almost three million people and prevent about 72 cases of cancer per year.

B. Comparison to Proposed Rule

Table 29 compares the costs and benefits of today's final rule to those estimated for the proposal. The differences in the cost estimates are attributable to a variety of changes in the rule and in the available input data used in the analyses. Among the more influential changes are the following:

1. Monitoring Requirements

As described in section III(D) of today's preamble, the monitoring requirements in today's rule are somewhat different from those included in the proposed rule. A direct comparison between the monitoring costs estimated in the proposal and those estimated for the final rule is not entirely appropriate because the costs estimated for the proposal were aggregated over nine years, whereas the costs for the final rule are aggregated over 18 years.

TABLE 29.—COMPARISON OF COSTS FOR PROPOSED AND FINAL RULES

	Proposed rule	Final
Rule: [1]		
Number of Systems	2,475	3,275
Capital Costs ($M)	$361	$554
Annualized Capital Costs ($M/YR)	24	37
Operation & Maintenance Costs ($M/YR)	18	27
Monitoring Costs ($M/YR)	29	24
Total Annualized Costs ($M/YR)	71	88
Unregulated Contaminant Monitoring ($M)	42	39
State Implementation Costs:		
Initial ($M)	24	21
Out-year ($M/YR)	14	17

[1] Includes pentachlorophenol, which is reproposed.

Table 29 shows that the monitoring costs for the final rule are somewhat less than the monitoring costs estimated for the proposal. This decrease is primarily due to a reduced number of systems which are expected to be vulnerable to SOC contamination. Current VOC monitoring cost estimates are expected to be higher than those estimated for the proposal for the following reasons:

- Systems are phased in more quickly in the final rule. Thus, systems previously expected to monitor only once every nine years are now expected to monitor for VOCs three times during an 18 year cycle; and
- The final rule requires all vulnerable systems to incur VOC monitoring costs once/year, whereas the proposal requires systems serving fewer than 3,300 people to incur monitoring costs only once during the nine year cycle and larger systems only incur monitoring costs twice during the nine year cycle.

2. Changes in MCLs

Although several MCLs in the final rule have changed from those that were proposed (e.g., toluene, toxaphene), only the proposed MCL for pentachlorophenol is more stringent as to result in additional impacts. The reproposed MCL for pentachlorophenol is 0.001 mg/l, compared to the proposed standard of 0.2 mg/l.

3. Changes in Occurrence Data

Occurrence data used in the final Phase II RIAs have been changed to include the following:

- Revisions to the NIRS groundwater occurrence estimates for barium, cadmium, chromium, mercury and selenium; and
- Additional occurrence data on pentachlorophenol provided by AWWA resulted in estimating 825 systems would exceed the proposed MCL of 0.001 mg/l.

4. Changes in Unit Treatment Cost Estimates

Changes in system design flow assumptions resulted in revised treatment and waste disposal unit cost estimates for both IOCs and SOCs.

The combined effects of these changes are lower national treatment and waste disposal costs for IOCs, but higher national treatment and waste disposal costs for SOCs. The revised design flow assumptions directly resulted in higher household annual costs for both IOCs and SOCs.

C. Cost to Systems

Table 30 suggests that the cost impacts on water systems and consumers affected by most of the synthetic organic and inorganic contaminants are small and vary depending upon the specific chemical contaminant and the size of the public water system. Households served by serving more than 3,300 people could be subject to water bill increases of between $5 and $205 per year, if their systems have SOC or IOC contamination greater than the MCLs. EPA believes that these costs are affordable.

TABLE 30.—UPPER BOUND HOUSEHOLD COSTS ($/HH/YEAR)

System size (population served)	SOCs [1]	IOCs [2]
25–100	$598	$896
101–500	233	442
3,300–10,000	64	122
25,000–50,000	42	167
over 1,000,000	31	205

[1] Granular Activated Carbon or Packed Tower Aeration.
[2] Weighted average based on probabilities associated with alternative treatments (i.e., conventional, lime softening, ion exchange, reverse osmosis, activated alumina, activated carbon and others).

Small systems, those serving fewer than 500 people, incur higher per household costs because they do not benefit from engineering economies of scale. Households served by these small systems would have to pay significantly more, should their system have SOC or IOC contamination greater than the proposed MCL. In the case of SOCs, typical annual water bills could increase by as much as $598, which EPA believes may not be affordable. In the case of IOCs, water bills in small supplies could climb an additional $896 per year in contaminated systems.

D. Cost to State Programs

In 1988 EPA and the Association of State Drinking Water Administrators (ASDWA) conducted a survey of State primacy program resource needs for implementing the 1986 SDWA amendments. The State implementation costs for the proposal were estimated to be about $14 million per year, after an initial cost of $24 million. The survey results have since been updated to include additional respondents. Thus, the revised State implementation costs for today's final rule is estimated to be about $21 million initially and $17 million/year in the out-years.

Over half of the initial and out-year costs are expected to be associated with expanding laboratory capabilities for analyzing samples. After laboratory expansion, development of vulnerability criteria, revising State primacy agreements, training staff on the rules, modifying the data management system, educating the public on the rules, and formal enforcement of the rules are each expected to require about one million dollars initially to be implemented. With respect to out-year costs, formal enforcement and public education are expected to require the most resources after laboratory expansion costs.

The State survey results for the Phase II requirements are based on the proposal; however, the survey questionnaire was carefully reviewed to determine if the estimated costs should be revised. This review indicated that the estimated State implementation costs for the proposal should not be significantly different from those expected for the final rule.

V. Other Requirements

A. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA) requires EPA to consider the effect of regulations on small entities [5 U.S.C. 602 *et seq.*]. If there is a significant effect on a substantial number of small systems, the Agency must prepare a RFA describing significant alternatives that would minimize the impact on small entities. The Agency had determined that the proposed rule, if promulgated, would not have a significant effect on a substantial number of small entities.

The RFA for the final rule indicates that of 199,390 community and non-community water supplies serving fewer than 50,000 people, about 6,473 (3.2%) are estimated to exceed the final MCLs promulgated in today's rule. Compliance costs estimated for the 6,473 systems required to install treatment are about $313 million per year. Because of the nitrates monitoring requirements, all 199,390 systems are estimated to comply with the monitoring requirements. The monitoring costs for these small systems

are estimated to be about $4 million/year for IOCs and about $20 million/year for SOCs. Based on the RFA results, EPA has determined that the 6,473 systems required to install treatment will be significantly affected by this rule.

While a "substantial" number of the small water supplies serving fewer than 50,000 persons will be affected by the monitoring requirements, their production costs will not increase by five percent. Therefore, the impact on this substantial number of systems is not considered "significant" according to RFA guidelines. There are 6,473 small systems estimated to require treatment and thus, incur "significant" increases in costs. However, 6,473 systems is only 3.2% of 199,390 systems and, according to EPA guidelines for conducting RFAs, less than 20% of a regulated population is not considered a substantial number.

Despite the results of this RFA, the Agency considers several thousand systems to be substantial and has attempted to provide greater flexibility to small systems while still providing adequate protection of the public health. The most significant change to the proposed rule which reduces the burden on small systems involves standardized monitoring requirements and the opportunity for waivers. In addition, EPA has reduced some monitoring requirements for systems serving <3,300 people.

As well as these changes in the rule, the 1986 Amendments to the SDWA provide small systems with exemptions. Thus, the Agency has tried to relieve small systems as much as possible from the costs of compliance with the regulatory requirements while still providing adequate protection to the health of their consumers.

B. Paperwork Reduction Act

The information collection requirements in this rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act [44 U.S.C. 3501 *et seq.*]. An Information Collection Request (ICR) document has been prepared by EPA and a copy may be obtained from: Sandy Farmer, Information Policy Branch, EPA, 401 M Street, SW. (PM-223), Washington, DC or by calling 202-382-2740.

Public reporting burden for today's final rule is estimated to average 0.7 hours per response. The entire regulated population of 200,183 systems will incur some monitoring costs for nitrates. Of the total population, 78,703 systems are expected to incur monitoring costs for contaminants other than nitrates. The total burden estimate is about 1.2 million hours per year. In addition, systems monitoring for unregulated contaminants are expected to incur a one-time reporting burden of 0.5 hours/response resulting in a total of 31,481 hours. The monitoring costs associated with these information collection requirements are somewhat lower than those estimated for the proposed rule. Specifically, IOC monitoring costs have increased from $4 million/year to $4.5 million/year, SOC monitoring costs have decreased from $27 million/year to $21 million/year, and the one-time monitoring costs for unregulated contaminants have decreased from $42 million to $39 million. The change in cost is due to the numerous changes made to the monitoring, recordkeeping, and reporting requirements that had been proposed. The information collection requirements are not effective until OMB approves them and a technical amendment to that effect is published in the **Federal Register**.

VI. Public Docket and References

All supporting materials pertinent to the promulgation of this rule are included in the Public Docket located at EPA headquarters, Washington, DC. The Public Docket is available for viewing by appointment by calling the telephone number at the beginning of this notice. All public comments received on the 1985 proposal are included in the Docket.

All references cited in this notice are included in the Public Docket together with other correspondence and information.

List of Subjects in 40 CFR Parts 141, 142 and 143

Administrative practice and procedure, Chemicals, Reporting and Recordkeeping requirements, Water supply.

Dated: December 31, 1990.

F. Henry Habicht,

Acting Administrator.

For the reasons set forth in the preamble, chapter I of Title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

1. The authority citation for part 141 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g-1, 300g-2, 300g-3, 300g-4, 300g-5, 300g-6, 300j-4 and 300j-9.

2. Section 141.2 is amended by adding, in alphabetical order, definitions for "Compliance cycle," "Compliance period," "Initial compliance period," and "repeat compliance period" to read as follows:

§ 141.2 Definitions.

* * * * *

Compliance cycle means the nine-year calendar year cycle during which public water systems must monitor. Each compliance cycle consists of three three-year compliance periods. The first calendar year cycle begins January 1, 1993 and ends December 31, 2001; the second begins January 1, 2002 and ends December 31, 2010; the third begins January 1, 2011 and ends December 31, 2019.

Compliance period means a three-year calendar year period within a compliance cycle. Each compliance cycle has three three-year compliance periods. Within the first compliance cycle, the first compliance period runs from January 1, 1993 to December 31, 1995; the second from January 1, 1996 to December 31, 1998; the third from January 1, 1999 to December 31, 2001.

* * * * *

Initial compliance period means the first full three-year compliance period which begins at least 18 months after promulgation.

* * * * *

Repeat compliance period means any subsequent compliance period after the initial compliance period.

* * * * *

3. In § 141.11, paragraph (b) is amended by removing the entry for "silver" from the table, and by revising the introductory text of paragraph (b) to read as follows:

§ 141.11 Maximum contaminant levels for inorganic chemicals.

* * * * *

(b) The following maximum contaminant levels for cadmium, chromium, mercury, nitrate, and selenium shall remain effective until July 30, 1992.

* * * * *

3. Section 141.12 is revised to read as follows:

§ 141.12 Maximum contaminant levels for organic chemicals.

The following are the maximum contaminant levels for organic chemicals. The maximum contaminant levels for organic chemicals in paragraph (a) of this section apply to all community water systems. Compliance with the maximum contaminant level in paragraph (a) of this section is calculated pursuant to § 141.24. The maximum contaminant level for total trihalomethanes in paragraph (c) of this section applies only to community water systems which serve a population of

10,000 or more individuals and which add a disinfectant (oxidant) to the water in any part of the drinking water treatment process. Compliance with the maximum contaminant level for total trihalomethanes is calculated pursuant to § 141.30.

	Level, milligrams per liter
(a) Chlorinated hydrocarbons: Endrin (1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4, 4a,5,6,7,8,8a1-octahydro-1,4-endo, endo-5,8-dimethano naphthalene)	0.0002
(b) [Reserved]	
(c) Total trihalomethanes (the sum of the concentrations of bromodichloromethane, dibromochloromethane, tribromomethane (bromoform) and trichloromethane (chloroform))	0.1

4. Section 141.23 is revised to read as follows:

§ 141.23 Inorganic chemical sampling and analytical requirements.

Community water systems shall conduct monitoring to determine compliance with the maximum contaminant levels specified in § 141.62 in accordance with this section. Non-transient, non-community water systems shall conduct monitoring to determine compliance with the maximum contaminant levels specified in § 141.62 in accordance with this section. Transient, non-community water systems shall conduct monitoring to determine compliance with the nitrate and nitrite maximum contaminant levels in § 141.11 and § 141.62 (as appropriate) in accordance with this section.

(a) Monitoring shall be conducted as follows:

(1) Groundwater systems shall take a minimum of one sample at every entry point to the distribution system which is representative of each well after treatment (hereafter called a sampling point) beginning in the compliance period starting January 1, 1993. The system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

(2) Surface water systems shall take a minimum of one sample at every entry point to the distribution system after any application of treatment or in the distribution system at a point which is representative of each source after treatment (hereafter called a sampling point) beginning in the compliance period beginning January 1, 1993. The system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

Note: For purposes of this paragraph, surface water systems include systems with a combination of surface and ground sources.

(3) If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions (i.e., when water is representative of all sources being used).

(4) The State may reduce the total number of samples which must be analyzed by allowing the use of compositing. Composite samples from a maximum of five sampling points are allowed. Compositing of samples must be done in the laboratory.

(i) If the concentration in the composite sample is greater than or equal to the detection limit of any inorganic chemical, then a follow-up sample must be taken within 14 days at each sampling point included in the composite. These samples must be analyzed for the contaminants which were detected in the composite sample. Detection limits for each analytical method are the following:

DETECTION LIMITS FOR INORGANIC CONTAMINANTS

Contaminant	MCL (mg/l)		Detection limit (mg/l)
Asbestos	7 MLF [2]	Transmission Electron Microscopy	0.01 MFL
Barium	2	Atomic Absorption; furnace technique	0.002
		Atomic Absorption; direct aspiration	0.1
		Inductively Coupled Plasma	0.002(0.001) [1]
Cadmium	0.005	Atomic Absorption; furnace technique	0.0001
		Inductively Coupled Plasma	0.001 [1]
Chromium	0.1	Atomic Absorption; furnace technique	0.001
		Inductively Coupled Plasma	0.007 (0.001) [1]
Mercury	0.002	Manual Cold Vapor Technique	0.0002
		Automated Cold Vapor Technique	0.0002
Nitrate	10 (as N)	Manual Cadmium Reduction	0.01
		Automated Hydrazine Reduction	0.01
		Automated Cadmium Reduction	0.05
		Ion Selective Electrode	1
		Ion Chromatography	0.01
Nitrite	1 (as N)	Spectrophotometric	0.01
		Automated Cadmium Reduction	0.05
		Manual Cadmium Reduction	0.01
		Ion Chromatography	0.004
Selenium	0.05	Atomic Absorption; furnace	0.002
		Atomic Absorption; gaseous hydride	0.002

[1] Using concentration technique in Appendix A to EPA Method 200.7.
[2] MFL = million fibers per liter >10 μm.

(ii) If the population served by the system is >3,300 persons, then compositing may only be permitted by the State at sampling points within a single system. In systems serving <3,300 persons, the State may permit compositing among different systems provided the 5-sample limit is maintained.

(5) The frequency of monitoring for asbestos shall be in accordance with paragraph (b) of this section; the frequency of monitoring for barium, cadmium, chromium, fluoride, mercury, and selenium shall be in accordance with paragraph (c) of this section; the frequency of monitoring for nitrate shall be in accordance with paragraph (d) of this section; and the frequency of monitoring for nitrite shall be in accordance with paragraph (e) of this section.

(b) The frequency of monitoring conducted to determine compliance with the maximum contaminant level for asbestos specified in § 141.62(b) shall be conducted as follows:

(1) Each community and non-transient, non-community water system is required to monitor for asbestos during the first three-year compliance period of each nine-year compliance cycle beginning in the compliance period starting January 1, 1993.

(2) If the system believes it is not vulnerable to either asbestos contamination in its source water or due to corrosion of asbestos-cement pipe, or both, it may apply to the State for a waiver of the monitoring requirement in paragraph (b)(1) of this section. If the State grants the waiver, the system is not required to monitor.

(3) The State may grant a waiver based on a consideration of the following factors:

(i) Potential asbestos contamination of the water source, and

(ii) The use of asbestos-cement pipe for finished water distribution and the corrosive nature of the water.

(4) A waiver remains in effect until the completion of the three-year compliance period. Systems not receiving a waiver must monitor in accordance with the provisions of paragraph (b)(1) of this section.

(5) A system vulnerable to asbestos contamination due solely to corrosion of asbestos-cement pipe shall take one sample at a tap served by asbestos-cement pipe and under conditions where asbestos contamination is most likely to occur.

(6) A system vulnerable to asbestos contamination due solely to source water shall monitor in accordance with the provision of paragraph (a) of this section.

(7) A system vulnerable to asbestos contamination due both to its source water supply and corrosion of asbestos-cement pipe shall take one sample at a tap served by asbestos-cement pipe and under conditions where asbestos contamination is most likely to occur.

(8) A system which exceeds the maximum contaminant levels as determined in § 141.23(i) of this section shall monitor quarterly beginning in the next quarter after the violation occurred.

(9) The State may decrease the quarterly monitoring requirement to the frequency specified in paragraph (b)(1) of this section provided the State has determined that the system is reliably and consistently below the maximum contaminant level. In no case can a State make this determination unless a groundwater system takes a minimum of two quarterly samples and a surface (or combined surface/ground) water system takes a minimum of four quarterly samples.

(10) If monitoring data collected after January 1, 1990 are generally consistent with the requirements of § 141.23(b), then the State may allow systems to use that data to satisfy the monitoring requirement for the initial compliance period beginning January 1, 1993.

(c) The frequency of monitoring conducted to determine compliance with the maximum contaminant levels in § 141.62 for barium, cadmium, chromium, fluoride, mercury, and selenium shall be as follows:

(1) Groundwater systems shall take one sample at each sampling point during each compliance period beginning in the compliance period starting January 1, 1993. Surface water systems (or combined surface/ground) shall take one sample annually at each sampling point beginning January 1, 1993.

(2) The system may apply to the State for a waiver from the monitoring frequencies specified in paragraph (c)(1) of this section.

(3) A condition of the waiver shall require that a system shall take a minimum of one sample while the waiver is effective. The term during which the waiver is effective shall not exceed one compliance cycle (i.e., nine years).

(4) The State may grant a waiver provided surface water systems have monitored annually for at least three years and groundwater systems have conducted a minimum of three rounds of monitoring. (At least one sample shall have been taken since January 1, 1990). Both surface and groundwater systems shall demonstrate that all previous analytical results were less than the maximum contaminant level. Systems that use a new water source are not eligible for a waiver until three rounds of monitoring from the new source have been completed.

(5) In determining the appropriate reduced monitoring frequency, the State shall consider:

(i) Reported concentrations from all previous monitoring;

(ii) The degree of variation in reported concentrations; and

(iii) Other factors which may affect contaminant concentrations such as changes in groundwater pumping rates, changes in the system's configuration, changes in the system's operating prcoedures, or changes in stream flows or characteristics.

(6) A decision by the State to grant a waiver shall be made in writing and shall set forth the basis for the determination. The determination may be initiated by the State or upon an application by the public water system. The public water system shall specify the basis for its request. The State shall review and, where appropriate, revise its determination of the appropriate monitoring frequency when the system submits new monitoring data or wher other data relevant to the system's appropriate monitoring frequency become available.

(7) Systems which exceed the maximum contaminant levels as calculated in § 141.23(i) of this section shall monitor quarterly beginning in the next quarter after the violation occurred.

(8) The State may decrease the quarterly monitoring requirement to the frequencies specified in paragraphs (c)(1) and (c)(2) of this section provided it has determined that the system is reliably and consistently below the maximum contaminant level. In no case can a State make this determination unless a groundwater system takes a minimum of two quarterly samples and a surface water system takes a minimum of four quarterly samples.

(d) All public water systems (community; non-transient, non-community; and transient, non-community systems) shall monitor to determine compliance with the maximum contaminant level for nitrate in § 141.62.

(1) Community and non-transient, non-community water systems served by groundwater systems shall monitor annually beginning January 1, 1993; systems served by surface water shall monitor quarterly beginning January 1, 1993.

(2) For community and non-transient, non-community water systems, the repeat monitoring frequency for groundwater systems shall be quarterly for at least one year following any one sample in which the concentration is >50 percent of the MCL. The State may allow a groundwater system to reduce the sampling frequency to annually after four consecutive quarterly samples are reliably and consistently less than the MCL.

(3) For community and non-transient, non-community water systems, the State may allow a surface water system to reduce the sampling frequency to annually if all analytical results from four consecutive quarters are <50 percent of the MCL. A surface water system shall return to quarterly monitoring if any one sample is >50 percent of the MCL.

(4) Each transient non-community water system shall monitor annua ly beginning January 1, 1993.

(5) After the initial round of quarterly sampling is completed, each community and non-transient non-community system which is monitoring annually shall take subsequent samples during the quarter(s) which previously resulted in the highest analytical result.

(e) All public water systems (community; non-transient, non-community; and transient, non-community systems) shall monitor to determine compliance with the maximum contaminant level for nitrite in § 141.62(b).

(1) All public water systems shall take one sample at each sampling point in the compliance period beginning January 1, 1993 and ending December 31, 1995.

(2) After the initial sample, systems where an analytical result for nitrite is <50 percent of the MCL shall monitor at the frequency specified by the State.

(3) For community, non-transient, non-community, and transient non-community water systems, the repeat monitoring frequency for any water system shall be quarterly for at least one year following any one sample in which the concentration is ≥50 percent of the MCL. The State may allow a system to reduce the sampling frequency to annually after determining the system is reliably and consistently less than the MCL.

(4) Systems which are monitoring annually shall take each subsequent sample during the quarter(s) which previously resulted in the highest analytical result.

(f) Confirmation samples:

(1) Where the results of sampling for asbestos, barium, cadmium, chromium, fluoride, mercury, or selenium indicate an exceedance of the maximum contaminant level, the State may require that one additional sample be collected as soon as possible after the initial sample was taken (but not to exceed two weeks) at the same sampling point.

(2) Where nitrate or nitrite sampling results indicate an exceedance of the maximum contaminant level, the system shall take a confirmation sample within 24 hours of the system's receipt of notification of the analytical results of the first sample. Systems unable to comply with the 24-hour sampling requirement must immediately notify the consumers served by the area served by the public water system in accordance with § 141.32. Systems exercising this option must take and analyze a confirmation sample within two weeks of notification of the analytical results of the first sample.

(3) If a State-required confirmation sample is taken for any contaminant, then the results of the initial and confirmation sample shall be averaged. The resulting average shall be used to determine the system's compliance in accordance with paragraph (i) of this section. States have the discretion to delete results of obvious sampling errors.

(g) The State may require more frequent monitoring than specified in paragraphs (b), (c), (d) and (e) of this section or may require confirmation samples for positive and negative results at its discretion.

(h) Systems may apply to the State to conduct more frequent monitoring than the minimum monitoring frequencies specified in this section.

(i) Compliance with §§ 141.11 or 141.62(b) (as appropriate) shall be determined based on the analytical result(s) obtained at each sampling point.

(1) For systems which are conducting monitoring at a frequency greater than annual, compliance with the maximum contaminant levels for asbestos, barium, cadmium, chromium, fluoride, mercury, and selenium is determined by a running annual average at each sampling point. If the average at any sampling point is greater than the MCL, then the system is out of compliance. If any one sample would cause the annual average to be exceeded, then the system is out of compliance immediately. Any sample below the detection limit shall be calculated at zero for the purpose of determining the annual average.

(2) For systems which are monitoring annually, or less frequently, the system is out of compliance with the maximum contaminant levels for asbestos, barium, cadmium, chromium, fluoride, mercury and selenium if the level of a contaminant at any sampling point is greater than the MCL. If a confirmation sample is required by the State, the determination of compliance will be based on the average of the two samples.

(3) Compliance with the maximum contaminant levels for nitrate and nitrate is determined based on one sample if the levels of these contaminants are below the MCLs. If the levels of nitrate and/or nitrite exceed the MCLs in the initial sample, a confirmation sample is required in accordance with paragraph (f)(2) of this section, and compliance shall be determined based on the average of the initial and confirmation samples.

(4) If a public water system has a distribution system separable from other parts of the distribution system with no interconnections, the State may allow the system to give public notice to only the area served by that portion of the system which is out of compliance.

(j) Each public water system shall monitor at the time designated by the State during each compliance period.

(k) Inorganic analysis:

(1) Analysis for asbestos, barium, cadmium, chromium, mercury, nitrate, nitrite, and selenium shall be conducted using the following methods:

INORGANIC CONTAMINANTS ANALYTICAL METHODS

Contaminant	Methodology [11]	EPA [1]	Reference (method No.)		
			ASTM [2]	SM [3]	Other
Asbestos	Transmission Electron Microscopy	EPA [9]			
Barium	Atomic absorption; furnace technique	208.2		304	
	Atomic absorption; direct aspiration	208.1		303C	
	Inductively-coupled plasma	200.7 [1,6]			
Cadmium	Atomic absorption; furnace technique	213.2		304	
	Inductively-coupled plasma	200.7A [6]			
Chromium	Atomic absorption; furnace technique	218.2		304 [7]	
	Inductively-coupled plasma	200.7 [1,6]			
Mercury	Manual cold vapor technique	245.1	D3223-80	303F	
	Automated cold vapor technique	245.2			
Nitrate	Manual cadmium reduction	353.3	D3867-85B	418C	
	Automated hydrazine reduction	353.1			
	Automated cadmium reduction	353.2	D3867-85A	418F	
	Ion selective electrode				WoWWG/5880 [5]
	Ion chromatography	300.0			B-1001 [10]
Nitrite	Spectrophotometric	354.1			

INORGANIC CONTAMINANTS ANALYTICAL METHODS—Continued

Contaminant	Methodology [11]	EPA [1]	Reference (method No.		
			ASTM [2]	SM [3]	Other
Selenium	Automated cadmium reduction	353.2	D3867-85A	418F	
	Manual cadmium reduction	353.3	D3867-85B	418C	
	Ion chromatography	300.0			B-1011 [10]
	Atomic absorption; gaseous hydride	270.3	D3859-84A	303E	I-3667-85 [4]
	Atomic absorption; furnace technique	270.2	D3859-84B	304 [8]	

[1] "Methods of Chemical Analysis of Water and Wastes," EPA Environmental Monitoring and Support Laboratory, Cincinnati, OH 45268 (EPA-600/4-79-020). March 1983. Available from ORD Publications, CERI, EPA, Cincinnati, OH 45268.
[2] Annual Book of ASTM Standards, Vol. 11.01 American Society for Testing and Materials, 1961 Race Street, Philadelphia, PA 19103.
[3] "Standard Methods for the Examination of Water and Wastewater," 16th edition, American Public Health Association, American Water Works Association, Water Pollution Control Federation, 1985.
[4] "Methods for Determination of Inorganic Substances in Water and Fluvial Sediments," Techniques of Water-Resources Investigations of the U.S. Geological Survey Books, Chapter A1, 1985, Open-File Report 85-495. Available from Open-File Services Section, Western Distribution Branch, U.S. Geological Survey, MS 306 Box 24525, Denver Federal Center, Denver, CO 80225.
[5] "Orion Guide to Water and Wastewater Analysis." Form WeWWG/5880, p. 5, 1985. Orion Research, Inc., Cambridge, MA.
[6] 200.7A "Inductively-Coupled Plasma Atomic Emission Analysis of Drinking Water," Appendix to Method 200.7, March, 1987, U.S. EPA, Environmental Monitoring and Support Laboratory, Cincinnati, OH 45268.
[7] The addition of 1 mL of 30% H_2O_2 to each 100 mL of standards and samples is required before analysis.
[8] Prior to dilution of the Se calibration standard, add 2 mL of 30% H_2O_2 for each 100 mL of standard.
[9] "Analytical Method for Determination of Asbestos Fibers in Water," EPA-600/4-83-043, September 1983, U.S. EPA, Environmental Research Laboratory, Athens, GA 30613.
[10] "Waters Test Method for the Determination of Nitrite/Nitrate in Water Using Single Column Ion Chromatography," Method B-1011, Millipore Corporation, Waters Chromatography Division, 34 Maple Street, Milford, MA 01757.
[11] For approved analytical procedures for metals, the technique applicable to total metals must be used.

(2) Analyses for arsenic shall be conducted using the following methods: Method [1] 206.2, Atomic Absorption Furnace Technique; or Method [1] 206.3, or Method [4] D2972-78B, or Method [2] 301.A VII, pp. 159-162, or Method [3] I-1062-78, pp. 61-63, Atomic Absorption—Gaseous Hydride; or Method [1] 206.4, or Method [4] D-2972-78A, or Method [2] 404-A and 404-B(4), Spectrophotometric, Silver Diethyl-dithiocarbamate.

(3) Analyses for fluoride shall be conducted using the following methods:

METHODOLOGY FOR FLUORIDE

Methodology	Reference (Method No.) [1]			
	EPA [2]	ASTM [4]	SM [5]	Other
Colorimetric SPADNS, with distillation	340.1	D1179-72A	43 A and C	
Potentiometric ion selective electrode	340.2	D1179-72B	413 B	
Automated Alizarin fluoride blue, with distillation (complexone)	340.3		413 E	129-71W [6]
Automated ion selective electrode				380-75WE [7]

[1] "Methods of Chemical Analysis of Water and Wastes," EPA Environmental Monitoring and Support Laboratory, Cincinnati, Ohio 45268 (EPA-600/4-79-020), March 1983. Available from ORD Publications, CERI, EPA, Cincinnati, Ohio 45268. For approved analytical procedures for metals, the technique applicable to total metals must be used.
[2] [Reserved]
[3] [Reserved]
[4] Annual Book of ASTM Standards, part 31 Water, American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103.
[5] "Standard Methods for the Examination of Water and Wastewater," 16th Edition, American Public Health Association, American Water Works Association, Water Pollution Control Federation, 1985.
[6] "Fluoride in Water and Wastewater, Industrial Method = 129-71W." Technicon Industrial Systems, Tarrytown, New York 10591. December 1972.
[7] "Flouride in Water and Wastewater," Technicon Industrial Sytems, Tarrytown, New York 10591. February 1976.

(4) Sample collection for asbestos, barium, cadmium, chromium, fluoride, mercury, nitrate, nitrite, and selenium under this section shall be conducted using the sample preservation, container, and maximum holding time procedures specified in the table below:

Contaminant	Preservative [1]	Container [2]	Time [3]
Asbestos	Cool, 4 °C	P or G	
Barium	Conc HNO_3 to pH <2	P or G	6 months.
Cadmium	Conc HNO_3 to pH <2	P or G	6 months.
Chromium	Conc HNO_3 to pH <2	P or G	6 months.
Fluoride	None	P or G	1 month.

[1] "Methods of Chemical Analysis of Water and Wastes," EPA Environmental Monitoring and Support Laboratory, Cincinnati, Ohio 45268 (EPA-600/4-79-020), March 1979. Available from ORD Publications, CERI, EPA, Cincinnati, Ohio 45268. For approved analytical procedures for metals, the technique applicable to total metals must be used.

[2] "Standard Methods for the Examination of Water and Wastewater," 16th Edition, American Public Health Association, American Water Works Association, Water Pollution Control Federation, 1985.

[3] Techniques of Water-Resources Investigation of the United States Geological Survey, Chapter A-1, "Methods for Determination of Inorganic Substances in Water and Fluvial Sediments," Book 5, 1979, Stock #014-001-03177-9. Available from Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

[4] Annual Book of ASTM Standards, part 31 Water American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103.

Contaminant	Preservative [1]	Container [2]	Time [3]
Mercury	Conc HNO_3 to pH <2	G	28 days.
		P	14 days.
Nitrate:			
Chlorinated	Cool, 4 °C	P or G	28 days.
Non-chlorinated	Conc H_2SO_4 to pH <2	P or G	14 days.
Nitrite	Cool, 4 °C	P or G	48 hours.
Selenium	Conc HNO_3 to pH <2	P or G	6 months.

[1] If HNO_3 cannot be used because of shipping restrictions, sample may be initially preserved by icing and immediately shipping it to the laboratory. Upon receipt in the laboratory, the sample must be acidified with conc HNO_3 to pH <2. At time of analysis, sample container should be thoroughly rinsed with 1:1 HNO_3; washings should be added to sample.
[2] P = plastic, hard or soft; G = glass, hard or soft.
[3] In all cases, samples should be analyzed as soon after collection as possible.

(5) Analysis under this section shall only be conducted by laboratories that have received approval by EPA or the State. To receive approval to conduct analyses for asbestos, barium, cadmium, chromium, fluoride, mercury, nitrate, nitrite and selenium the laboratory must:

(i) Analyze Performance Evaluation samples which include those substances provided by EPA Environmental Monitoring and Support Laboratory or equivalent samples provided by the State.

(ii) Achieve quantitative results on the analyses that are within the following acceptance limits:

Contaminant	Acceptance limit
Abestos	2 standard deviations based on study statistics.
Barium	±15% at ≥0.15 mg/l.
Cadmium	±20% at ≥0.002 mg/l.
Chromium	±15% at ≥0.01 mg/l.
Fluoride	±10% at 1 to 10 mg/l.
Mercury	±30% at ≥0.0005 mg/l.
Nitrate	±10% at ≥0.4 mg/l.
Nitrate	±15% at ≥0.4 mg/l.
Selenium	±20% at ≥0.01 mg/l.

5. In § 141.24, paragraph (a) the introductory text, paragraph (e), and paragraph (f) are revised, and a new paragraph (h) is added to read as follows:

§ 141.24 Organic chemicals other than total trihalomethanes, sampling and analytical requirements.

(a) Monitoring of endrin for purposes of determining compliance with the maximum contaminant level listed in § 141.12(a) shall be conducted as follows:

* * * * *

(e) Analysis made to determine compliance with the maximum contaminant level for endrin in § 141.12(a) shall be made in accordance with Method 508, "Determination of Chlorinated Pesticides in Water by Gas Chromatography with and Electron Capture Detector," in "Methods for the Determination of Organic Compounds in Drinking Water," ORD Publications, CERI, EPA/600/4–88/039, December 1988.

* * * * *

(f) Analysis of the contaminants listed in § 141.61(a) (9) through (18) for the purpose of determining compliance with the maximum contaminant level shall be conducted as follows:

(1) Groundwater systems shall take a minimum of one sample at every entry point to the distribution system which is representative of each well after treatment (hereafter called a sampling point). If conditions warrant, the State may designate additional sampling points within the distribution system or at the consumer's tap which more accurately determines consumer exposure. Each sample must be taken at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

(2) Surface water systems shall take a minimum of one sample at points in the distribution system that are representative of each source or at each entry point to the distribution system after treatment (hereafter called a sampling point). If conditions warrant, the State may designate additional sampling points within the distribution system or at the consumer's tap which more accurately determines consumer exposure. Each sample must be taken at the same sampling point unless conditions make another sampling point more representative of each source, treatment plant, or within the distribution system.

Note: For purposes of this paragraph, surface water systems include systems with a combination of surface and ground surfaces.

(3) If the system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions (i.e., when water representative of all sources is being used).

(4) Each community and non-transient non-community water system shall take four consecutive quarterly samples for each contaminant listed in § 141.61(a) (9) through (18) during each compliance period beginning in the compliance period starting January 1, 1993.

(5) Groundwater systems which do not detect one of the contaminants listed in § 141.61(a) (9) through (18) after conducting the initial round of monitoring required in paragraph (f)(4) of this section shall take one sample annually.

(6) If the initial monitoring for contaminants listed in § 141.61(a) (9) through (18) as allowed in paragraph (f)(18) of this section has been completed by December 31, 1992 and the system did not detect any contaminant listed in § 141.61(a) (1) through (18) then the system shall take one sample annually beginning January 1, 1993. After a minimum of three years of annual sampling, the State may allow groundwater systems which have no previous detection of any contaminant listed in § 141.61(a) to take one sample during each compliance period.

(7) Each community and non-transient water system which does not detect a contaminant listed in § 141.61(a) (1) through (18) may apply to the State for a waiver from the requirement of paragraph (f)(4) and (f)(5) of this section after completing the initial monitoring. (For the purposes of this section, detection is defined as >0.0005 mg/1.) A waiver shall be effective for no more than six years (two compliance periods).

(8) A State may grant a waiver after evaluating the following factor(s):

(i) Knowledge of previous use (including transport, storage, or disposal) of the contaminant within the watershed or zone of influence of the system. If a determination by the State reveals no previous use of the contaminant within the watershed or zone of influence, a waiver may be granted.

(ii) If previous use of the contaminant is unknown or it has been used previously, then the following factors shall be used to determine whether a waiver is granted.

(A) Previous analytical results.

(B) The proximity of the system to potential point or non-point source of contamination. Point sources include spills and leaks of chemicals at or near a water treatment facility or at manufacturing, distribution, or storage facilities, or from hazardous and municipal waste landfills and other waste handling or treatment facilities.

(C) The environmental persistence and transport of the contaminants.

(D) The number of persons served by the public water system and the proximity of a smaller system to a larger system.

(E) How well the water source is protected against contamination such as whether it is a surface or groundwater system. Groundwater systems must consider factors such as depth of the well, the type of soil, and wellhead protection. Surface water systems must consider watershed protection.

(9) As a condition of the waiver a system must take one sample at each sampling point during the time the waiver is effective (i.e., one sample during two compliance periods or six years), and update its vulnerability assessment considering the factors listed in paragraph (f)(8) of this section. Based on this vulnerability assessment the State must confirm that the system is non-vulnerable. If the State does not make this reconfirmation within three years of the initial determination, then the waiver is invalidated and the system is required to sample annually as specified in paragraph (f)(5) of this section.

(10) A surface water system which does not detect a contaminant listed in § 141.61(a) (1) through (18) and is determined by the State to be non-vulnerable using the criteria in paragraph (f)(8) of this section shall monitor at the frequency specified by the State (if any). Systems meeting this criteria must be determined by the State to be non-vulnerable based on a vulnerability assessment during each compliance period.

(11) If a contaminant listed in § 141.61(a) (9) through (18) is detected at a level exceeding 0.0005 mg/l in any sample, then:

(i) The system must monitor quarterly at each sampling point which resulted in a detection.

(ii) The State may decrease the quarterly monitoring requirement specified in paragraph (f)(11)(i) of this section provided it has determined that the system is reliably and consistently below the maximum contaminant level. In no case shall the State make this determination unless a groundwater system takes a minimum of two quarterly samples and a surface water system takes a minimum of four quarterly samples.

(iii) If the State determines that the system is reliably and consistently below the MCL, the State may allow the system to monitor annually. Systems which monitor annually must monitor during the quarter(s) which previously yielded the highest analytical result.

(iv) Systems which have three consecutive annual samples with no detection of a contaminant may apply to the State for a waiver as specified in paragraph (f)(7) of this section.

(v) [Reserved]

(12) Systems which violate the requirements of § 141.61(a) (9) through (18) as determined by paragraph (f)(16) of this section must monitor quarterly. After a minimum of four quarterly samples shows the system is in compliance as specified in paragraph (f)(16) of this section, and the State determines that the system is reliably and consistently below the maximum contaminant level, the system may monitor at the frequency and time specified in paragraph (f)(11)(iii) of this section.

(13) The State may require a confirmation sample for positive or negative results. If a confirmation sample is required by the State, the result must be averaged with the first sampling result and the average is used for the compliance determination as specified by paragraph (f)(16) of this section. States have discretion to delete results of obvious sampling errors from this calculation.

(14) The State may reduce the total number of samples a system must analyze by allowing the use of compositing. Composite samples from a maximum of five sampling points are allowed. Compositing of samples must be done in the laboratory and analyzed within 14 days of sample collection.

(i) If the concentration in the composite sample is $\geq$0.0005 mg/l for any contaminant listed in § 141.61(a), then a follow-up sample must be taken in analyzed within 14 days from each sampling point included in the composite.

(ii) If duplicates of the original sample taken from each sampling point used in the composite are available, the system may use these instead of resampling. The duplicate must be analyzed and the results reported to the State within 14 days of collection.

(iii) If the population served by the system is $>$3,300 persons, then compositing may only be permitted by by the State at sampling points within a single system. In systems serving $<$3,300 persons, the State may permit compositing among different systems provided the 5-sample limit is maintained.

(iv) Compositing samples prior to GC analysis.

(A) Add 5 ml or equal larger amounts of each sample (up to 5 samples are allowed) to a 25 ml glass syringe. Special precautions must be made to maintain zero headspace in the syringe.

(B) The samples must be cooled at 4° C during this step to minimize volatilization losses.

(C) Mix well and draw out a 5-ml aliquot for analysis.

(D) Follow sample introduction, purging, and desorption steps described in the method.

(E) If less than five samples are used for compositing, a proportionately small syringe may be used.

(v) Compositing samples prior to GC/MS analysis.

(A) Inject 5-ml or equal larger amounts of each aqueous sample (up to 5 samples are allowed) into a 25-ml purging device using the sample introduction technique described in the method.

(B) The total volume of the sample in the purging device must be 25 ml.

(C) Purge and desorb as described in the method.

(15) Compliance with § 141.61(a) (9) through (18) shall be determined based on the analytical results obtained at each sampling point.

(i) For systems which are conducting monitoring at a frequency greater than annual, compliance is determined by a running annual average of all samples taken at each sampling point. If the annual average of any sampling point is greater than the MCL, then the system is out of compliance. If the initial sample or a subsequent sample would cause the annual average to be exceeded, then the system is out of compliance immediately. Any samples below the detection limit shall be calculated as zero for purposes of determining the annual average.

(ii) If monitoring is conducted annually, or less frequently, the system is out of compliance if the level of a contaminant at any sampling point is greater than the MCL. If a confirmation sample is required by the State, the determination of compliance will be based on the average of two samples.

(iii) If a public water system has a distribution system separable from other parts of the distribution system with no interconnections, the State may allow the system to give public notice to only that area served by that portion of the system which is out of compliance.

(16) Analysis for the contaminants listed in § 141.61(a) (9) through (18) shall

be conducted using the following EPA methods or their equivalent as approved by EPA. These methods are contained in "Methods for the Determination of Organic Compounds in Drinking Water", ORD Publications, CERI, EPA/600/4–88/039, December 1988. These documents are available from the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161. The toll-free number is 800-336–4700.

(i) Method 502.1, "Volatile Halogenated Organic Chemicals in Water by Purge and Trap Gas Chromatography."

(ii) Method 502.2, "Volatile Organic Compounds in Water by Purge and Trap Capillary Column Gas Chromatography with Photoionization and Electrolytic Conductivity Detectors in Series."

(iii) Method 503.1, "Volatile Aromatic and Unsaturated Organic Compounds in Water by Purge and Trap Gas Chromatography."

(iv) Method 524.1, "Measurement of Purgeable Organic Compounds in Water by Purged Column Gas Chromatography/Mass Spectrometry."

(v) Method 524.2, "Measurement of Purgeable Organic Compounds in Water by Capillary Column Gas Chromatography/Mass Spectrometry."

(17) Analysis under this section shall only be conducted by laboratories that have received approval by EPA or the State according to the following conditions:

(i) To receive conditional approval to conduct analyses for the contaminants in § 141.61(a) (9) through (18) the laboratory must:

(A) Analyze Performance Evaluation samples which include these substances provided by EPA Environmental Monitoring and Support Laboratory or equivalent samples provided by the State.

(B) Achieve the quantitative acceptance limits under paragraphs (f)(18)(i) (C) and (D) of this section for at least 80 percent of the regulated organic chemicals listed in § 141.61(a) (2) through (18).

(C) Achieve quantitative results on the analyses performed under paragraph (f)(18)(i)(A) of this section that are within ±20 percent of the actual amount of the substances in the Performance Evaluation sample when the actual amount is greater than or equal to 0.010 mg/l.

(D) Achieve quantitative results on the analyses performed under paragraph (f)(18)(i)(A) of this section that are within ±40 percent of the actual amount of the substances in the Performance Evaluation sample when the actual amount is less than 0.010 mg/l.

(E) Achieve a method detection limit of 0.0005 mg/l, according to the procedures in Appendix B of part 136 of this chapter.

(F) Be currently approved by EPA or the State for the analyses of trihalomethanes under § 141.30.

(ii) [Reserved]

(18) States may allow the use of monitoring data collected after January 1, 1988 required under section 1445 of the Act for purposes of monitoring compliance. If the data are generally consistent with the other requirements in this section, the State may use those data (i.e., a single sample rather than four quarterly samples) to satisfy the initial monitoring requirement of paragraph (f)(4) of this section.

(19) States may increase required monitoring where necessary to detect variations within the system.

(20) Each approved laboratory must determine the method detection limit (MDL), as defined in Appendix B to Part 136 of this chapter, at which it is capable of detecting VOCs. The acceptable MDL is 0.0005 mg/l. This concentration is the detection concentration for purposes of this section.

(21) Each public water system shall monitor at the time designated by the State within each compliance period.

* * * * *

(h) Analysis of the contaminants listed in § 141.61(c) for the purposes of determining compliance with the maximum contaminant level shall be conducted as follows:

(1) Groundwater systems shall take a minimum of one sample at every entry point to the distribution system which is representative of each well after treatment (hereafter called a sampling point). Each sample must be taken at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

(2) Surface water systems shall take a minimum of one sample at points in the distribution system that are representative of each source or at each entry point to the distribution system after treatment (hereafter called a sampling point). Each sample must be taken at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

Note: For purposes of this paragraph, surface water systems include systems with a combination of surface and ground sources.

(3) If the system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions (i.e., when water representative of all sources is being used).

(4) Monitoring frequency:

(i) Each community and non-transient non-community water system shall take four consecutive quarterly samples for each contaminant listed in § 141.61(c) during each compliance period beginning with the compliance period starting January 1, 1993.

(ii) Systems serving more than 3,300 persons which do not detect a contaminant in the initial compliance period may reduce the sampling frequency to a minimum of two quarterly samples in one year during each repeat compliance period.

(iii) Systems serving less than or equal to 3,300 persons which do not detect a contaminant in the initial compliance period may reduce the sampling frequency to a minimum of one sample during each repeat compliance period.

(5) Each community and non-transient water system may apply to the State for a waiver from the requirement of paragraph (h)(4) of this section. A system must reapply for a waiver for each compliance period.

(6) A State may grant a waiver after evaluating the following factor(s): Knowledge of previous use (including transport, storage, or disposal) of the contaminant within the watershed or zone of influence of the system. If a determination by the State reveals no previous use of the contaminant within the watershed or zone of influence, a waiver may be granted. If previous use of the contaminant is unknown or it has been used previously, then the following factors shall be used to determine whether a waiver is granted.

(i) Previous analytical results.

(ii) The proximity of the system to a potential point or non-point source of contamination. Point sources include spills and leaks of chemicals at or near a water treatment facility or at manufacturing, distribution, or storage facilities, or from hazardous and municipal waste landfills and other waste handling or treatment facilities. Non-point sources include the use of pesticides to control insect and weed pests on agricultural areas, forest lands, home and gardens, and other land application uses.

(iii) The environmental persistence and transport of the pesticide or PCBs.

(ii) How well the water source is protected against contamination due to such factors as depth of the well and the type of soil and the integrity of the well casing.

(v) Elevated nitrate levels at the water supply source.

(vi) Use of PCBs in equipment used in the production, storage, or distribution of water (i.e., PCBs used in pumps, transformers, etc.).

(7) If an organic contaminant listed in § 141.61(c) is detected (as defined by paragraph (h)(18) of this section) in any sample, then:

(i) Each system must monitor quarterly at each sampling point which resulted in a detection.

(ii) The State may decrease the quarterly monitoring requirement specified in paragraph (h)(7)(i) of this section provided it has determined that the system is reliably and consistently below the maximum contaminant level. In no case shall the State make this determination unless a groundwater system takes a minimum of two quarterly samples and a surface water system takes a minimum of four quarterly samples.

(iii) After the State determines the system is reliably and consistently below the maximum contaminant level the State may allow the system to monitor annually. Systems which monitor annually must monitor during the quarter that previously yielded the highest analytical result.

(iv) Systems which have 3 consecutive annual samples with no detection of a contaminant may apply to the State for a waiver as specified in paragraph (h)(8) of this section.

(v) If monitoring results in detection of one or more of certain related contaminants (aldicarb, aldicarb sulfone, aldicarb sulfoxide and heptachlor, heptachlor epoxide), then subsequent monitoring shall analyze for all related contaminants.

(8) Systems which violate the requirements of § 141.61(c) as determined by paragraph (h)(12) of this section must monitor quarterly. After a maximum of four quarterly samples show the system is in compliance and the State determines the system is reliably and consistently below the MCL, as specified in paragraph (h)(11) of this section, the system shall monitor at the frequency specified in paragraph (h)(7)(iii) of this section.

(9) The State may require a confirmation sample for positive or negative results. If a confirmation sample is required by the State, the result must be averaged with the first sampling result and the average used for the compliance determination as specified by paragraph (h)(11) of this section. States have discretion to delete results of obvious sampling errors from this calculation.

(10) The State may reduce the total number of samples a system must analyze by allowing the use of compositing. Composite samples from a maximum of five sampling points are allowed. Compositing of samples must be done in the laboratory and analyzed within 14 days of sample collections.

(i) If the concentration in the composite sample detects one or more contaminants listed in § 141.61(c), then a follow-up sample must be taken and analyzed within 14 days from each sampling point included in the composite.

(ii) If duplicates of the original sample taken from each sampling point used in the composite are available, the system may use these duplicates instead of resampling. The duplicate must be analyzed and the results reported to the State within 14 days of collection.

(iii) If the population served by the system is >3,300 persons, then compositing may only be permitted by the State at sampling points within a single system. In systems serving <3,300 persons, the State may permit compositing among different systems provided the 5-sample limit is maintained.

(11) Compliance with § 141.61(c) shall be determined based on the analytical results obtained at each sampling point.

(i) For systems which are conducting monitoring at a frequency greater than annual, compliance is determined by a running annual average of all samples taken at each sampling point. If the annual average of any sampling point is greater than the MCL, then the system is out of compliance. If the initial sample or a subsequent sample would cause the annual average to be exceeded, then the system is out of compliance immediately. Any samples below the detection limit shall be calculated as zero for purposes of determining the annual average.

(ii) If monitoring is conducted annually, or less frequently, the system is out of compliance if the level of a contaminant at any sampling point is greater than the MCL. If a confirmation sample is required by the State, the determination of compliance will be based on the average of two samples.

(iii) If a public water system has a distribution system separable from other parts of the distribution system with no interconnections, the State may allow the system to give public notice to only that portion of the system which is out of compliance.

(12) Analysis for the contaminants listed in § 141.61(c) shall be conducted using the following EPA methods or their equivalent as approved by EPA. These methods are contained in "Methods for the Determination of Organic Compounds in Drinking Water," ORD Publications, CERI, EPA/600/4–88/039, December 1988. These documents are available from the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161. The toll-free number is 1–800–336–4700.

(i) Method 504, "1,2-Dibromoethane (EDB) and 1,2-Dibromo-3-chloropropane (DBCP) in Water by Microextraction and Gas Chromatography." Method 504 can be used to meaure dibromochloropropane (DBCP) and ethylene dibromide (EDB).

(ii) Method 505, "Analysis of Organohalide Pesticides and Commercial Polychlorinated Biphenyl Products (Aroclors) in Water by Microextraction and Gas Chromatography." Method 505 can be used to measure alachlor, atrazine, chlordane, heptachlor, heptachlor epoxide, lindane, methoxychlor, and toxaphene. Method 505 can be used as a screen for PCBs.

(iii) Method 507, "Determination of Nitrogen- and Phosphorus-Containing Pesticides in Ground Water by Gas Chromatography with a Nitrogen-Phosphorus Detector." Method 507 can be used to measure alachlor and atrazine.

(iv) Method 508, "Determination of Chlorinated Pesticides in Water by Gas Chromatography with an Electron Capture Detector." Method 508 can be used to measure chlordane, heptachlor, heptachlor epoxide, lindane and methoxychlor. Method 508 can be used as a screen for PCBs.

(v) Method 508A, "Screening for Polychlorinated Biphenyls by Perchlorination and Gas Chromatography." Method 508A is used to quantitate PCBs as decachlorobiphenyl if detected in Methods 505 or 508.

(vi) Method 515.1, "Determination of Chlorinated Acids in Water by Gas Chromatography with an Electron Capture Detector." Method 515.1 can be used to measure 2,4-D, 2,4,5-TP (Silvex) and pentachlorophenol.

(vii) Method 525, "Determination of Organic Compounds in Drinking Water by Liquid-Solid Extraction and Capillary Column Gas Chromatography/Mass Spectrometry." Method 525 can be used to measure alachlor, atrazine, chlordane, heptachlor, heptachlor epoxide, lindane, methoxychlor, and pentachlorophenol.

(viii) Method 531.1, "Measurement of N-Methyl Carbamoyloximes and N-Methyl Carbamates in Water by Direct Aqueous Injection HPLC with Post-Column Derivatization." Method 531.1 can be used to measure aldicarb, aldicarb sulfoxide, aldicarb sulfone, and carbofuran.

(13) Analysis for PCBs shall be conducted as follows:

(i) Each system which monitors for PCBs shall analyze each sample using either Method 505 or Method 508 (see paragraph (h)(13) of this section).

(ii) If PCBs (as one of seven Aroclors) are detected (as designated in this paragraph) in any sample analyzed using Methods 505 or 508, the system shall reanalyze the sample using Method 508A to quantitate PCBs (as decachlorobiphenyl).

Aroclor	Detection limit (mg/l)
1016	0.00008
1221	0.02
1232	0.0005
1242	0.0003
1248	0.0001
1254	0.0001
1260	0.0002

(iii) Compliance with the PCB MCL shall be determined based upon the quantitative results of analyses using Method 508A.

(14) If monitoring data collected after January 1, 1990, are generally consistent with the requirements of § 141.24(h), then the State may allow systems to use that data to satisfy the monitoring requirement for the initial compliance period beginning January 1, 1993.

(15) The State may increase the required monitoring frequency, where necessary, to detect variations within the system (e.g., fluctuations in concentration due to seasonal use, changes in water source).

(16) The State has the authority to determine compliance or initiate enforcement action based upon analytical results and other information compiled by their sanctioned representatives and agencies.

(17) Each public water system shall monitor at the time designated by the State within each compliance period.

(18) Detection as used in this paragraph shall be defined as greater than or equal to the following concentrations for each contaminant.

Contaminant	Detection limit (mg/l)
Alachlor	0.0002
Aldicarb	.0005
Aldicarb sulfoxide	.0005
Aldicarb sulfone	.0008
Atrazine	.0001
Carbofuran	.0009
Chlordane	.0002
Dibromochloropropane (DBCP)	.00002
2,4-D	.0001
Ethylene dibromide (EDB)	.00001
Heptachlor	.00004
Hetpachlor epoxide	.00002
Lindane	.00002
Methoxychlor	.0001
Polychlorinated biphenyls (PCBs) (as decachlorobiphenyl)	.0001
Pentachlorophenol	.00004
Toxaphene	.001
2,4,5-TP (Silvex)	.0002

6. In § 141.32, paragraph (a)(1)(iii)(B) is revised, paragraphs (e) (13), (14), (16), (25), (26), (27), and (46) are reserved, and paragraphs (e) (15), (17) through (24), (28) through (45), and (47) through (52) are added to read as follows:

§ 141.32 Public notification.

(a) * * *

(1) * * *

(iii) * * *

(B) Violation of the MCL for nitrate or nitrite as defined in § 141.62 and determined according to § 141.23(i)(3).

* * * * *

(e) * * *

(13)–(14) [Reserved]

(15) *Asbestos.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that asbestos fibers greater than 10 micrometers in length are a health concern at certain levels of exposure. Asbestos is a naturally occurring mineral. Most asbestos fibers in drinking water are less than 10 micrometers in length and occur in drinking water from natural sources and from corroded asbestos-cement pipes in the distribution system. The major uses of asbestos were in the production of cements, floor tiles, paper products, paint, and caulking; in transportation-related applications; and in the production of textiles and plastics. Asbestos was once a popular insulating and fire retardent material. Inhalation studies have shown that various forms of asbestos have produced lung tumors in laboratory animals. The available information on the risk of developing gastrointestinal tract cancer associated with the ingestion of asbestos from drinking water is limited. Ingestion of intermediate-range chrysotile asbestos fibers greater than 10 micrometers in length is associated with causing benign tumors in male rats. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for asbestos at 7 million long fibers per liter to reduce the potential risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to asbestos.

(16) [Reserved]

(17) *Cadmium.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that cadmium is a health concern at certain levels of exposure. Food and the smoking of tobacco are common sources of general exposure. This inorganic metal is a contaminant in the metals used to galvanize pipe. It generally gets into water by corrosion of galvanized pipes or by improper waste disposal. This chemical has been shown to damage the kidney in animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Some industrial workers who were exposed to relatively large amounts of this chemical during working careers also suffered damage to the kidney. EPA has set the drinking water standard for cadmium at 0.005 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to cadmium.

(18) *Chromium.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that chromium is a health concern at certain levels of exposure. This inorganic metal occurs naturally in the ground and is often used in the electroplating of metals. It generally gets into water from runoff from old mining operations and improper waste disposal from plating operations. This chemical has been shown to damage the kidney, nervous system, and the circulatory system of laboratory animals such as rats and mice when the animals are exposed at high levels. Some humans who were exposed to high levels of this chemical suffered liver and kidney damage, dermatitis and respiratory problems. EPA has set the drinking water standard for chromium at 0.1 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to chromium.

(19) *Mercury.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that mercury is a health concern at certain levels of exposure. This inorganic metal is used in electrical equipment and some water pumps. It usually gets into water as a result of improper waste disposal. This chemical has been shown to damage the kidney of laboratory animals such as rats when

the animals are exposed at high levels over their lifetimes. EPA has set the drinking water standard for mercury at 0.002 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to mercury.

(20) *Nitrate.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that nitrate poses an acute health concern at certain levels of exposure. Nitrate is used in fertilizer and is found in sewage and wastes from human and/or farm animals and generally gets into drinking water from those activities. Excessive levels of nitrate in drinking water have caused serious illness and sometimes death in infants under six months of age. The serious illness in infants is caused because nitrate is converted to nitrite in the body. Nitrite interferes with the oxygen carrying capacity of the child's blood. This is an acute disease in that symptoms can develop rapidly in infants. In most cases, health deteriorates over a period of days. Symptoms include shortness of breath and blueness of the skin. Clearly, expert medical advice should be sought immediately if these symptoms occur. The purpose of this notice is to encourage parents and other responsible parties to provide infants with an alternate source of drinking water. Local and State health authorities are the best source for information concerning alternate sources of drinking water for infants. EPA has set the drinking water standard at 10 parts per million (ppm) for nitrate to protect against the risk of these adverse effects. EPA has also set a drinking water standard for nitrite at 1 ppm. To allow for the fact that the toxicity of nitrate and nitrite are additive, EPA has also established a standard for the sum of nitrate and nitrite at 10 ppm. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to nitrate.

(21) *Nitrite.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that nitrite poses an acute health concern at certain levels of exposure. This inorganic chemical is used in fertilizers and is found in sewage and wastes from humans and/or farm animals and generally gets into drinking water as a result of those activities. While excessive levels of nitrite in drinking water have not been observed, other sources of nitrite have caused serious illness and sometimes death in infants under six months of age. The serious illness in infants is caused because nitrite interferes with the oxygen carrying capacity of the child's blood. This is an acute disease in that symptoms can develop rapidly. However, in most cases, health deteriorates over a period of days. Symptoms include shortness of breath and blueness of the skin. Clearly, expert medical advice should be sought immediately if these symptoms occur. The purpose of this notice is to encourage parents and other responsible parties to provide infants with an alternate source of drinking water. Local and State health authorities are the best source for information concerning alternate sources of drinking water for infants. EPA has set the drinking water standard at 1 part per million (ppm) for nitrite to protect against the risk of these adverse effects. EPA has also set a drinking water standard for nitrate (converted to nitrite in humans) at 10 ppm and for the sum of nitrate and nitrite at 10 ppm. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to nitrite.

(22) *Selenium.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that selenium is a health concern at certain high levels of exposure. Selenium is also an essential nutrient at low levels of exposure. This inorganic chemical is found naturally in food and soils and is used in electronics, photocopy operations, the manufacture of glass, chemicals, drugs, and as a fungicide and a feed additive. In humans, exposure to high levels of selenium over a long period of time has resulted in a number of adverse health effects, including a loss of feeling and control in the arms and legs. EPA has set the drinking water standard for selenium at 0.05 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to selenium.

(23) *Acrylamide.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that acrylamide is a health concern at certain levels of exposure. Polymers made from acrylamide are sometimes used to treat water supplies to remove particulate contaminants. Acrylamide has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. Sufficiently large doses of acrylamide are known to cause neurological injury. EPA has set the drinking water standard for acrylamide using a treatment technique to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. This treatment technique limits the amount of acrylamide in the polymer and the amount of the polymer which may be added to drinking water to remove particulates. Drinking water systems which comply with this treatment technique have little to no risk and are considered safe with respect to acrylamide.

(2) *Alachlor.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that alachlor is a health concern at certain levels of exposure. This organic chemical is a widely used pesticide. When soil and climatic conditions are favorable, alachlor may get into drinking water by runoff into surface water or by leaching into ground water. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for alachlor at 0.002 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water that meets this standard is associated with little to none of this risk and is considered safe with respect to alachlor.

(25) –(27) [Reserved]

(28) *Atrazine.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that atrazine is a health concern at certain levels of exposure. This organic chemical is a herbicide. When soil and climatic conditions are favorable, atrazine may get into drinking water by runoff into surface water or by leaching into ground water. This chemical has been shown to affect offspring of rats and the heart of dogs. EPA has set the drinking water standard for atrazine at 0.003 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe wtih respect to atrazine.

(29) *Carbofuran.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that carbofuran is a health concern at certain levels of exposure. This organic chemical is a pesticide. When soil and climatic conditions are favorable, carbofuran may get into drinking water by runoff into surface water or by leaching into ground water. This chemical has been shown to damage the nervous and reproductive systems of laboratory animals such as rats and mice exposed at high levels over their lifetimes. Some humans who were exposed to relatively large amounts of this chemical during their working careers also suffered damage to the nervous system. Effects on the nervous system are generally rapidly reversible. EPA has set the drinking water standard for carbofuran at 0.04 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to carbofuran.

(30) *Chlordane.* The United States Environmental Protection Agency (EPA sets drinking water standards and has determined that chlordane is a health concern at certain levels of exposure. This organic chemical is a pesticide used control termites. Chlordane is not very mobile in soils. It usually gets into drinking water after application near water supply intakes or wells. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for chlordane at 0.002 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to chlordane.

(31) *Dibromochloropropane (DBCP).* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that DBCP is a health concern at certain levels of exposure. This organic chemical was once a popular pesticide. When soil and climatic conditions are favorable, dibromochloropropane may get into drinking water by runoff into surface water or by leaching into ground water. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for DBCP at 0.0002 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to DBCP.

(32) *o-Dichlorobenzene.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that o-dichlorobenzene is a health concern at certain levels of exposure. This organic chemical is used as a solvent in the production of pesticides and dyes. It generally gets into water by improper waste disposal. This chemical has been shown to damage the liver, kidney and the blood cells of laboratory animals such as rats and mice exposed to high levels during their lifetimes. Some industrial workers who were exposed to relatively large amounts of this chemical during working careers also suffered damage to the liver, nervous system, and circulatory system. EPA has set the drinking water standard for o-dichlorobenzene at 0.6 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to o-dichlorobenzene.

(33) *cis-1,2-Dichloroethylene.* The United States Environmental Protection Agency (EPA) establishes drinking water standards and has determined that cis-1,2-dichloroethylene is a health concern at certain levels of exposure. This organic chemical is used as a solvent and intermediate in chemical production. It generally gets into water by improper waste disposal. This chemical has been shown to damage the liver, nervous system, and circulatory system of laboratory animals such as rats and mice when exposed at high levels over their lifetimes. Some humans who were exposed to relatively large amounts of this chemical also suffered damage to the nervous system. EPA has set the drinking water standard for cis-1,2-dichloroethylene at 0.07 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water the meets that EPA standard is associated with little to none of this risk and is considered safe with respect to cis-1,2-dichloroethylene.

(34) *trans-1,2-Dichloroethylene.* The United States Environmental Protection Agency (EPA) establishes drinking water standards and has determined that trans-1,2-dichloroethylene is a health concern at certain levels of exposure. This organic chemical is used as a solvent and intermediate in chemical production. It generally gets into water by improper waste disposal. This chemical has been shown to damage the liver, nervous system, and the circulatory system of laboratory animals such as rats and mice when exposed at high levels over their lifetimes. Some humans who were exposed to relatively large amounts of this chemical also suffered damage to the nervous system. EPA has set drinking water standard for trans-1,2-dichloroethylene at 0.1 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to trans-1,2-dichloroethylene.

(35) *1,2-Dichloropropane.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that 1,2-dichloropropane is a health concern at certain levels of exposure. This organic chemical is used as a solvent and pesticide. When soil and climatic conditions are favorable, 1,2-dichloropropane may get into drinking water by runoff into surface water or by leaching into ground water. It may also get into drinking water through improper waste disposal. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for 1,2-dichloropropane at 0.005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to 1,2-dichloropropane.

(36) *2,4–D.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that 2,4–D is a health concern at certain levels of exposure. This organic chemical is used as a herbicide and to control algae in reservoirs. When soil and climatic conditions are favorable, 2,4–D may get into drinking water by runoff into surface water or by leaching into ground

water. This chemical has been shown to damage the liver and kidney of laboratory animals such as rats exposed at high levels during their lifetimes. Some humans who were exposed to relatively large amounts of this chemical also suffered damage to the nervous system. EPA has set the drinking water standard for 2,4–D at 0.07 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to 2,4–D.

(37) *Epichlorohydrin.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that epichlorohydrin is a health concern at certain levels of exposure. Polymers made from epichlorohydrin are sometimes used in the treatment of water supplies as a flocculent to remove particulates. Epichlorohydrin generally gets into drinking water by improper use of these polymers. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for epichlorohydrin using a treatment technique to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. This treatment technique limits the amount of epichlorohydrin in the polymer and the amount of the polymer which may be added to drinking water as a flocculent to remove particulates. Drinking water systems which comply with this treatment technique have little to no risk and are considered safe with respect to epichlorohydrin.

(38) *Ethylbenzene.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined ethylbenzene is a health concern at certain levels of exposure. This organic chemical is a major component of gasoline. It generally gets into water by improper waste disposal or leaking gasoline tanks. This chemical has been shown to damage the kidney, liver, and nervous system of laboratory animals such as rats exposed to high levels during their lifetimes. EPA has set the drinking water standard for ethylbenzene at 0.7 part per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to ethylbenzene.

(39) *Ethylene dibromide (EDB).* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that EDB is a health concern at certain levels of exposure. This organic chemical was once a popular pesticide. When soil and climatic conditions are favorable, EDB may get into drinking water by runoff into surface water or by leaching into ground water. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for EDB at 0.00005 part per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water that meets this standard is associated with little to none of this risk and is considered safe with respect to EDB.

(40) *Heptachlor.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that heptachlor is a health concern at certain levels of exposure. This organic chemical was once a popular pesticide. When soil and climatic conditions are favorable, heptachlor may get into drinking water by runoff into surface water or by leaching into ground water. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standards for heptachlor at 0.0004 part per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water that meets this standard is associated with little to none of this risk and is considered safe with respect to heptachlor.

(41) *Heptachlor epoxide.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that heptachlor epoxide is a health concern at certain levels of eposure. This organic chemical was once a popular pesticide. When soil and climatic conditions are favorable, heptachlor expoxide may get into drinking water by runoff into surface water or by leaching into ground water. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standards for heptachlor epoxide at 0.0002 part per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water that meets this standard is associated with little to none of this risk and is considered safe with respect to heptachlor epoxide.

(42) *Lindane.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that lindane is a health concern at certain levels of exposure. This organic chemical is used as a pesticide. When soil and climatic conditions are favorable, lindane may get into drinking water by runoff into surface water or by leaching into ground water. This chemical has been shown to damage the liver, kidney, nervous system, and immune system of laboratory animals such as rats, mice and dogs exposed at high levels during their lifetimes. Some humans who were exposed to relatively large amounts of this chemical also suffered damage to the nervous system and circulatory system. EPA has established the drinking water standard for lindane at 0.0002 part per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to lindane.

(43) *Methoxychlor.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that methoxychlor is a health concern at certain levels of exposure. This organic chemical is used as a pesticide. When soil and climatic conditions are favorable, methoxychlor may get into drinking water by runoff into surface water or by leaching into ground water. This chemical has been shown to damage the liver, kidney, nervous system, and reproductive system of laboratory animals such as rats exposed at high levels during their lifetimes. It has also been shown to produce growth retardation in rats. EPA has set the drinking water standard for methoxychlor at 0.04 part per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk

and is considered safe with respect to methoxychlor.

(44) *Monochlorobenzene.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that monochlorobenzene is a health concern at certain levels of exposure. This organic chemical is used as a solvent. It generally gets into water by improper waste disposal. This chemical has been shown to damage the liver, kidney and nervous system of laboratory animals such as rats and mice exposed to high levels during their lifetimes. EPA has set the drinking water standard for monochlorobenzene at 0.1 part per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to monochlorobenzene.

(45) *Polychlorinated biphenyls (PCBs).* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that polychlorinated biphenyls (PCBs) are a health concern at certain levels of exposure. These organic chemicals were once widely used in electrical transformers and other industrial equipment. They generally get into drinking water by improper waste disposal or leaking electrical industrial equipment. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for PCBs at 0.0005 part per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water that meets this standard is associated with little to none of this risk and is considered safe with respect to PCBs.

(46) [Reserved]

(47) *Styrene.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that styrene is a health concern at certain levels of exposure. This organic chemical is commonly used to make plastics and is sometimes a component of resins used for drinking water treatment. Styrene may get into drinking water from improper waste disposal. This chemical has been shown to damage the liver and nervous system in laboratory animals when exposed at high levels during their lifetimes. EPA has set the drinking water standard for styrene at 0.1 part per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to styrene.

(48) *Tetrachloroethylene.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that tetrachloroethylene is a health concern at certain levels of exposure. This organic chemical has been a popular solvent, particularly for dry cleaning. It generally gets into drinking water by improper waste disposal. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for tetrachloroethylene at 0.005 part per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water that meets this standard is associated with little to none of this risk and is considered safe with respect to tetrachloroethylene.

(49) *Toluene.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that toluene is a health concern at certain levels of exposure. This organic chemical is used as a solvent and in the manufacture of gasoline for airplanes. It generally gets into water by improper waste disposal or leaking underground storage tanks. This chemical has been shown to damage the kidney, nervous system, and circulatory system of laboratory animals such as rats and mice exposed to high levels during their lifetimes. Some industrial workers who were exposed to relatively large amounts of this chemical during working careers also suffered damage to the liver, kidney and nervous system. EPA has set the drinking water standard for toluene at 1 part per million (ppm) to protect against the risk of adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to toluene.

(50) *Toxaphene.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that toxaphene is a health concern at certain levels of exposure. This organic chemical was once a pesticide widely used on cotton, corn, soybeans, pineapples and other crops. When soil and climatic conditions are favorable, toxaphene may get into drinking water by runoff into surface water or by leaching into ground water. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for toxaphene at 0.003 part per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water that meets this standard is associated with little to none of this risk and is considered safe with respect to toxaphene.

(51) *2,4,5-TP.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that 2,4,5-TP is a health concern at certain levels of exposure. This organic chemical is used as a herbicide. When soil and climatic conditions are favorable, 2,4,5-TP may get into drinking water by runoff into surface water or by leaching into ground water. This chemical has been shown to damage the liver and kidney of laboratory animals such as rats and dogs exposed to high levels during their lifetimes. Some industrial workers who were exposed to relatively large amounts of this chemical during working careers also suffered damage to the nervous system. EPA has set the drinking water standard for 2,4,5-TP at 0.05 part per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to 2,4,5-TP.

(52) *Xylenes.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that xylene is a health concern at certain levels of exposure. This organic chemical is used in the manufacture of gasoline for airplanes and as a solvent for pesticides, and as a cleaner and degreaser of metals. It usually gets into water by improper waste disposal. This chemical has been shown to damage the liver, kidney and nervous system of laboratory animals such as rats and dogs exposed to high levels during their lifetimes. Some humans who were exposed to relatively large amounts of this chemical also suffered damage to the nervous system. EPA has set the drinking water standard for xylene at 10 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk

and is considered safe with respect to xylene.

7. In § 141.40 the section heading is revised and a new paragraph (n) is added to read as follows:

§ 141.40 Special monitoring for inorganic and organic chemicals.

* * * * *

(n) Monitoring of the contaminants listed in § 141.40(n) (11) and (12) shall be conducted as follows:

(1) Each community and non-transient, non-community water system shall take four consecutive quarterly samples at each sampling point for each contaminant listed in paragraph (n)(11) of this section and report the results to the State. Monitoring must be completed by December 31, 1995.

(2) Each community and non-transient non-community water system shall take one sample at each sampling point for each contaminant listed in paragraph (n)(12) of this section and report the results to the States. Monitoring must be completed by December 31, 1995.

(3) Each community and non-transient non-community water system may apply to the State for a waiver from the requirements of paragraph (n) (1) and (2) of this section.

(4) The State may grant a waiver for the requirement of paragraph (n)(1) of this section based on the criteria specified in § 141.24(h)(6). The State may grant a waiver from the requirement of paragraph (n)(2) of this section if previous analytical results indicate contamination would not occur, provided this data was collected after January 1, 1990.

(5) Groundwater systems shall take a minimum of one sample at every entry point to the distribution system which is representative of each well after treatment (hereafter called a sampling point). Each sample must be taken at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

(6) Surface water systems shall take a minimum of one sample at points in the distribution system that are representative of each source or at each entry point to the distribution system after treatment (hereafter called a sampling point). Each sample must be taken at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

Note: For purposes of this paragraph, surface water systems include systems with a combination of surface and ground sources.

(7) If the system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions (i.e., when water representative of all sources is being used).

(8) The State may require a confirmation sample for positive or negative results.

(9) The State may reduce the total number of samples a system must analyze by allowing the use of compositing. Composite samples from a maximum of five sampling points are allowed. Compositing of samples must be done in the laboratory and the composite sample must be analyzed within 14 days of collection. If the population served by the system is $>3,300$ persons, then compositing may only be permitted by the State at sampling points within a single system. In systems serving $\leq 3,300$ persons, the State may permit compositing among different systems provided the 5-sample limit is maintained.

(10) Instead of performing the monitoring required by this section, a community water system or non-transient non-community water system serving fewer than 150 service connections may send a letter to the State stating that the system is available for sampling. This letter must be sent to the State by January 1, 1994. The system shall not send such samples to the State, unless requested to do so by the State.

(11) List of Unregulated Organic Contaminants:

Organic contaminants	EPA analytical method
Aldrin	505, 508, 525
Benzo(a)pyrene	525, 550, 550.1
Butachlor	507, 525
Carbaryl	531.1
Dalapon	515.1
Di(2-ethylhexyl)adipate	506, 525
Di(2-ethylhexyl)phthalates	506, 525
Dicamba	515.1
Dieldrin	505, 508, 525
Dinoseb	515.1
Diquat	549
Endothall	548
Glyphosate	547
Hexachlorobenzene	505, 508, 525
Hexachlorocyclopentadiene	505, 525
3-Hydroxycarbofuran	531.1
Methomyl	531.1
Metolachlor	507, 525
Metribuzin	507, 508, 525
Oxamyl (vydate)	531.1
Picloram	515.1
Propachlor	507, 525
Simazine	505, 507, 525
2,3,7,8-TCDD (Dioxin)	513

(12) List of Unregulated Inorganic Contaminants:

Contaminant	EPA analytical method
(i) Antimony	Graphite Furnace Atomic Absorption; Inductively Coupled Plasma.
(ii) Beryllium	Graphite Furnace Atomic Absorption; Inductively Coupled Mass Spectrometry Plasma; Spectrophotometric.
(iii) Nickel	Atomic Absorption; Inductively Coupled Plasma; Graphite Furnace Atomic Absorption.
(iv) Sulfate	Colorimetric.
(v) Thallium	Graphite Furnace Atomic Absorption; Inductively Coupled Mass Spectrometry Plasma.
(vi) Cyanide	Spectrophotometric.

8. Section 141.50 is amended in the table by adding paragraphs (a)(6) through (a)(14), reserving (a)(15), adding (a)(16) through (a)(18), reserving (b)(4) through (b)(6), and adding (b)(7) through (20) to read as follows:

§ 141.50 Maximum contaminant level goals for organic chemicals.

(a) * * *

(6) Acrylamide

(7) Alachlor

(8) Chlordane

(9) Dibromochloropropane

(10) 1,2-Dichloropropane

(11) Epichlorohydrin

(12) Ethylene dibromide

(13) Heptachlor

(14) Heptachlor epoxide

(15) [Reserved]

(16) Polychlorinated biphenyls (PCBs)

(17) Tetrachloroethylene

(18) Toxaphene

(b) * * *

Contaminant	MCLG (mg/l)
* * * *	
(4)–(6) [Reserved]	
(7) Atrazine	0.003
(8) Carbofuran	0.04
(9) o-Dichlorobenzene	0.6
(10) cis-1,2-Dichloroethylene	0.07
(11) trans-1,2-Dichloroethylene	0.1
(12) 2,4-D	0.07
(13) Ethylbenzene	0.7
(14) Lindane	0.0002
(15) Methoxychlor	0.04
(16) Monochlorobenzene	0.1
(17) Styrene	0.1
(18) Toluene	1
(19) 2,4,5-TP	0.05
(20) Xylenes (total)	10

9. Section 141.51 is amended in the table by adding (b)(2), reserving (b)(3), adding (b) (4) through (9) and revising the heading for the second column to read as follows:

§ 141.51 Maximum contaminant level goals for inorganic contaminants.

(b) * * *

Contaminant	MCLG (mg/l)
* * * * *	
(2) Asbestos	7 Million fibers/liter (longer than 10 μm).
(3) [Reserved]	
(4) Cadmium	0.005
(5) Chromium	0.1
(6) Mercury	0.002
(7) Nitrate	10 (as Nitrogen).
(8) Nitrite	1 (as Nitrogen).
(9) Total Nitrate+Nitrite	10 (as Nitrogen).
(10) Selenium	0.05

10. Section 141.60 is revised to read as follows:

§ 141.60 Effective dates.

(a) The effective dates for § 141.61 are as follows:

(1) The effective date for paragraphs (a)(1) through (a)(8) of § 141.61 is January 9, 1989.

(2) The effective date for paragraphs (a)(9) through (a)(18) and (c)(1) through (c)(18) of § 141.61 is July 30, 1992.

(b) The effective dates for § 141.62 are as follows:

(1) The effective date of paragraph (b)(1) of § 141.62 is October 2, 1987.

(2) The effective date for paragraphs (b)(2) and (b)(4) through (b)(10) of § 141.62 is July 30, 1992.

11. Section 141.61 is revised to read as follows:

§ 141.61 Maximum contaminant levels for organic contaminants.

(a) The following maximum contaminant levels for organic contaminants apply to community and non-transient, non-community water systems.

CAS No.	Contaminant	MCL (mg/l)
(1) 75-01-4	Vinyl chloride	0.002
(2) 71-43-2	Benzene	0.005
(3) 56-23-5	Carbon tetrachloride	0.005
(4) 107-06-2	1,2-Dichloroethane	0.005
(5) 79-01-6	Trichloroethylene	0.005
(6) 106-46-7	para-Dichlorobenzene	0.075
(7) 75-35-4	1,1-Dichloroethylene	0.007
(8) 71-55-6	1,1,1-Trichloroethane	0.2
(9) 156-59-2	cis-1,2-Dichloroethylene	0.07
(10) 78-87-5	1,2-Dichloropropane	0.005
(11) 100-41-4	Ethylbenzene	0.7
(12) 108-90-7	Monochlorobenzene	0.1
(13) 95-50-1	o-Dichlorobenzene	0.6
(14) 100-42-5	Styrene	0.1
(15) 127-18-4	Tetrachloroethylene	0.005
(16) 108-88-3	Toluene	1
(17) 156-60-5	trans-1,2-Dichloroethylene	0.1
(18) 1330-20-7	Xylenes (total)	10

(b) The Administrator, pursuant to section 1412 of the Act, hereby identifies as indicated in the Table below either granular activated carbon (GAC), packed tower aeration (PTA), or both as the best technology, treatment technique, or other means available for achieving compliance with the maximum contaminant level for organic contaminants identified in paragraphs (a) and (c) of this section:

BAT FOR ORGANIC CONTAMINANTS LISTED IN SECTION 141.61 (a) AND (c)

CAS No.	Chemical	GAC	PTA
15972-60-8	Alachlor	X	
116-06-3	Aldicarb	X	
1646-88-4	Aldicarb sulfone	X	
1646-87-3	Aldicarb sulfoxide	X	
1912-24-9	Atrazine	X	
71-43-2	Benzene	X	X
1563-66-2	Carbofuran	X	
56-23-5	Carbon tetrachloride	X	X
57-74-9	Chlordane	X	
94-75-7	2,4-D	X	
96-12-8	Dibromochloropropane (DBCP)	X	X
95-50-1	o-Dichlorobenzene	X	X
107-06-2	1,2-Dichloroethane	X	X
156-59-2	cis-1,2-Dichloroethylene	X	X
156-60-5	trans-1,2-Dichloroethylene	X	X
75-35-4	1,1-Dichloroethylene	X	X
78-87-5	1,2-Dichloropropane	X	X
106-93-4	Ethylene Dibromide (EDB)	X	X
100-41-4	Ethylbenzene	X	X
76-44-8	Heptachlor	X	
1024-57-3	Heptachlor epoxide	X	
58-89-9	Lindane	X	
72-43-5	Methoxychlor	X	
108-90-7	Monochlorobenzene	X	X
106-46-7	para-Dichlorobenzene	X	X
1336-36-3	Polychlorinated biphenyls (PCB)	X	
87-86-5	Pentachlorophenol	X	

BAT FOR ORGANIC CONTAMINANTS LISTED IN SECTION 141.61 (a) AND (c)—Continued

CAS No.	Chemical	GAC	PTA
100-42-5	Styrene	X	X
93-72-1	2,4,5-TP (Silvex)	X	
127-18-4	Tetrachloroethylene	X	X
71-55-6	1,1,1-Trichloroethane	X	X
79-01-6	Trichloroethylene	X	X
108-88-3	Toluene	X	
8001-35-2	Toxaphene	X	X
75-01-4	Vinyl chloride		X
1330-20-7	Xylene	X	X

(c) The following maximum contaminant levels for organic contaminants apply to community water systems and non-transient, non-community water systems.

CAS No.	Contaminant	MCL (mg/l)
(1) 15972-60-8	Alachlor	0.002
(2)	[Reserved]	
(3)	[Reserved]	
(4)	Reserved]	
(5) 1912-24-9	Atrazine	0.003
(6) 1563-66-2	Carbofuran	0.04
(7) 57-74-9	Chlordane	0.002
(8) 96-12-8	Dibromochloropropane	0.0002
(9) 94-75-7	2,4-D	0.07
(10) 106-93-4	Ethylene dibromide	0.00005
(11) 76-44-8	Heptachlor	0.0004
(12) 1024-57-3	Heptachlor epoxide	0.0002
(13) 58-89-9	Lindane	0.0002
(14) 72-43-5	Methoxychlor	0.04
(15) 1336-36-3	Polychlorinated biphenyls	0.0005
(16)	[Reserved]	
(17) 8001-35-2	Toxaphene	0.003
(18) 93-72-1	2,4,5-TP	0.05

12. Section 141.62 is revised to read as follows:

§ 141.62 Maximum contaminant levels for inorganic contaminants.

(a) [Reserved]

(b) The maximum contaminant levels for inorganic contaminants specified in paragraphs (b)(2) through (6) and (b)(10) of this section apply to community water systems and non-transient, non-community water systems. The Maximum Contaminant Level specified in paragraph (b)(1) of this section only applies to community water systems. The Maximum Contaminant Levels specified in paragraphs (b)(7), (b)(8), and (b)(9) of this section apply to community, non-transient non-community, and transient non-community water systems.

Contaminant	MCL (mg/l)
(1) Fluoride	4
(2) Asbestos	7 Million Fibers/liter (longer than 10 μm).
(3) [Reserved]	
(4) Cadmium	0.005
(5) Chromium	0.1
(6) Mercury	0.002
(7) Nitrate	10 (as Nitrogen)
(8) Nitrite	1 (as Nitrogen)
(9) Total Nitrate and Nitrite.	10 (as Nitrogen)
(10) Selenium	0.05

(c) The Administrator, pursuant to section 1412 of the Act, hereby identifies the following as the best technology, treatment technique, or other means available for achieving compliance with the maximum contaminant level for inorganic contaminants identified in paragraph (b) of this section, except fluoride:

BAT FOR INORGANIC CONTAMINANTS LISTED IN § 141.62(b)

Chemical name	BAT(s)
Asbestos	2,3,8
Barium	5,6,7,9
Cadmium	2,5,6,7
Chromium	2,5,6 [2],7
Mercury	2 [1],4,6 [1],7 [1]
Nitrate	5,7,9
Nitrite	5,7
Selenium	1,2 [3],6,7,9

[1] BAT only if influent Hg concentrations <10 μg/l.
[2] BAT for Chromium III only.
[3] BAT for Selenium IV only.

Key to BATs in Table:
1 = Activated Alumina
2 = Coagulation/Filtration
3 = Direct and Diatomite Filtration
4 = Granular Activated Carbon
5 = Ion Exchange
6 = Lime Softening
7 = Reverse Osmosis
8 = Corrosion Control
9 = Electrodialysis

13. A new subpart K is added to part 141 to read as follows:

Subpart K—Treatment Techniques

Sec.
141.110 General requirements.
141.111 Treatment techniques for acrylamide and epichlorohydrin.

Subpart K—Treatment Techniques

§ 141.110 General requirements.

The requirements of subpart K of this part constitute national primary drinking water regulations. These regulations establish treatment techniques in lieu of maximum contaminant levels for specified contaminants.

§ 141.111 Treatment techniques for acrylamide and epichlorohydrin.

Each public water system must certify annually in writing to the State (using third party or manufacturer's certification) that when acrylamide and epichlorohydrin are used in drinking

water systems, the combination (or product) of dose and monomer level does not exceed the levels specified as follows:

Acrylamide=0.05% dosed at 1 ppm (or equivalent)
Epichlorohydrin=0.01% dosed at 20 ppm (or equivalent)

Certifications can rely on manufacturers or third parties, as approved by the State.

PART 142—NATIONAL PRIMARY DRINKING WATER REGULATIONS IMPLEMENTATION

1. The authority citation for part 142 continues to read as follows:

Authority: 42 U.S.C. 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4 and 300j–9.

2. Section 142.14 is amended by revising paragraph (a)(6), paragraph (c), the introductory text to paragraph (d), and paragraph (f); and by adding paragraphs (d)(4) through (d)(7) to read as follows:

§ 142.14 Records kept by States.

(a) * * *

(6) Records of analysis for other than microbiological contaminants (including total coliform, fecal coliform, and heterotrophic plate count), residual disinfectant concentration, other parameters necessary to determine disinfection effectiveness (including temperature and pH measurements), and turbidity shall be retained for not less than 12 years and shall include at least the following information:

* * * * *

(c) Each State which has primary enforcement responsibility shall maintain current inventory information for every public water system in the State and shall retain inventory records of public water systems for not less than 12 years.

(d) Each State which has primary enforcement responsibility shall retain, for not less than 12 years, files which shall include for each such public water system in the State:

* * * * *

(4) A record of the most recent vulnerability determination, including the monitoring results and other data supporting the determination, the State's findings based on the supporting data and any additional bases for such determination; except that it shall be kept in perpetuity or until a more current vulnerability determination has been issued.

(5) A record of all current monitoring requirements and the most recent monitoring frequency decision pertaining to each contaminant, including the monitoring results and other data supporting the decision, the State's findings based on the supporting data and any additional bases for such decision; except that the record shall be kept in perpetuity or until a more recent monitoring frequency decision has been issued.

(6) A record of the most recent asbestos repeat monitoring determination, including the monitoring results and other data supporting the determination, the State's findings based on the supporting data and any additional bases for the determination and the repeat monitoring frequency; except that these records shall be maintained in perpetuity or until a more current repeat monitoring determination has been issued.

(7) Records of annual certifications received from systems pursuant to part 141, subpart K demonstrating the system's compliance with the treatment techniques for acrylamide and/or epichlorohydrin in § 14.111.

* * * * *

(f) Records required to be kept under this section shall be available to the Regional Administrator upon request. The records required to be kept under this section shall be maintained and made available for public inspection by the State, or, the State at its option may require suppliers of water to make available for public inspection those records maintained in accordance with § 141.33

3. In § 142.15 is amended by adding new paragraph (c)(3) to read as follows:

§ 142.15 Reports by States.

* * * * *

(c) * * *

(3) The results of monitoring for unregulated contaminants shall be reported quarterly.

4. § 142.16 is amended by reserving paragraph (d) and by adding a new paragraph (e) to read as follows:

§ 142.16 Special primacy requirements.

* * * * *

(d) [Reserved]

(e) An application for approval of a State program revision which adopts the requirements specified in §§ 141.23, 141.24, 141.32, 141.40, 141.61, 141.62, and 141.11 must contain the following (in addition to the general primacy requirements enumerated elsewhere in this part, including the requirement that state regulations be at least as stringent as the federal requirements):

(1) If a State chooses to issue waivers from the monitoring requirements in §§ 141.23, 141.24, and 141.40, the State shall describe the procedures and criteria which it will use to review waiver applications and issue waiver determinations.

(i) The procedures for each contaminant or class of contaminants shall include a description of:

(A) The waiver application requirements;

(B) The State review process for "use" waivers and for "susceptibility" waivers; and

(C) The State decision criteria, including the factors that will be considered in deciding to grant or deny waivers. The decision criteria must include the factors specified in §§ 141.24(f)(8), 141.24(h)(6), and 141.40(n)(4).

(ii) The State must specify the monitoring data and other documentation required to demonstrate that the contaminant is eligible for a "use" and/or "susceptibility" waiver.

(2) A plan for the initial monitoring period within which the State will assure that all systems complete the required monitoring by the regulatory deadlines;

(i) The plan must describe how systems will be scheduled during the initial monitoring period and demonstrate that the analytical workload on certified laboratories for each of the three years has been taken into account, to assure that the State's plan will result in a high degree of monitoring compliance and will be updated as necessary.

(ii) The State must demonstrate that the initial plan is enforceable under State law.

5. Section 142.18 is added to subpart B to read as follows:

§ 142.18 EPA review of State monitoring determinations.

(a) A Regional Administrator may annul a State monitoring determination for the types of determinations identified in §§ 141.23(b), 141.23(c), 141.24(f), 141.24(h), and 141.40(n) in accordance with the procedures in paragraph (b) of this section.

(b) When information available to a Regional Administrator, such as the results of an annual review, indicate a State determination fails to apply the standards of the approved State program, he may propose to annul the State monitoring determination by sending the State and the affected PWS a draft Rescission Order. The draft order shall:

(1) Identify the PWS, the State determination, and the provisions at issue;

(2) Explain why the State determination is not in compliance with the State program and must be changed; and

(3) Describe the actions and terms of operation the PWS will be required to implement.

(c) The State and PWS shall have 60 days to comment on the draft Rescission Order.

(d) The Regional Administrator may not issue a Rescission Order to impose conditions less stringent than those imposed by the State.

(e) The Regional Administrator shall also provide an opportunity for comment upon the draft Rescission Order, by

(1) Publishing a notice in a newspaper in general circulation in communities served by the affected system; and

(2) Providing 30 days for public comment on the draft order.

(f) The State shall demonstrate that the determination is reasonable, based on its approved State program.

(g) The Regional Administrator shall decide within 120 days after issuance of the draft Rescission Order to:

(1) Issue the Rescission Order as drafted;

(2) Issue a modified Rescission Order; or

(3) Cancel the Rescission Order.

(h) The Regional Administrator shall set forth the reasons for his decision, including a responsiveness summary addressing significant comments from the State, the PWS and the public.

(i) The Regional Administrator shall send a notice of his final decision to the State, the PWS and all parties who commented upon the draft Rescission Order.

(j) The Rescission Order shall remain in effect until cancelled by the Regional Administrator. The Regional Administrator may cancel a Rescission Order at any time, so long as he notifies those who commented on the draft order.

(k) The Regional Administrator may not delegate the signature authority for a final Rescission Order or the cancellation of an order.

(l) Violation of the actions, or terms of operation, required by a Rescission Order is a violation of the Safe Drinking Water Act.

6. Section 142.57 is revised to read as follows:

§ 142.57 Bottled water, point-of-use, and point-of-entry devices.

(a) A State may require a public water system to use bottled water, point-of-use devices, or point-of-entry devices as a condition of granting an exemption from the requirements of §§ 141.61 (a) and (c), and § 141.62 of this chapter.

(b) Public water systems using bottled water as a condition of obtaining an exemption from the requirements of §§ 141.61 (a) and (c) and § 141.52(h) of this chapter must meet the requirements in § 142.62(g).

(c) Public water systems that use point-of-use or point-of-entry devices as a condition for receiving an exemption must meet the requirements in § 141.62(h).

7. Section 142.62 is revised to read as follows:

§ 142.62 Variances and exemptions from the maximum contaminant levels for organic and inorganic chemicals.

(a) The Administrator, pursuant to section 1415(a)(1)(A) of the Act hereby identifies the technologies listed in paragraphs (a)(1) through (a)(36) of this section as the best technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant levels for organic chemicals as listed in § 141.61 (a) and (c).

Contaminant	Best available technologies	
	Packed tower aeration	Granular activated carbon
(1) Benzene	X	X
(2) Carbon tetrachloride	X	X
(3) 1,2-Dichloroethane	X	X
(4) Trichloroethylene	X	X
(5) para-Dichlorobenzene	X	X
(6) 1,1-Dichloroethylene	X	X
(7) 1,1,1-Trichloroethane	X	X
(8) Vinyl chloride	X	
(9) cis-1,2-Dichloroethylene	X	X
(10) 1,2-Dichloropropane	X	X
(11) Ethylbenzene	X	X
(12) Monochlorobenzene	X	X
(13) o-Dichlorobenzene	X	X
(14) Styrene	X	X
(15) Tetrachloroethylene	X	X
(16) Toluene	X	X
(17) trans-1,2-Dichloroethylene.	X	X
(18) Xylenes (total)	X	X
(19) Alachlor		X
(20) Aldicarb		X
(21) Aldicarb sulfoxide		X
(22) Aldicarb sulfone		X
(23) Atrazine		X
(24) Carbofuran		X
(25) Chlordane		X
(26) Dibromochloropropane	X	X
(27) 2,4-D		X
(28) Ethylene dibromide	X	X
(29) Heptachlor		X
(30) Heptachlor epoxide		X
(31) Lindane		X
(32) Methoxychlor		X
(33) PCBs		X
(34) Pentachlorphenol		X
(35) Toxaphene		X
(36) 2,4,5-TP		X

(b) The Administrator, pursuant to section 1415(a)(1)(A) of the Act, hereby identifies the following as the best technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant levels for the inorganic contaminants listed in § 141.62:

BAT FOR INORGANIC COMPOUNDS LISTED IN § 141.62(b)

Chemical name	BAT(s)
Asbestos	2,3,8
Barium	5,6,7,9
Cadmium	2,5,6,7
Chromium	2,5,6 [2],7
Mercury	2 [1], 4,6 [1],7 [1]
Nitrate	5,7,9
Nitrite	5,7
Selenium	1,2 [3],6,7,9

[1] BAT only if influent Hg concentrations <10 ug/1.
[2] BAT for Chromium III only
[3] BAT for Selenium IV only
Key to BATs in Table
1=Activated Alumina
2=Coagulation/Filtration (not BAT for systems <500 service connections)
3=Direct and Diatomite Filtration
4=Granular Activated Carbon
5=Ion Exchange
6=Lime Softening (not BAT for systems <500 service connections)
7=Reverse Osmosis
8=Corrosion Control
9=Electrodialysis

(c) A State shall require community water systems and non-transient, non-community water systems to install and/or use any treatment method identified in § 142.62 (a) and (b) as a condition for granting a variance except as provided in paragraph (d) of this section. If, after the system's installation of the treatment method, the system cannot meet the MCL, that system shall be eligible for a variance under the provisions of section 1415(a)(1)(A) of the Act.

(d) If a system can demonstrate through comprehensive engineering assessments, which may include pilot plant studies, that the treament methods identified in § 142.62 (a) and (b) would only achieve a *de minimis* reduction in contaminants, the State may issue a schedule of compliance that requires the system being granted the variance to examine other treatment methods as a condition of obtaining the variance.

(e) If the State determines that a treatment method identified in paragraph (d) of this section is technically feasible, the Administrator or primacy State may require the system to install and/or use that treatment method in connection with a compliance schedule issued under the provisions of section 1415(a)(1)(A) of the Act. The State's determination shall be based upon studies by the system and other relevant information.

(f) The State may require a public water system to use bottled water, point-of-use devices, point-of-entry devices or other means as a condition of granting a variance or an exemption from the requirements of § 141.61 (a) and (c) and § 141.62 to avoid an unreasonable risk to health.

(g) Public water systems that use bottled water as a condition for receiving a variance or an exemption from the requirements of § 141.61 (a) and (c) and § 141.62 must meet the requirements specified in either paragraph (g)(1) or (g)(2) and paragraph (g)(3) of this section:

(1) The Administrator or primacy State must require and approve a monitoring program for bottled water. The public water system must develop and put in place a monitoring program that provides reasonable assurances that the bottled water meets all MCLs. The public water system must monitor a representative sample of the bottled water for all contaminants regulated under § 141.61 (a) and (c) and § 141.62 during the first three-month period that it supplies the bottled water to the public, and annually thereafter. Results of the monitoring program shall be provided to the State annually.

(2) The public water system must receive a certification from the bottled water company that the bottled water supplied has been taken from an "approved source" as defined in 21 CFR 129.3(a); the bottled water company has conducted monitoring in accordance with 21 CFR 129.80(g) (1) through (3); and the bottled water does not exceed any MCLs or quality limits as set out in 21 CFR 103.35, 110, and 129. The public water system shall provide the certification to the State the first quarter after it supplies bottled water and annually thereafter. At the State's option a public water system may satisfy the requirements of this subsection if an approved monitoring program is already in place in another State.

(3) The public water system is fully responsible for the provision of sufficient quantities of bottled water to every person supplied by the public water system via door-to-door bottled water delivery.

(h) Public water systems that use point-of-use or point-of-entry devices as a condition for obtaining a variance or an exemption from NPDWRs must meet the following requirements:

(1) It is the responsibility of the public water system to operate and maintain the point-of-use and/or point-of-entry treatment system.

(2) Before point-of-use or point-of-entry devices are installed, the public water system must obtain the approval of a monitoring plan which ensures that the devices provide health protection equivalent to that provided by central water treatment.

(3) The public water system must apply effective technology under a State-approved plan. The microbiological safety of the water must be maintained at all times.

(4) The State must require adequate certification of performance, field testing, and, if not included in the certification process, a rigorous engineering design review of the point-of-use and/or point-of-entry devices.

(5) The design and application of the point-of-use and/or point-of-entry devices must consider the potential for increasing concentrations of heterotrophic bacteria in water treated with activated carbon. It may be necessary to use frequent backwashing, post-contactor disinfection, and Heterotrophic Plate Count monitoring to ensure that the microbiological safety of the water is not compromised.

(6) The State must be assured that buildings connected to the system have sufficient point-of-use or point-of-entry devices that are properly installed, maintained, and monitored such that all consumers will be protected.

PART 143—NATIONAL SECONDARY DRINKING WATER REGULATIONS

1. The authority citation for part 143 continues to read as follows:

Authority: 42 U.S.C. 300g–1(c), 300j–4, and 300j–9.

2. In § 143.3 the table is revised to read as follows:

§ 143.3 Secondary maximum contaminant levels.

* * * * *

Contaminant	Level
Aluminum	0.05 to 0.2 mg/1.
Chloride	250 mg/1.
Color	15 color units.
Copper	1.0 mg/1.
Corrosivity	Non-corrosive.
Fluoride	2.0 mg/1.
Foaming agents	0.5 mg/1.
Iron	0.3 mg/1.
Manganese	0.05 mg/1.
Odor	3 threshold odor number.
pH	6.5–8.5.
Silver	0.1 mg/1.
Sulfate	250 mg/1.
Total dissolved solids (TDS).	500 mg/1.
Zinc	5 mg/1.

3. Section 143.4 is amended by adding paragraphs (b)(12) and (b)(13) to read as follows:

§ 143.4 Monitoring.

* * * * *

(b) * * *

(12) Aluminum—Method [1] 202.1 Atomic Absorption Technique-Direct Aspiration; or Method [2] 303C; or Method [3] I–305i–84; or Method [1] 202.2 Atomic Absorption-Graphite Furnace Technique; or Method [2] 304; or Method [4] 200.7 Inductively-Coupled Plasma Technique; or Method [5] 200.8 Inductively Coupled Plasma-Mass Spectrometry or Method [6] 200.9 Platform Technique; or Method [7] 3120B Inductively-Coupled Plasma Technique.

(13) Silver—Method [1] 272.1 Atomic Absorption Technique-Direct Aspiration; or Method [2] 303 A or B; or Method [3] I–3720–84; or Method [1] 272.2 Atomic Absorption-Graphite Furnace Technique; or Method [2] 304; or Method [4] 200.7 Inductively-Coupled Plasma-Technique; or Method [5] 200.8 Inductively-Coupled Plasma-Mass Spectrometry; or Method [6] 200.9 Platform Technique; or Method [7] 312OB Inductively-Coupled Plasma-Technique.

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BILLING CODE 6560–50–M

[1] "Methods of Chemical Analysis of Water and Wastes," EPA, Environmental Monitoring and Systems Laboratory, Cincinnati, OH 45268, EPA 600/4–79–020, March, 1983. Available from ORD Publication, CERI, EPA, Cincinnati, OH 45268.

[2] "Standard Methods for the Examination of Water and Wastewater," 16th Ed., American Public Health Association, American Waterworks Association, Water Pollution Control Federation, 1985.

[3] "Methods for the Determination of Inorganic Substances in Water and Fluvial Sediments," Techniques of Water-Resources Investigations of the United States Geological Survey Books, Chapter A1, 1985, Available from Open File Services Section, Western Distribution Branch, U.S. Geological Survey, Denver Federal Center, Denver, CO 80255.

[4] "Determination of Metals and Trace Elements by Inductively Coupled Plasma-Atomic Emission Spectrometry," Method 200.7, version 3.1, April, 1990, EPA, Environmental Monitoring and Systems Laboratory, Cincinnati, OH 45268.

[5] "Determination of and Trace Elements in Water and Wastes by Inductively Coupled Plasma-Mass Spectrometry," Method 200.8, version 4.1, March, 1990, EPA, Environmental Monitoring and Systems Laboratory, Cincinnati, OH 45268. Available from ORD Publication, CERI, EPA, Cincinnati, OH 45268.

[6] "Determination of Metals and Trace Elements by Stabilized Temperature Graphite Furnace Atomic Absorption Spectrometry," Method 200.9, version 1.0, April, 1990, EPA, Environmental Monitoring and Systems Laboratory, Cincinnati, OH 45268.

[7] "Standard Methods for the Examination of Water and Wastewater," 16th ed., American Public Health Association, American Waterworks Association, Water Pollution Control Federation, 1985.

federal register

Wednesday
January 30, 1991

Part III

Environmental Protection Agency

40 CFR Parts 141 and 142
National Primary Drinking Water Regulations; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 141 and 142

[FRL-3831-6]

National Primary Drinking Water Regulations—Monitoring for Synthetic Organic Chemicals; MCLGs and MCLs for Aldicarb, Aldicarb Sulfoxide, Aldicarb Sulfone, Pentachlorophenol, and Barium

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In this document, EPA is proposing revisions to monitoring requirements for the eight volatile organic contaminants (VOCs) promulgated July 8, 1987. This change would synchronize requirements for the eight VOCs with those promulgated elsewhere in today's **Federal Register.** EPA is also reproposing the MCLGs and MCLs for aldicarb, aldicarb sulfoxide, aldicarb sulfone, pentachlorophenol, and barium.

DATES: Written comments must be submitted by March 18, 1991.

ADDRESSES: Send written comments on the proposed rule to VOC/Aldicarb Comment Clerk, Criteria and Standards Division, Office of Drinking Water (WH-550D), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Commenters are requested to submit any references cited in their comments. Commenters are also requested to submit one original and three copies of their written comments. Commenters who wish to receive acknowledgment of their comments should include a self-addressed stamped envelope. A copy of the supporting documents are available for review at the EPA, Drinking Water Docket, 401 M Street, SW., Washington, DC 20460. For access to the docket materials, call 202-382-3027 between 9:00 a.m. and 3:30 p.m.

FOR FURTHER INFORMATION CONTACT: Al Havinga, Criteria and Standards Division, Office of Drinking Water (WH-550), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, 202/382-5555. General information may also be obtained from the EPA Drinking Water Hotline. The toll-free number is 800/426-4791, Alaska and local: 202/382-5533.

SUPPLEMENTARY INFORMATION:

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I. Statutory Authority

The Safe Drinking Water Act ("SDWA" or "the Act"), as amended in 1986 (Pub. L. 99-339, 100 Stat. 642), requires EPA to publish "maximum contaminant level goals" (MCLGs) for contaminants which, in the judgment of the Administrator, "may have an adverse effect on the health of persons and which [are] known or anticipated to occur in public water systems" (section 1412(b)(3)(A)). MCLGs are to be set at a level at which "no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety" (see section 1412(b)(4)).

At the same time EPA publishes an MCLG, which is a non-enforceable health goal, it must also promulgate a National Primary Drinking Water Regulation (NPDWR) which includes either (1) a maximum contaminant level (MCL), or (2) a required treatment technique (sections 1401(1), 1412(a)(3), and 1412(b)(7)(A)). A treatment technique may be set only if it is not "economically or technologically feasible" to ascertain the level of a contaminant (sections 1401(1) and 1412(b)(7)(A)). An MCL must be set as close to the MCLG as feasible (section 1412(b)(4)). Under the Act, "feasible" means "feasible with the use of the best technology, treatment techniques and other means which the Administrator finds are available, after examination for efficacy under field conditions and not solely under laboratory conditions (taking cost into consideration)" (section 1412(b)(5)). NPDWRs also include monitoring, analytical and quality assurance requirements, specifically, "criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminent levels * * *." (Section 1401(1)(D)). Section 1445 of SDWA also authorizes EPA to promulgate monitoring requirements.

II. Regulatory Background

In the 1986 Amendments to the SDWA, Congress required that MCLGs and NPDWRs be proposed and promulgated simultaneously (section 1412(a)(3)). This change streamlined development of drinking water standards by combining two steps in the regulation development process. Section 1412(a)(2) renamed Recommended Maximum Contaminant Levels (RMCLs) as Maximum Contaminant Level Goals (MCLGs).

On July 8, 1987 EPA promulgated NPDWRs for eight volatile organic contaminants (VOC rule). On May 22, 1989 EPA proposed monitoring requirements for an additional 10 VOCs and MCLGs and MCLs for 38 contaminants including aldicarb, aldicarb sulfoxide, aldicarb sulfone, pentachlorophenol, and barium. The MCLGs and MCLs for these five chemicals are reproposed today at different levels due to information which was received and/or analyzed by the Agency subsequent to the May 22, 1989 proposal. Today, elsewhere in the **Federal Register**, EPA is promulgating monitoring requirements for the 38 contaminants (including aldicarb, aldicarb sulfoxide, aldicarb sulfone, pentachlorophenol, and barium) contained in the May 1989 proposal, using a standardized monitoring framework. That final rule promulgates MCLGs and MCLs for 33 contaminants.

III. Explanation of Today's Action

A. VOC Monitoring Requirements

1. Standardized Monitoring Framework

EPA received extensive comments on the proposed rule of May 22, 1989 (hereafter called Phase II). Many commenters stated that the proposed monitoring requirements are complex and would lead to confusion and misunderstanding among the public, water utilities and State personnel. Commenters also cited the lack of coordination between various regulations such as the 1987 VOC rule and the proposed Phase II rule. Many commenters suggested that EPA simplify, coordinate, and synchronize its regulations.

In response to these comments, EPA developed a standard monitoring framework to address the issues of

complexity, coordination of monitoring requirements between various regulations and synchronization of monitoring schedules. This framework will serve as a guide for future source-related monitoring requirements adopted by the Agency.

EPA believes that the framework will in large measure address the comments that recommended reducing complexity, synchronizing monitoring schedules, standardizing regulatory requirements, and giving regulatory flexibility to States and systems to manage monitoring programs. EPA believes these changes have the potential to reduce costs by combining monitoring requirements (including vulnerability assessments) for several regulations on the same schedule and promote greater voluntary compliance by simplified and standardized monitoring requirements.

Use of the framework envisions a cooperative effort between EPA and States. The monitoring requirements promulgated elsewhere today for the 10 Phase II VOCs and those proposed in this document are the minimum federal requirements necessary to ascertain systems' compliance with the MCLs.

The monitoring requirements outlined in today's proposal mirror the VOC requirements promulgated today for the 10 VOCs in the Phase II rule. If comments and information received during the comment period result in changes to this proposal, EPA will promulgate a final rule which will also apply to monitoring requirements for the 10 VOCs promulgated elsewhere today and the 8 VOCs included in today's proposal. This ensures the monitoring requirements for the 18 VOCs (the 8 Phase I VOCs and the 10 Phase II VOCs) remain identical.

EPA's goal is to efficiently utilize State and PWS resources and to be consistent with Phase II monitoring requirements. EPA believes that today's proposal furthers that goal.

2. Three-, Six-, Nine-Year Cycles

In order to standardize monitoring cycles in this proposed regulation (and in future regulations), EPA established nine-year compliance cycles. Each nine-year compliance cycle consists of three three-year compliance periods. All compliance cycles and periods run on a calendar year basis (i.e., January 1 to December 31). The first nine-year compliance cycle begins January 1, 1993 and ends December 31, 2001; the second cycle begins January 1, 2002 and ends December 31, 2010; etc. Within the first nine-year compliance cycle (1993 to 2001), the first compliance period begins January 1, 1993 and ends December 31, 1995; the second begins January 1, 1996 and ends December 31, 1998; and the third begins January 1, 1999 and ends December 31, 2001. In the Phase II regulation, EPA is requiring that future initial monitoring (defined as the first full three-year compliance period beginning 18 months after the promulgation date of a rule) must begin in the first full compliance period after the effective date. For today's proposed regulation, EPA intends to promulgate final monitoring requirements by July, 1991 to meet the 18-month minimum before the start of the 1993 compliance period.

3. Initial and Repeat Base Monitoring Requirements

In the VOC rule promulgated in July, 1987, EPA required all systems to take four consecutive quarterly samples; however, groundwater systems which conducted a vulnerability assessment and were judged not vulnerable could stop monitoring after the first sample provided no VOCs were detected in that initial sample. Repeat frequencies for all systems vary by system size, detection, and vulnerability status.

EPA is proposing several changes to the current (i.e., 1987) VOC requirements. EPA is also today proposing to amend the July 1987 monitoring requirements for VOCs to streamline the requirements and to make all VOC requirements consistent.

In the VOC regulations promulgated in July, 1987, distinctions in base (or minimum) requirements were made between ground and surface water systems, systems which have more than or less than 500 service connections, and vulnerable and non-vulnerable systems. EPA, in streamlining the requirements in today's proposal, will require all systems (regardless of size) to take four quarterly samples. After the initial round of four quarterly samples, all systems which do not detect VOCs in the original round of quarterly sampling are required to monitor annually beginning in the next calendar year after quarterly sampling is completed. The State may allow groundwater systems which conducted three years of sampling (the initial year of quarterly sampling plus two years of annual sampling) and did not detect VOCs to take a single sample every three years. For example, systems which complete quarterly monitoring in calendar year 1993 are required to begin annual monitoring beginning in 1994. EPA is proposing this change for several reasons. First, the occurrence of VOCs in approximately 20% of systems indicates that shortening the time frame between when each sample is collected for vulnerable groundwater systems from either three or five years as currently required to an annual sample is appropriate. Secondly, the cost of analysis of VOCs has decreased somewhat since the original proposal. Most VOC analyses now cost approximately $150 per sample versus the $200 per sample EPA estimated in the 1987 VOC rule. Trihalomethanes (THMs) may also be measured in these samples, thereby creating efficiencies with current and future monitoring requirements. Consequently, the monitoring burden on most systems is less than previously thought. Third, commenters on the Phase II rule preferred annual monitoring, stating that quarterly monitoring presented managerial and logistical problems. Where groundwater systems have a demonstrated history of non-detects for VOCs (i.e., three years) EPA believes a reduction in annual monitoring to one sample during each compliance period (i.e., 3 years), if allowed by the State, is protective of health.

EPA, in today's proposal, would require systems to conduct an initial round of quarterly monitoring. Because all systems must have completed their initial round of monitoring by January 1992, under existing requirements, the initial monitoring requirements will *only* apply to new systems or those existing systems with a new source. Beginning in the 1993–1995 compliance period, all systems (except new systems or those with new sources) will be required to conduct repeat sampling for VOCs annually. Systems which have not conducted initial monitoring under the existing requirements by January 1, 1993 will remain subject to the existing requirement and may be subject to enforcement by EPA and/or the State.

4. Increased Monitoring

In the 1987 VOC rule, systems which detect VOCs (defined as any analytical result greater than 0.0005 mg/l) were required to monitor quarterly for a minimum of 12 quarters (3 years). In today's proposal, EPA would relax that requirement somewhat by requiring systems which detect VOCs to only monitor quarterly until the State allows it to reduce the frequency to annual sampling based on a determination that the system is "reliably and consistently" below the MCL. Groundwater systems must take a minimum of two samples and surface water systems must take a minimum of four samples before the State may reduce the monitoring to the base requirement (i.e., annual sampling).

States may allow systems to remain on an annual sampling frequency even if VOCs are detected in subsequent

samples, unless the MCL is exceeded. If the MCL is exceeded, the system must return to quarterly sampling in the next calendar quarter until the State determines that the new contamination has decreased below the MCL and is expected to remain reliably and consistently less than the MCL. This determination shall again require a minimum of four quarterly samples for surface water systems and two quarterly samples for groundwater systems.

EPA is making this change because some systems may detect VOCs at a level slightly above the detection limit. EPA believes that where the State can determine that contamination is "reliably and consistently" less than the MCL, those systems should be able to return to the base monitoring requirement (i.e., annually). Giving States the discretion to determine whether systems meet this criterion will give monitoring relief to some systems.

5. Decreased Monitoring

States may grant waivers to systems which are not vulnerable and did not detect VOCs while conducting base monitoring. Vulnerability must be determined using the criteria specified below in the discussion of vulnerability assessments. Systems conducting an assessment which considers prior occurrence and vulnerability assessments (including those of surrounding systems), environmental persistence and transport, how well the source is protected, Wellhead Protection Assessments, and proximity to sources of contamination, may apply to the State for a "susceptibility" waiver. If the waiver is granted, systems are required to take one sample and update the current vulnerability assessment during the first compliance period. The vulnerability assessment update must be completed by the beginning of the second compliance period. EPA is increasing the time frame from five to six years to bring the five-year monitoring frequency in the 1987 VOC requirements in line with the 3/6/9-year frequencies specified in the standard monitoring framework.

In the VOC rule, EPA allowed States the discretion to set subsequent monitoring frequencies in surface water systems which did not detect VOCs in the initial round of four quarterly samples and that were designated as not vulnerable based on assessment. This provision is unchanged by today's proposed rule.

Table 1 provides a comparison of the VOC monitoring requirements specified in the July 1987 rule and those proposed in today's proposed rule.

TABLE 1.—COMPARISON OF CURRENT AND PROPOSED VOC MONITORING REQUIREMENTS

Source	Current requirement	Proposed requirement
Initial Monitoring Frequency:		
Surface	4 quarterly samples	4 quarterly samples.
Ground	4 quarterly samples [1]	4 quarterly samples.

Source	Size	Vulnerability status	Occurrence	Current requirements	Proposed requirements
Repeat Monitoring Frequency:					
Surface	N/A	non-vulnerable	no detect	State discretion	State discretion
Ground	N/A	non-vulnerable	no detect	1 sample/5 years	1 sample/6 years
Surface	>500 connections	vulnerable	no detect	4 quarterly samples/3 years	1 sample annually [2]
	<500 connections	vulnerable	no detect	4 quarterly samples/5 years	1 sample annually [2]
Ground	>500 connections	vulnerable	no detect	1 sample/3 years	1 sample annually [2]
	<500 connections	vulnerable	no detect	1 sample/5 years	1 sample annually [2]
Surface	N/A	vulnerable	detect	quarterly [3]	quarterly [4]
Ground	N/A	vulnerable	detect	quarterly [3]	quarterly [4]

[1] May be reduced to 1 sample provided sample does not detect.
[2] State may reduce to 1 sample during each 3 year compliance period after 3 years.
[3] State may reduce to annual after 12 quarters consistently < MCL.
[4] State may reduce to annual after 4 quarters "reliably and consistently" < MCL for surface systems. Ground water systems may be reduced to annual after 2 quarters "reliably and consistently" < MCL.

6. Vulnerability Assessments

In today's proposal EPA is making several changes to the VOC vulnerability assessment criteria. In the 1987 VOC rule, EPA listed five criteria systems must consider in conducting vulnerability assessments: previous monitoring results; number of people served; proximity to a large system; proximity to commercial or industrial use, storage, or disposal of VOCs; and protection of the water source.

EPA is proposing several changes to the vulnerability assessment criteria and the process of conducting vulnerability assessments in order to simplify the procedure. First, a two-step procedure is available to all systems. Step #1: A system determines whether the contaminant was used, manufactured, stored, or disposed of in the area. For some contaminants, an assessment of their use in the treatment or distribution of water may also be required. "Area" is defined as the watershed area for a surface water system or the recharge zone for a groundwater system and includes effects in the distribution system. If the State agrees with the system that the contaminant was not used, manufactured, stored, transported, etc., the State may grant the system a "use" waiver. If the State cannot make this determination, a system may not receive a "use" waiver, but may receive a "susceptibility" waiver discussed below. Systems receiving a "use" waiver are not required to continue on the Step #2 to determine susceptibility. EPA anticipates that obtaining a "use" waiver will apply mostly to pesticides/PCBs where use can be determined more easily than for VOCs. Obtaining a "use" waiver for the VOCs will be limited, because VOCs are ubiquitous in the United States. If a "use" waiver cannot be given, a system may conduct an assessment to determine susceptibility.

Susceptibility considers prior occurrance and/or vulnerability assessment results, environmental persistence and transport of the chemical, how well the source is

protected, and Wellhead Protection Program reports. Systems with no known "susceptibility" to contamination based upon an assessment of the above criteria may be granted a waiver by the State. If "susceptibility" cannot be determined, a system is not eligible for a waiver. Systems must receive a waiver by the beginning of the calendar quarter it is scheduled to begin monitoring. For example, if a system is scheduled to begin monitoring in the calendar quarter beginning January 1, 1993, it must receive a waiver by December 31, 1992 for reduced monitoriing to apply.

EPA will permit "area wide" or geographical vulnerability assessment determinations. Though EPA at this time is skeptical that "area wide" determinations can be conducted with sufficient specificity to predict contamination over a large area, EPA will allow this option when States submit their rules and procedures for primacy review of these requirements.

EPA's goal is to combine vulnerability assessment activities in other drinking water programs with today's requirements to create efficiencies. EPA also desires to use insofar as possible the results of other regulatory program requirements, such as Wellhead Protection assessments, to determine a system's vulnerability to VOC and pesticide/PCB contamination. Systems and States may coordinate the assessments with sanitary surveys required under the Total Coliform rule 40 CFR 141.21, watershed assessments, and other water quality inspections so that all regulatory, operational, and managerial objectives are met at the same time.

EPA intends to issue a guidance in 1991 that will give flexibility to States in reviewing vulnerability assessments and to systems in conducting them. Also, this guidance will allow systems to use, in part, the requirements under the Wellhead Protection program to satisfy similar requirements of both programs with one assessment. Additionally, this combined assessment approach may be used in part, to meet similar requirements under the evolving Underground Injection Control-Shallow Injection Well Program.

7. Relation to the Wellhead Protection (WHP) Program

The Agency planned to integrate particular elements of the Public Water Supply, Wellhead Protection and Underground Injection Control (UIC) programs related to contaminant source assessments around public water supply wells prior to receiving comments to that effect. Comments received on the proposed Phase II Rule reinforce and support this interest. Specifically, the Agency plans to prepare a guidance document on groundwater contaminant source assessment merging vulnerability assessments for the protection of water supplies from pesticides and VOCs with similar requirements for UIC shallow injection wells and the wellhead delineation and contaminant source assessment requirements of the WHP program. This integration is expected to assist State and local drinking water program managers responsible for groundwater supplies to more efficiently and effectively administer the portion of their programs addressing source protection and will be the basis for determining monitoring frequency. The guidance will give States flexibility in reviewing vulnerability contaminant source assessments.

8. Phase-in by System Size

Initial monitoring for new systems is defined as the first *full* three-year compliance period which occurs after the regulation is effective. As discussed earlier, new systems must monitor at the base monitoring frequency unless a waiver is obtained. The initial monitoring period for systems established after January 1, 1993 under today's regulation begins January 1, 1993 and ends December 31, 1995. Initial monitoring for systems established prior to December 31, 1992 remains subject to the initial monitoring requirements in § 141.41(g). After the initial monitoring requirement is met, systems must monitor at repeat frequencies as proposed today.

Current requirements mandate that systems are required to monitor for VOCs through a phase-in procedure. Community systems serving more than 10,000 persons are required to complete initial monitoring by December 31, 1988, systems serving 3,300 to 10,000 persons are required to complete initial monitoring by December 31, 1989, and community systems serving fewer than 3,300 persons are required to complete initial monitoring by December 31, 1991. Non-transient non-community water systems are required to complete initial monitoring by December 31, 1991.

In today's proposal, EPA allows States the flexibility to designate which systems must monitor each year based upon criteria such as system size, vulnerability, geographic location, and laboratory access. EPA will require the State to schedule approximately one-third of the systems each year as a primacy condition. EPA believes that allowing States the discretion to schedule monitoring for each system during the compliance monitoring period will allow States to manage their drinking water programs more efficiently.

Once a system is scheduled for the first, second, or third year of a compliance period, the repeat schedule is set for future compliance periods. For example, if a system is scheduled by the State to complete the initial base requirement by the end of the first year, all subsequent repeat base monitoring for that system must be completed by the end of the first year in the appropriate three-year compliance period. This is necessary to prevent systems from monitoring in the first year of the first compliance period and the third year of the repeat base period.

9. Sampling Points

EPA has received information suggesting that petroleum and hazardous material spills and leaks have contributed to drinking water contamination in systems using plastic pipe. EPA is concerned about this issue because this contamination typically occurs after sampling and consequently would not be detected.

Volatile organic chemicals (VOCs) can contaminate and enter a drinking water distribution system from three distinct pathways: (1) through contamination at the source; (2) through a cross connection; and (3) through permeation of plastic pipe. EPA's National Primary Drinking Water Regulations (NPDWR) protect drinking water systems from contamination through pathways (1) and (2). However, no Federal regulations protect PWSs from contamination by VOC permeation of plastic pipe. The NPDWR only require that VOCs be tested after treatment—not at the tap. Therefore, contamination from a leaking underground storage tank within the distribution system typically would not be detected. Cross connection control devices are ineffective in controlling contamination along the length of a plastic pipe.

The use of plastic pipes such as polyethylene (PE), polybutylene (PB), polyvinyl chloride (PVC), chlorinated polyvinyl chloride (CPVC) and acrylonitrile-butadiene-styrene (ABS) has increased dramatically since 1960. During the last decade, however, it has been found that some plastic piping materials and gasket materials are susceptible to attack by some organic chemicals and become permeable to them. The literature on VOC permeation of plastic pipe clearly indicates that this

is a significant source contamination in the distribution system of some PWSs.

In order to address this issue EPA is modifying the sampling point designations of § 141.24(f) (1) and (2) to allow the State to designate additional sampling points within the distribution system or at the consumer's tap to more accurately determine consumer exposure. EPA requests comment on this issue and additional information on the permeation of plastic pipe by VOCs.

B. Aldicarb, Aldicarb Sulfoxide, and Aldicarb Sulfone

1. Aldicarb, Aldicarb Sulfoxide, and Aldicarb Sulfone MCLGs

In the May 22, 1989 proposal (54 FR 22062) EPA proposed separate MCLGs for aldicarb, aldicarb sulfoxide, and aldicarb sulfone at 0.01, 0.01, and 0.04 mg/l, respectively. EPA also requested comments on whether a single MCLG should be set for total aldicarb (parent, sulfoxide, and sulfone) based upon the most toxic component of the mixture (i.e., sulfoxide with the MCLG of 0.01 mg/l) as was originally proposed in the November 13, 1985 **Federal Register**. Alternatively, a single MCLG might be based upon fractionation of the total mixture depending upon the percentage of each individual component of the mixture, ensuring that each individual component did not exceed its individual MCLG; these calculations were demonstrated as follows:

$$\frac{\text{Aldicarb (Aldicarb measured)}}{0.01\ \text{mg/l}} + \frac{\text{sulfoxide}}{0.01\ \text{mg/l}} + \frac{\text{sulfone}}{0.04\ \text{mg/l}} \leq 1$$

The MCLG for each of these three chemicals was based on cholinesterase inhibition as the non-cancer endpoint of concern and a cancer classification of Group D (inadequate human and animal evidence of carcinogenicity).

Public Comments. In a May 22, 1989, document EPA addressed the public comments received on the proposal of November 13, 1985. Five commenters responded to the 1989 notice. One commenter favored establishing separate MCLGs and MCLs for the parent compound and each of the two metabolites; the commenter also preferred the fractionation approach as a basis for the MCLG for the mixture. Two commenters recommended that the Agency establish a single standard for total aldicarb at 0.01 mg/l to be more protective to exposed children and to keep the monitoring for these chemicals at a practical economical level. Two commenters noted that positive immunotoxic responses were noted in animals at 1 ppb and that epidemiologic studies in women living in an area with ground water contaminated with aldicarb residues in Wisconsin showed a positive dose response for certain immunological parameters. Both commenters felt that this endpoint should be considered in the development of the MCLG for aldicarb. One commenter was concerned about the potential for aldicarb to cause hyperactivity and learning disabilities. Another commenter was concerned about the mutagenic effect of aldicarb when it combines with nitrites. Three commenters indicated that the MCLG should be based on the 10-kg child as calculated by the NAS in 1986 and that the human study should be used as the basis of the RfD. The commenters were concerned that the MCLG of 0.01 mg/l provides less than a 10-fold margin of safety for 13 percent of the exposed children.

EPA Response. The Agency agrees that one MCLG should be used for the mixture. In addition, the Agency will also provide separate MCLGs for aldicarb and each of its metabolites. For immunotoxicity, the available animal studies had serious design and analytical flaws which diminished the significance of the positive results obtained. Review of the epidemiologic study also revealed design flaws. The registrant of aldicarb submitted a thorough study of the immunotoxicity of aldicarb in mice, which was reviewed and determined to be of high quality. Numerous immunotoxicity endpoints were evaluated and the results were negative. Thus, at the present time, the weight of evidence indicates that aldicarb is not immunotoxic.

EPA also acknowledges that additional neurotoxicity testing is needed to adequately assess the potential for this chemical to cause hyperactivity or learning disabilities.

EPA is also aware that laboratory studies indicated that aldicarb can combine with nitrites to form nitroso-aldicarb, and this chemical can be mutagenic. However, the Agency has no evidence that nitroso-aldicarb is formed under practical environmental conditions. Therefore, the potential toxicity of nitroso-aldicarb was not pursued.

In response to the comments recommending the use of the 10-kg child for calculation of the MCLG, the Agency notes that the uncertainty factor of 100 and the 20 percent RSC used to calculate the MCLG for a 70-kg adult would account for any difference in sensitivity and would be adequately protective of the child.

The NAS (1986) estimated dose of aldicarb cholinesterase inhibition from the probit and logit dose-response models applied to the human study: the maximum likelihood estimates were 0.0100 mg/kg body weight/day for both models at 30 percent inhibition, and 0.0052 and 0.0051 mg/kg/day, respectively, for 20 percent inhibition. The NAS calculation for the child's exposure to aldicarb used 0.01 mg/kg/day as a potential NOAEL and a 10-fold uncertainty factor. It also applied a 20 percent relative source contribution. These calculations resulted in an acceptable exposure value of 0.002 mg/l for the child.

Following the 1989 proposal, the Agency re-verified the RfDs for aldicarb and its two metabolites, aldicarb sulfoxide and aldicarb sulfone (EPA, 1990 a and b). This re-verification was triggered by the California evaluation of aldicarb food poisoning data occurring between 1985 and 1988 (Goldman et al., 1990), the completion of the available new data on aldicarb and aldicarb sulfone in the dog feeding studies (Hazleton, 1988 study #400–706, and Hazleton, 1987 study #400–702, respectively), and the reconsideration of the NAS (1986) analysis of the human study by Haines (1971). These studies are discussed in detail below. In addition, a recent summary on a new aldicarb 5-week dog study (Rhône Poulenc, 1990) became available to the Agency. The complete study will be submitted to EPA for review in the near future. Based on this new information, the RfDs for both aldicarb and aldicarb sulfoxide were lowered from 0.0013 mg/kg/day to 0.0002 mg/kg/day and the RfD for aldicarb sulfone was lowered from 0.006 to 0.0003 mg/kg/day. The MCLGs based on these new RfD values are 0.001 mg/l for both aldicarb and aldicarb sulfoxide (instead of 0.01 mg/l) and 0.002 mg/l for aldicarb sulfone (instead

of 0.04 mg/l). The calculations are as follows:

Aldicarb and aldicarb sulfoxide:

$$\frac{0.0002 \text{ mg/kg/day} \times 70 \text{ kg body weight} \times 20\% \text{ RSC}}{2 \text{ liters}} = 0.0014 \text{ mg/l rounded to } 0.001 \text{ mg/l}$$

Aldicarb sulfone:

$$\frac{0.0003 \text{ mg/kg/day} \times 70 \text{ kg body weight} \times 20\% \text{ RSC}}{2 \text{ liters}} = 0.0021 \text{ mg/l rounded to } 0.002 \text{ mg/l}$$

The reproposed MCLGs in this proposed rule are one order of magnitude lower than the values proposed in the May 22, 1989, **Federal Register**. Thus, the reproposed MCLGs for aldicarb and its metabolites are as protective of the child as the value calculated by the National Academy of Science in 1986. Because the information on which the Agency relied in reproposing these new MCLGs did not result from public comments on the May 1989 proposal nor has it been subject to public review, we are reproposing the MCLGs for comment.

In the May 22, 1989, proposal, the Agency used the six-month rat studies by Weil and Carpenter (1968) for the RfD. That RfD for aldicarb was supported by the NAS (1986) calculation for a potential NOAEL for aldicarb in humans at 0.01 mg/kg/day. However, as noted in the public comments in the May 22, 1989, proposal, the MCLG based on these data provided a margin of safety less than 10 for 13 percent of the infants. Therefore, with the use of the one-year dog study (Hazleton, 1987) not available for consideration in setting MCLGs at the time of the May 1989 proposal, and the data from the human volunteer study (Haines, 1971) described by the NAS (1986), a lower RfD, 0.0002 mg/kg/day, was obtained (EPA, 1990a) that provided the basis for the calculation of a 10-fold lower proposed MCLG for aldicarb. This MCLG provides a more adequate margin of safety for both adults and children. This study has not previously been subject to public comment.

The 1988 one-year aldicarb dog feeding study (Hazleton, 1988 #400–706) with aldicarb that is used in the calculation of the new RfD is described below. Groups of beagle dogs (5/sex/dose) were administered aldicarb technical in the diet daily for 52 weeks at levels of 0, 1, 2, 5, or 10 ppm (Male: 0, 0.028, 0.054, 0.132, or 0.231 mg/kg/day; female: 0, 027, 0.055, 0.131, and 0.251 mg/kg/day). Animals received food and water *ad libitum*. At the end of the study period the actual lowest dose consumed by the male group was 0.02 mg/kg/day. The main effect noted at this level was an average of approximately 25 percent inhibition of plasma cholinesterase in both sexes at the end of the study period (52 weeks).

From this study, it was concluded that aldicarb, when administered in the diet of male and female beagle dogs daily for 52 weeks at all the doses tested, did not produce any mortality or changes in body weight gain, appearance or behavior, or food or water consumption. There was an increase in the combined incidences of soft stools, mucoid stools, and/or diarrhea in male and female dogs given 2, 5, or 10 ppm. Dose-related inhibition of plasma cholinesterase activity was observed in male dogs given 2, 5, or 10 ppm aldicarb technical at all time intervals. Plasma ChE inhibition was also noted in the 1-ppm group (0.02 mg/kg/day) at 52 weeks in both males and females; however, this level of inhibition was found to be within the historical control range. Plasma cholinesterase inhibition occurred in female dogs given 5 or 10 ppm aldicarb technical at all intervals and in the 2-ppm group at weeks 5 and 13. Red blood cell (RBC) cholinesterase inhibition was noted in a dose-related fashion in both males and females at the 5- and 10-ppm groups in this study. At 2 ppm, only males exhibited some effects (28.6 percent inhibition) at week 13. RBC ChE inhibition was noted in female dogs given 10 ppm at all intervals except week 52. The average brain cholinesterase activity, measured at the end of the study, was inhibited only in male dogs in a dose-related fashion at 2, 5, and 10 ppm aldicarb (15, 20 and 30 percent average inhibition, respectively). No compound-related changes in hematology, parameters regarding clinical chemistry, urinalysis, organ weight, gross pathology, ophthalmology, or histopathology were noted in any of the treatment groups.

Therefore, the RfD for aldicarb was calculated using 0.02 mg/kg/day dose level in the dog study and a 100-fold uncertainty factor. These data were supported with a parallel calculation using the human study (Haines, 1971) with the actual lowest dose tested, 0.025 mg/kg/day (a range of approximately 30 to 57 percent whole blood ChE inhibition) and a 100-fold uncertainty factor. The NAS (1986) extrapolated estimate of 20 percent whole blood ChE inhibition from the Haines study is 0.005 mg/kg/day. This estimate provides a 30-fold margin of safety for human adult males (Haines, 1971) when compared to the new RfD and a 10-fold margin of safety for the human population in general (Goldman et al., 1990).

For aldicarb sulfone the new one-year dog feeding study by Hazleton (1987) was used for the calculation of the RfD. In this study, groups of beagle dogs (6/sex/dose) were administered aldicarb sulfone in the diet for one year at levels of 0, 5, 25, or 100 ppm (0, 0.11, 0.58, and 2.21 mg/kg/day). Since aldicarb sulfone was found to be unstable in the diet at room temperature, fresh diets were prepared weekly and frozen immediately following mixing.

Statistically significant inhibition of plasma cholinesterase was observed in males at all doses tested (20–80 percent inhibition of control value) and at the mid- and high-dose levels in females (40–72 percent inhibition of control value) at all intervals. Red blood cell cholinesterase also was significantly inhibited in the mid-dose groups for both males (17 percent) and females 20 percent) and in the high-dose males (36 percent) and females (29 percent) when compared to the control value. Brain

cholinesterase activity at study termination showed statistically significant inhibition in high-dose males (24% reduction compared to control value) and mid- and high-dose females (19–23 percent reduction compared to control). Therefore, the lowest dose tested, 0.11 mg/kg/day (5 ppm), reflecting an average of 25 percent plasma ChE inhibition in one sex, males, was used in the calculation of the RfD by the application of a 300-fold uncertainty factor. Although the sulfone is known to be less toxic than the parent compound and the sulfoxide, the Agency justifies the use of a 300-fold uncertainty factor instead of the 100-fold that is used with the parallel 1-year dog study with aldicarb based on the fact that the data for aldicarb were supported further by human data. If human data with aldicarb sulfone become available to the Agency, the extra 3-fold used in the RfD calculation for aldicarb sulfone may not be necessary (in this case, the RfD would be amended then to 0.001 mg/kg/day and the MCLG to 0.007 mg/l). The extra 3-fold uncertainty factor might also be unnecessary if the human data for the aldicarb parent is considered to be applicable to aldicarb sulfone and/or if the 5 ppm low dose is considered to be a NOAEL for aldicarb sulfone. Public comment on this issue is requested, including the alternate MCLG of 0.007 mg/l for aldicarb sulfone.

The MCLGs of 0.01, 0.01, and 0.04 mg/l for aldicarb that were proposed in the May 22, 1989, **Federal Register** are now proposed at 0.001, 0.001, and 0.002 mg/l, respectively, based on the Agency's new verified RfDs (EPA, July 1990 a and b), as discussed above. In addition, an MCLG of 0.001 mg/l for the mixture of two or more of these compounds is proposed.

2. Aldicarb, Aldicarb Sulfoxide, and Aldicarb Sulfone MCLs

The SDWA directs EPA to set the MCL "as close to" the MCLG "as is feasible." The term "feasible" means "feasible with the use of the best technology, treatment techniques, and other means, which the Administrator finds, after examination for efficacy under field conditions and not solely under laboratory conditions, are available (taking costs into consideration)." (SDWA Section 1412(b)(5).) Each National Primary Drinking Water Regulation that establishes an MCL lists the technology, treatment techniques, and other means which the Administrator finds to be feasible for meeting the MCL (SDWA Section 1412(b)(6)). EPA elsewhere in today's **Federal Register** has promulgated best available technology, analytical methods and monitoring requirements for aldicarb, aldicarb sulfoxide, aldicarb sulfone, and pentachlorophenol. GAC is the only available treatment technology that removes these organic contaminants and can be implemented at virtually any contaminant level. Further, the analytical methods and monitoring requirements are not expected to be affected by whatever MCLGs and MCLs are promulgated for these four chemicals, as well as barium. Therefore, EPA has not replicated those discussions in this proposal.

The MCLs for alicarb, aldicarb sulfoxide, and aldicarb sulfone are reproposed in this proposed rule, based upon an analysis of several factors, including:

(1) The effectiveness of BAT in reducing contaminant levels from influent concentrations to the MCLG. GAC was proposed as BAT for these chemicals. This reproposal would not affect that designation. GAC is effective in removing aldicarb, aldicarb sulfoxide, and aldicarb sulfone to levels at or below the MCLS of 0.003 mg/l.

(2) The feasibility (including costs) of applying BAT. EPA considered the availability of the technology and the costs of installation and operation for large systems (serving more than 1,000,000 people). EPA estimates the cost to remove aldicarb, aldicarb sulfoxide, or aldicarb sulfone, using GAC, to be $10–$14 per household.

(3) The performance of available analytical methods as reflected in the practical quantitation level (PQL) for each contaminant. In order to ensure the precision and accuracy of analytical measurement of contaminants at the MCL, the MCL is set at a level no lower than the PQL. Data showed that the PQLs for aldicarb and aldicarb sulfoxide could be lowered from levels of 0.005 and 0.008 mg/l to 0.003 mg/l. The PQL for aldicarb sulfone was proposed at a level of 0.003 and the Water Supply Studies confirm that this level is achievable. In order to establish a PQL of 0.003 mg/l, EPA has broadened the acceptance limits to ± 55 percent. EPA believes that somewhat less precise analytical data are acceptable in this case, where the respective MCLGs for aldicarb, aldicarb sulfoxide, and aldicarb sulfone are 0.001, 0.001, and 0.002 mg/l, to narrow the gap between the MCLs and the MCLGs. EPA believes that PQLs of 0.003 mg/l represent the lowest level feasible using current analytical methodology. The factors EPA used in its analysis to establish MCLs of 0.003 mg/l for aldicarb, aldicarb sulfoxide, and aldicarb sulfone are summarized in Table 2.

TABLE 2.—MCL ANALYSIS FOR ALDICARB, ALDICARB SULFOXIDE, ALDICARB SULFONE, AND PENTACHLOROPHENOL

SOC contaminant	MCLG (mg/l)	MCL (mg/l)	PQL (mg/l)	Annual household costs using BAT*		10^{-4} Risk (mg/l)
				GAC	PTA	
Aldicarb	0.001	0.003	0.003	$10.00	$—	NA
Aldicarb sulfoxide	.001	.003	.003	14.00	—	NA
Aldicarb sulfone	.002	.003	.003	14.00	—	NA
Pentachlorophenol		.001	.001	10.00	—	0.03

* For large surface systems serving >1,000,000 people.

Although the MCLs for aldicarb, aldicarb sulfoxide, and aldicarb sulfone are proposed at a level above the MCLG, EPA believes the health risks of exceeding the MCLG up to the MCL are minimal. This rationale is based on the fact that from the NAS (1986) analysis of the human study with bolus exposure to aldicarb (1971), 0.002 mg/l was calculated for the child exposure. However, it is unlikely that a child will consume a whole liter at one time. Therefore, the MCL value of 0.003 mg/l is protective to the child in consideration that it would provide the 0.003 mg aldicarb in fractional exposures of 0.0015 mg or less, assuming that the child consumes the one liter of water in two or more equal drinks. Considering that the cholinesterase inhibition effects of aldicarb are thought to be reversible within 4 to 6 hours at higher levels of exposure (i.e., 0.025 mg/kg, Haines, 1971), the MCL for aldicarb

and its metabolites, 0.003 mg/l, should be protective for a child.

Consequently, for the above reasons, the MCLs for aldicarb, aldicarb sulfoxide, and aldicarb sulfone are each proposed at 0.003 mg/l.

C. Pentachlorophenol

1. Pentachlorophenol MCLG

EPA proposed an MCLG of 0.2 mg/l for pentachlorophenol in the May 22, 1989 proposal. The MCLG was derived from a DWEL of 1 mg/l applying a 20 percent contribution from drinking water. At the time of proposal, pentachlorophenol's carcinogenic classification was in Group D. However, recent carcinogenicity bioassays were positive for carcinogenic effects in mice given either purified commercial or technical grades of pentachlorophenol in the diet. Due to these test results, comment was also requested regarding the possibility of an MCLG of zero for pentachlorophenol, based on a revised classification of B2 indicating sufficient evidence of carcinogenicity in animals.

Eight commenters responded to the **Federal Register** proposed rule of May 1989. Four commenters believed the recent carcinogenicity data support reclassification of pentachlorophenol into Group C (from Group D). Their reasons include (1) the studies are actually only one study with one species giving a positive response; (2) the relevance of mouse liver tumors and adrenal pheochromocytomas is questionable, and two of the three treatment-related tumor types observed are of questionable value for predicting cancer risk in humans; (3) impurities in the pentachlorophenol in both studies could be responsible for the observed carcinogenicity; (4) the tumors possibly resulted from secondary taxic effects instead of from a direct effect of pentachlorophenol; and, (5) evidence for the inability of pentachlorophenol to cause mutations detracts from setting an MCLG of zero and the coincident non-threshold position for carcinogens. All of these four commenters prefer retaining the proposed MCLG of 0.2 mg/l. Two commenters supported the reclassification of pentachlorophenol into Group B2 and the proposed MCLG of zero, concluding that the recent carcinogenicity data meet the EPA guidelines requirements for sufficient evidence in animals. Three commenters wanted the reclassification issue postponed because of insufficient time for the public to evaluate the carcinogenicity bioassay. These commenters postulated that the carcinogenic effects may have been induced by impurities in the test compound or by the dosing vehicle, instead of by pentachlorophenol itself.

EPA Response. EPA concludes upon further evaluation of the carcinogenicity studies that these studies support reclassification of pentachlorophenol into Group B2 (sufficient evidence in animals). EPA considers that the appearance of multiple tumor types (hemangiosarcomas, pheochromocytomas, and liver tumors) at different dose levels in both sexes of mice satisfies the criteria for sufficient evidence for carcinogenicity. EPA concludes there is inadequate evidence to exclude pentachlorophenol as the agent including the tumors observed, because impurities in the pentachlorophenol test materials have not been shown to induce hemangiosarcomas or pheochromocytomas, and the impurities in the test materials are considered to be of inadequate quantity to account for the treatment-related increases in liver tumors. EPA also feels the evidence is inadequate to discount the results due to concerns regarding non-genotoxic and secondary toxic mechanisms of carcinogenic action. The mechanistic arguments need further development to successfully refute the evidence for pentachlorophenol as a probable human carcinogen. EPA also cannot discredit the mouse liver tumors and adrenal pheochromocytomas as signs of pentachlorophenol carcinogenicity because, since positive results in animal studies trigger concern about carcinogenic hazard in humans, it is difficult to ignore such data.

EPA's conclusion on a B2 classification has been reviewed and supported by the Science Advisory Board in February, 1990. EPA's conclusion is also consistent with the unanimous conclusion of the NTP Peer Review Panel, that for technical grade pentachlorophenol there is clear evidence of carcinogenic activity in male mice and some evidence in female mice, and that for purified commerical grade pentachlorophenol there is clear evidence of carcinogenic activity in both male and female mice. For these reasons, EPA places pentachlorophenol in Category I and proposes an MCLG of zero.

2. Pentachlorophenol MCL

In the May 22, 1989 proposed rule, EPA proposed a MCL of 0.2 mg/l based upon EPA's placement of this chemical in Category III (inadequate evidence of carcinogenicity via ingestion). In that proposed rule EPA also stated that there is considerable evidence that could result in reclassification to Group B2 and subsequent placement in Category I. The proposed rule further stated that based upon a B2 classification the MCLG would be zero and the MDL would be set at the PQL of 0.0001 mg/l. No comments were received on what the appropriate MCL should be for pentachlorophenol. EPA is reproposing the MCL for pentachlorophenol because it believes the data more appropriately support an MCL of 0.001 mg/l due to additional information which was analyzed by the Agency as discussed below.

The proposed MCL for pentachlorophenol is established based upon an analysis of several factors as discussed below and summarized in Table 2:

(1) The effectiveness of BAT in reducing the contaminant levels from influent concentrations to the MCL. For pentachlorophenol the Agency has determined that granular activated carbon is BAT. This technology is effective in reducing influent concentrations to the proposed MCL of 0.001 mg/l or to the alternate MCL of 0.0001 mg/l.

(2) The feasibility (including costs) of applying BAT. EPA considered the availability of GAC and the costs of installation and operation for a large system. EPA estimates that large system household costs to treat at or below the MCL are approximately $10 per year. Consequently, EPA believes that GAC as BAT is feasible.

(3) The performance of available analytical methods as reflected in the PQL. In order to ensure the accuracy of analytical measurement of contaminants at the MCL, the MCL is set at a level no lower than the PQL. In the May proposed rule EPA stated that it estimated the PQL to be 0.0001 mg/l which was 10 times the minimum detection limit of 0.00001 mg/l. A final PQL would be established along with acceptance limits based upon an analysis of ongoing water supply studies. Upon analyzing Water Supply Studies 20–25, EPA has concluded that the PQL should be established at 0.001 mg/l with an acceptance limit of ±50 percent. EPA analysis of the Water Supply data indicates that around the 0.001 mg/l level laboratory performance falls sharply. During its consideration of where to set the PQL, EPA also considered establishing the PQL at 0.0001 mg/l with an acceptance limit of ±55 percent. However, the Agency has concluded that the need for better quality analytical data overrides the need to establish a lower PQL in this case, particularly when the risks are below 10^{-6}, as discussed below. EPA desires comment on the issue of whether

it is desirable to establish a lower PQL with less stringent acceptance limits when risks are low. EPA particularly desires comments on whether the PQL should be set at 0.001 mg/l as proposed or at an alternate level of 0.0001 mg/l.

(4) After taking into account the above factors, EPA then considered the risks at the MCL level for Category I contaminants to determine whether they would adequately protect public health. EPA considers a target risk range of 10^{-4} to 10^{-6} to be safe and protective of public health. After EPA changed the cancer classification from D to B2 the Agency subsequently developed a cancer unit risk estimate of 4.76E–08 cases/person/(μg/l)/yr. In evaluating where to set the MCL after evaluating the Agency's cancer risk estimate as applied to drinking water, the EPA concluded that the risk of cancer from pentachlorophenol was low—less than a 10^{-6} risk at an MCL of 0.0001 mg/l. Consequently, EPA concludes that proposing an MCL level of 0.001 mg/l is more consistent with its policy to establish MCLs in the 10^{-4} to 10^{-6} risk range. EPA requests comment on this issue if the MCL should be established at a level below the 10^{-6} risk level.

D. Barium

1. Barium MCLG

In the 1989 proposal (54 FR 22062), EPA proposed an MCLG of 5 mg/l for barium and specifically requested comment on the approach used to derive the 5 mg/l value.

The proposed 5 mg/l MCLG was based on several human and animal studies. The Wones et al. human clinical study failed to detect adverse effects at 10 mg/l. EPA applied an uncertainty factor of 2 to derive an MCLG of 5 mg/l, rather than a factor of 10, which would normally be applied with a human study with a NOAEL because the study is corroborated by the results of other studies (i.e., the Brenniman et al., 1981 study). EPA did not factor the RSC into the calculation of the MCLG since the basis is a human study that considered contributions from food and air. The proposed MCLG was supported by the results of Brenniman et al., which failed to find adverse effects at a slightly higher level of 7.3 mg/l and is consistent with the 4.7 mg/l value recommended by the National Academy of Science.

Subsequent to the May 1989 proposal, the Agency reviewed the data and adopted an RfD for barium. That RfD concludes that the uncertainty in the data base was such as to warrant an uncertainty factor of three—greater than the proposed value of two. EPA's usual practice is to use an uncertainty factor of 10, 3 or 1 when the RfD is based on human data. EPA in this case believed that the uncertainty in the data base was such as to warrant use of three rather than two, as proposed, to support its conclusion of greater uncertainty in the data base. Based on the revised RfD, the MCLG is reproposed at 2 mg/l.

Public Comment. The majority of the comments agreed with the approach that EPA used to arrive at a 5 mg/l value and urged that EPA adopt a 5 mg/l MCLG for barium. The remaining comments were unclear as to their intent (i.e., whether a lower or higher MCLG was appropriate). These comments noted that, as no effects were observed in Wones et al. at 10 mg/l, the highest level tested, EPA had not used a NOAEL. Though unstated, these commenters presumably believe that, had the Wones et al. study used higher levels of barium, no effects would have been observed at levels greater than 10 mg/l and thus an MCLG greater than 5 mg/l would be appropriate.

EPA Response. EPA disagrees with comments that noted that no effects were observed at the highest level of barium tested by Wones et al., 10 mg/l, and thus, presumably, argued that a higher MCLG may be appropriate. EPA is obliged to use the available data and, in EPA's opinion, there are no data that adequately support the conclusion that an MCLG higher than 5 mg/l will protect the public "with an adequate margin of safety." It is clear that the majority of commenters agreed with the basic approach EPA used to derive the proposed 5mg/l. EPA is not changing that approach; however, EPA believes that it is appropriate to change the uncertainty factor used in that approach. Normally when using human data EPA uses an uncertainty factor of 10. Both EPA and the majority of commenters agreed that an uncertainty factor of 10 was too conservative in this case. However, EPA believes the uncertainty factor of two may not be cautious enough to adequately protect the most sensitive populations with an adequate margin of safety. To allow for this EPA determined it was appropriate to use a slightly greater uncertainty factor of three. Consequently, for the reason stated above, barium is placed in Category III and an MCLG of 2 mg/l is proposed.

2. Barium MCL

The current barium MCL of 1 mg/l was promulgated in 1975 (40 FR 59570). EPA notes the proposed MCL would raise the level from 1 mg/l to 2 mg/l. EPA believes the current standard is feasible and consequently believes the revised standard of 2 mg/l is likewise feasible. Consequently, the MCL for barium is proposed at 2 mg/l.

E. 1415 Variance Option

EPA at the time that it proposes and promulgates regulations must establish a Best Available Technology (BAT) for both the maximum contaminant level (MCL) [under section 1412] and the variance [under section 1415]. Section 1415(a)(1)(A) states that:

> The Administrator's finding of best available technology, treatment techniques or other means for purposes of this subsection may vary depending on the number of persons served by the system or for other physical conditions related to engineering feasibility and costs of compliance with maximum contaminant levels as considered appropriate by the Administrator.

EPA makes its BAT determination on a national basis. In making its decision, the Agency examines factors such as whether systems of a particular size can successfully operate the treatment and whether some technologies cannot be successfully down sized from water supplies serving many people to those serving a few people.

For water supplies serving less than 500 service connections, the SDWA permits the State to grant an initial exemption from compliance with the MCL of three years with one or more additional two-year extensions if the system is taking all practicable steps to meet the requirements. Section 1416(b)(2)(C). These water supplies may need financial assistance because the costs involved in meeting the regulations exceed a reasonable level. Systems serving more than 500 service connections are eligible for a one-time three-year exemption.

EPA believes there may be some water supplies that serve more than 1,500 people (500 service connections) but less than 3,300 people (1,000 service connections) that face high compliance costs. Data analyzed by EPA indicate that systems serving more than 3,300 people would not encounter unaffordable costs. Consequently, EPA is limiting the variance option discussed today only to those systems not eligible for additional exemptions beyond the initial three-year exemption (i.e., systems serving more than 1,500 people but less than 3,300 people). EPA today is proposing to develop a mechanism to give these systems future regulatory relief.

Section 1415(a)(1)(A) permits the Administrator to make a decision that BAT is not available for specific systems due to costs exceeding certain defined limits. If the Administrator decided that BAT is not available for a particular contaminant, a water system may be eligible for a variance. EPA has

not yet developed criteria for determining whether BAT is affordable for systems sizes that are the subject of this proposed rule, but EPA intends to do so in the future. At that time, States could grant variances in accordance with EPA's criteria; until the criteria are published, no variances based on affordability are available. EPA is today soliciting public comment on the concept described here, particularly, whether variances should be limited to systems serving less than 3,300 people, or should be available to other systems (or all systems); what criteria should EPA consider in determining whether BAT is affordable; is a percentage of median household income an appropriate measure of affordability (see, for example, the final rule promulgated today that discusses two percent of median household income as an indicator of affordability) for exemptions under section 1416; should variances based on affordability be extended to all applicable SDWA regulations.

IV. Economic Analysis

Executive Order 12291 requires EPA and other regulatory agencies to perform a regulatory impact analysis (RIA) for all "major" regulations, which are defined as those regulations which impose an annual cost to the economy of $100 million or more, or meet other criteria. The Agency has determined that the proposed rule is a minor rule for purposes of the Executive Order. This regulation has been reviewed by the Office of Management and Budget as required by the Executive Order and any comments they make will be available in the public docket.

In accordance with the Executive Order, the Agency has conducted an assessment of the benefits and costs of regulatory alternatives as part of the Phase II rule which is promulgated elsewhere in today's **Federal Register.** This assessment in the Phase II rule determined the impacts of this proposed regulation as part of the Phase II rule and consequently these impacts are not separately reconsidered in this proposed rule.

A. Regulatory Impact

EPA's analysis conducted under the proposed rule for 38 contaminants (54 FR 22062, May 22, 1989) indicates that approximately 378 systems would violate the proposed aldicarb MCL of 0.01 mg/l. An additional 825 systems would violate the MCL for pentachlorophenol.

The aldicarb estimate was based on one State survey which did not distinguish between public and private wells. EPA estimated a total annual treatment cost of approximately $6.7 million. EPA acknowledges an uncertainty with this estimate of ±50 percent and believes that from 189 to 567 systems may be affected at a total annual treatment cost ranging from $3.4 million to $10.1 million. EPA is retaining these estimates of expected impact even though the MCL decreases from the May 22, 1989 level of 0.01 mg/l to 0.003 mg/l for aldicarb because the Agency believes the State survey overestimated the number of systems which would require treatment. This conclusion is supported by EPA's recently completed National Pesticide Survey which did not detect aldicarb in any wells at levels exceeding 0.00071 mg/l. Based on a statistical analysis, the National Pesticide Survey report estimates a 95 percent chance that fewer than 750 community water system wells (or 375 community water systems) contain aldicarb at levels which exceed the survey's minimum reporting limit of 0.00071 mg/l. Annual treatment costs for an individual system are estimated at $10–14/household/yr for a large system (serving >1,000,000 people), $39/household/yr for medium systems (serving 10,000 to 25,000 people), and $600/household/yr for a small system (25 to 100 people).

Occurrence estimates for pentachlorophenol are based on data submitted by AWWA based on survey data of 78 member utilities. This data indicated that six utilities detected pentachlorophenol at levels below 0.01 mg/l and a seventh utility reported pentachlorophenol at 0.02 mg/l in finished water. There are two basic limitations to the AWWA data: questionable or missing data were not verified through QA/QC efforts and the utility reporting the 0.02 mg/l level in finished water did not detect pentachlorophenol in its raw water. Based on this data, EPA assumes that 825 systems will exceed the MCL for pentachlorophenol with a total national treatment cost of $19 million per year.

EPA notes that the National Pesticide Survey did not detect pentachlorophenol in any wells. The survey report estimates a 95 percent chance that fewer than 375 community water systems will exceed the NPS detection limit of 0.00001 mg/l. This National Pesticide Survey estimate suggests that the estimate of 825 systems which will violate the MCL overestimates the true impact. However, for this proposal, EPA is retaining the estimate of 825 systems and invites comment on this issue, particularly data from surveys detecting pentachlorophenol in drinking water at levels above 0.00001 mg/l.

Small systems may qualify for exemptions under section 1416(a). A State or EPA may grant an exemption extending deadlines for compliance with a treatment technique or MCL if it finds that (1) due to compelling factors (which may include economic factors), the PWS is unable to comply with the requirement; (2) the exemption will not result in an unreasonable risk to human health; and (3) the system was in operation on the effective date of the NPDWR, or, for a system not in operation on that date, no reasonable alternative source of drinking water is available to the new system.

Under section 1416(b)(2)(B) of the Act, an exemption may be extended or renewed (in the cases of systems that serve less than 500 service connections and that need financial assistance for the necessary improvements) for one or more two-year periods. EPA believes that information on low-cost technologies will receive a considerable amount of attention over the next several years and States giving exemptions based on affordability should be prepared to require small water systems to regularly reexamine the available technologies to ensure that any new low-cost opportunities are applied, where appropriate.

As stated earlier, EPA is not reconsidering the costs for the proposed VOC monitoring requirements because those costs were considered in the final Phase II rule promulgated elsewhere today in the **Federal Register.** The costs of today's proposed VOC monitoring requirements have virtually no impact on the total cost of VOC monitoring primarily because a single analytical method can analyze a range of contaminants. Sampling for all VOC contaminants can be conducted at the same time.

TABLE 3.—REGULATORY IMPACT

Contaminant	Systems in violation	Annual treatment cost ($million/yr)	Typical treatment cost/system/year		
			Small [1]	Medium [2]	Large [3]
Aldicarb (including Sulfoxide and Sulfone)	378	$6.7	600	39	10-14
Pentachlorophenol	825	$19	600	39	10
Barium	0	0	$230-460 [4]	$54-160 [4]	$26-110 [4]

[1] Small system serving 25-100 people.
[2] Medium system serving 10,000-25,000 people. For Barium medium system serves 3,300-10,000 people.
[3] Large systems serving more than 1,000,000 people.
[4] Cost dependent upon BAT chosen.

B. Regulatory Flexibility Analysis

The Regulatory Flexibility Act requires EPA to consider the effect of regulations on small entities. 5 U.S.C. 602 *et seq.* If there is a significant effect on a substantial number of small systems, the Agency must prepare a Regulatory Flexibility Analysis which describes significant alternatives which would minimize the impact on small entities. An analysis of the impact on small systems due to the MCL for aldicarb is included in the RIA supporting the final Phase II rule which is promulgated elsewhere in today's **Federal Register**. The Administrator has determined that the proposed rule, if promulgated, will not have a significant effect on a substantial number of small entities.

C. Paperwork Reduction Act

The information collection requirements in this rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq* as part of the information collection requirements supporting the final Phase II rule (which promulgates MCLGs and MCLs for 35 contaminants), which is promulgated elsewhere today in the **Federal Register**. The information collection requirements are not effective until OMB approves them and a technical amendment to that effect is published in the **Federal Register**.

V. Request For Public Comment

EPA requests public analysis, comments and information on all aspects of this proposal. In particular, the Agency is soliciting comment on the following:

- Do the proposed VOC compliance monitoring requirements serve the purpose of insuring that high quality water is available?
- Do the proposed MCLs adequately consider the cost of treatment?
- Are there alternative VOC monitoring requirements which would still ensure high quality water but which would be less burdensome for water systems and States?
- Do the MCLs for aldicarb, aldicarb sulfoxide, and aldicarb sulfone represent a level which is protective of public health?
- How should uncertainty factors be chosen and used in providing an ample margin of safety? What scientific and/or policy rationales should be used to choose uncertainty factors?
- Should EPA set the same MCLGs for aldicarb and aldicarb sulfoxide, or should the aldicarb sulfoxide MCLG be different? If so, on what basis? Is it appropriate from a scientific and/or policy perspective?
- Are the assumptions and uncertainty factors used to calculate the aldicarb sulfone MCLG appropriate? Is it scientifically sound to consider not applying the additional three-fold uncertainty factor in the derivation of the aldicarb sulfone RfD either because the human volunteer data on the parent chemical and/or the lowest dose in the sulfone dog study may be considered a NOAEL rather than a LOAEL?
- EPA has approved EPA Method 531.1 as the approved analytical method for aldicarb, aldicarb sulfoxide, and aldicarb sulfone. Do other analytical methods exist which can analyze these chemicals?
- EPA estimates approximately 378 systems will violate the proposed MCL for aldicarb. Is this estimate accurate?
- EPA is reproposing the MCL for pentachlorophenol at a level of 0.001 mg/1, based upon a PQL of 0.001 mg/1. Are there other MCLs EPA should consider?
- EPA notes that at the proposed pentachlorophenol MCL of 0.001 mg/1 approximately statistical 0.89 cancer cases per year would be avoided. Establishing an alternate MCL of 0.0001 mg/1 would result in an estimated statistical 0.94 cases avoided. How should estimates of additional cancer cases avoided factor into EPA's analysis of where to set the MCL? How should costs factor into EPA's analysis of where in the risk range (10^{-4} to 10^{-6}) to set the MCL?

List of Subjects in 40 CFR Parts 141, 142 and 143

Administrative practice and procedure, Chemicals, Reporting and recordkeeping requirements, Water supply.

Dated: December 31, 1990.

F. Henry Habicht,

Acting Administrator.

For the reasons set forth in the preamble, Title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

1. The authority citation for part 141 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g-1, 300g-2, 300g-3, 300g-4, 300g-5, 300g-6, 300j-4 and 300j-9.

2. Section 141.24 is amended by revising paragraphs (f), (g) introductory text and (g)(8) introductory text to read as follows:

§ 141.24 Organic chemicals other than total trihalomethanes, sampling and analytical requirements.

* * * * *

(f) Beginning on January 1, 1993, analysis of the contaminants listed in § 141.61(a) (1) through (18) for the purpose of determining compliance with the maximum contaminant level shall be conducted as follows:

(1) Ground water systems shall take a minimum of one sample at every entry point to the distribution system which is representative of each well after treatment (hereafter called a sampling point). If conditions warrant, the State may designate additional sampling points within the distribution system or at the consumer's tap, which more accurately determines consumer exposure. Each sample must be taken at the same sampling point unless conditions make another sampling point more representative of each source,

treatment plant, or within the distribution system.

(2) Surface water systems (or combined surface/ground) shall take a minimum of one sample at points in the distribution system that are representative of each source or at each entry point to the distribution system after treatment (hereafter called a sampling point). If conditions warrant, the State may designate additional points within the distribution system or at the consumer's tap, which more accurately determines consumer exposure. Each sample must be taken at the same sampling point unless conditions make another sampling point more representative of each source, treatment plant, or within the distribution system.

(3) If the system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions (i.e., when water representative of all sources is being used).

(4) Each community and non-transient non-community water system shall take four consecutive quarterly samples for each contaminant listed in § 141.61(a) (2) through (18) during each compliance period, beginning in the compliance period starting January 1, 1993.

(5) Groundwater systems which do not detect one of the contaminants listed in § 141.61(a) (2) through (18) after conducting the initial round of monitoring required in paragraph (f)(4) of this section shall take one sample annually.

(6) If the initial monitoring for contaminants listed in § 141.61(a) (1) through (8) and the monitoring for the contaminants listed in § 141.61(a) (9) through (18) as allowed in paragraph (f)(18) of this section has been completed by December 31, 1992, and the system did not detect any contaminant listed in § 141.61(a) (1) through (18), then the system shall take one sample annually beginning January 1, 1993. After a minimum of three years of annual sampling, the State may allow groundwater systems with no previous detection of any contaminant listed in § 141.61(a) to take one sample during each compliance period.

(7) Each community and non-transient water which system does not detect a contaminant listed in § 141.61(a) (1) through (18) may apply to the State for a waiver from the requirements of paragraphs (f)(4) and (f)(5) of this section after completing the initial monitoring. (For the purposes of this section, detection is defined as >0.0005 mg/l.) A waiver shall be effective for no more than six years (two compliance periods).

(8) A State may grant a waiver after evaluating the following factor(s):

(i) Knowledge of previous use (including transport, storage, or disposal) of the contaminant within the watershed or zone of influence of the system. If a determination by the State reveals no previous use of the contaminant within the watershed or zone of influence, a waiver may be granted.

(ii) If previous use of the contaminant is unknown or it has been used previously, then for the following factors shall be used to determine whether a waiver is granted.

(A) Previous analytical results.

(B) The proximity of the system to a potential point or non-point source of contamination. Point sources include spills and leaks of chemicals at or near a water treatment facility or at manufacturing, distribution, or storage facilities, or from hazardous and municipal waste landfills and other waste handling or treatment facilities.

(C) The environmental persistence and transport of the contaminants.

(D) The number of persons served by the public water system and the proximity of a smaller system to a larger system.

(E) How well the water source is protected against contamination, such as whether it is a surface or groundwater system. Groundwater systems must consider factors such as depth of the well, the type of soil, and wellhead protection. Surface water systems must consider watershed protection.

(9) As a condition of the waiver a system must take one sample at each sampling point during the time the waiver is effective (i.e., one sample during two compliance periods or six years) and update its vulnerability assessment considering the factors listed in paragraph (f)(8) of this section. Based on this vulnerability assessment the State must reconfirm that the system is non-vulnerable. If the State does not make this reconfirmation within three years of the initial determination, then the waiver is invalidated and the system is required to sample annually as specified in paragraph (f)(5) of this section.

(10) A surface water system which does not detect a contaminant listed in § 141.61(a) (1) through (18) and is determined by the State to be non-vulnerable using the criteria in paragraph (f)(8) of this section shall monitor at the frequency specified by the State (if any). Systems meeting this criteria must be determined by the State to be non-vulnerable based on a vulnerability assessment during each compliance period.

(11) If a contaminant listed in § 141.61(a) (2) through (18) is detected at a level exceeding 0.0005 mg/1 in any sample, then:

(i) The system must monitor quarterly at each sampling point which resulted in a detection.

(ii) The State may decrease the quarterly monitoring requirement specified in paragraph (f)(11)(i) of this section provided it has determined that the system is reliably and consistently below the maximum contaminant level. In no case shall the State make this determination unless a groundwater system takes a minimum of two quarterly samples and a surface water system takes a minimum of four quarterly samples.

(iii) If the State determines that the system is reliably and consistently below the MCL, the State may allow the system to monitor annually. Systems which monitor annually must monitor during the quarter(s) which previously yielded the highest analytical result.

(iv) Systems which have three consecutive annual samples with no detection of a contaminant may apply to the State for a waiver as specified in paragraph (f)(7) of this section.

(v) Groundwater systems which have detected one or more of the following two-carbon organic compounds: trichloroethylene, tetrachloroethylene, 1,2-dichloroethane, 1,1,1-trichloroethane, cis-1,2-dichloroethylene, trans-1,2-dichloroethylene, or 1,1-dichloroethylene shall monitor quarterly for vinyl chloride. A vinyl chloride sample shall be taken at each sampling point at which one or more of the two-carbon organic compounds is detected. If the results of the first analysis do not detect vinyl chloride, the State may reduce the quarterly monitoring frequency of vinyl chloride monitoring to one sample during each compliance period. Surface water systems are required to monitor for vinyl chloride as specified by the State.

(12) Systems which violate the requirements of § 141.61(a) (1) through (18), as determined by paragraph (f)(16) of this section, must monitor quarterly. After a minimum of four quarterly samples which show the system is in compliance as specified in paragraph (f)(15) of this section the system and the State determines that the system is reliably and consistently below the maximum contaminant level, the system may monitor at the frequency and time specified in paragraph (f)(11)(iii) of this section.

(13) The State may require a confirmation sample for positive or negative results. If a confirmation sample is required by the State, the result must be averaged with the first sampling result and the average is used for the compliance determination as specified by paragraph (f)(16) of this section. States have discretion to delete results of obvious sampling errors from this calculation.

(14) The State may reduce the total number of samples a system must analyze by allowing the use of compositing. Composite samples from a maximum of five sampling points are allowed. Compositing of samples must be done in the laboratory and analyzed within 14 days of sample collection.

(i) If the concentration in the composite sample is >0.0005 mg/l for any contaminant listed in § 141.61(a), then a follow-up sample must be taken and analyzed within 14 days from each sampling point included in the composite.

(ii) If duplicates of the original sample taken from each sampling point used in the composite are available, the system may use these instead of resampling. The duplicate must be analyzed and the results reported to the State within 14 days of collection.

(iii) Compositing may only be permitted by the State at sampling points within a single system, unless the population served by the system is ≤3,300 persons. In systems serving ≤3,300 persons, the State may permit compositing among different systems provided the 5-sample limit is maintained.

(iv) Compositing samples prior to GC analysis.

(A) Add 5 ml or equal larger amounts of each sample (up to 5 samples are allowed) to a 25 ml glass syringe. Special precautions must be made to maintain zero headspace in the syringe.

(B) The samples must be cooled at 4°C during this step to minimize volatilization losses.

(C) Mix well and draw out a 5-ml aliquot for analysis.

(D) Follow sample introduction, purging, and desorption steps described in the method.

(E) If less than five samples are used for compositing, a proportionately small syringe may be used.

(v) Compositing samples prior to GC/MS analysis.

(A) Inject 5-ml or equal larger amounts of each aqueous sample (up to 5 samples are allowed) into a 25-ml purging device using the sample introduction technique described in the method.

(B) The total volume of the sample in the purging device must be 25 ml.

(C) Purge and desorb as described in the method.

(15) Compliance with § 141.61(a)(1) through (18) shall be determined based on the analytical results obtained at each sampling point.

(i) For systems which are conducting monitoring at a frequency greater than annual, compliance is determined by a running annual average of all samples taken at each sampling point. If the annual average of any sampling point is greater than the MCL, then the system is out of compliance. If the initial sample or a subsequent sample would cause the annual average to be exceeded, then the system is out of compliance immediately.

(ii) If monitoring is conducted annually, or less frequently, the system is out of compliance if the level of a contaminant at any sampling point is greater than the MCL. If a confirmation sample is required by the State, the determination of compliance will be based on the average of two samples.

(iii) If a public water system has a distribution system separable from other parts of the distribution system with no interconnections, the State may allow the system to give public notice to only that area served by that portion of the system which is out of compliance.

(16) Analysis for the contaminants listed in § 141.61(a)(1) through (18) shall be conducted using the following EPA methods or their equivalent as approved by EPA. These methods are contained in "Methods for the Determination of Organic Compounds in Drinking Water", ORD Publications, CERI, EPA/600/4–88/039, December 1988. These documents are available from the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161. The toll-free number is 800–336–4700.

(i) Method 502.1, "Volatile Halogenated Organic Chemicals in Water by Purge and Trap Gas Chromatography."

(ii) Method 502.2, "Volatile Organic Compounds in Water by Purge and Trap Capillary Column Gas Chromatography with Photoionization and Electrolytic Conductivity Detectors in Series."

(iii) Method 503.1, "Volatile Aromatic and Unsaturated Organic Compounds in Water by Purge and Trap Gas Chromatography."

(iv) Method 524.1, "Measurement of Purgeable Organic Compounds in Water by Purged Column Gas Chromatography/Mass Spectrometry."

(v) Method 524.2, "Measurement of Purgeable Organic Compounds in Water by Capillary Column Gas Chromatography/Mass Spectrometry."

(17) Analysis under this section shall only be conducted by laboratories that have received approval by EPA or the State according to the following conditions:

(i) To receive conditional approval to conduct analyses for the contaminants in § 141.61(a)(2) through (18) the laboratory must:

(A) Analyze Performance Evaluation samples which include these substances provide by EPA Environmental Monitoring and Support Laboratory or equivalent samples provided by the State.

(B) Achieve the quantitative acceptance limits under paragraphs (f)(18)(i)(C) and (D) of this section for at least 80 percent of the regulated organic chemicals listed in § 141.61(a)(2) through (18).

(C) Achieve quantitative results on the analyses performed under paragraph (f)(18)(i)(A) of this section that are within ±20 percent of the actual amount of the substances in the Performance Evaluation sample when the actual amount is greater than or equal to 0.010 mg/l.

(D) Achieve quantitative results on the analyses performed under paragraph (f)(18)(i)(A) of this section that are within ±40 percent of the actual amount of the substances in the Performance Evaluation sample when the actual amount is less than 0.010 mg/l.

(E) Achieve a method detection limit of 0.0005 mg/l, according to the procedures in Appendix B of part 136 of this chapter.

(F) Be currently approved by EPA or the State for the analyses of trihalomethanes under § 141.30.

(ii) To receive conditional approval for vinyl chloride, the laboratory must:

(A) Analyze Performance Evaluation samples provided by EPA Environmental Monitoring and Support Laboratory or equivalent samples provided by the State.

(B) Achieve quantitative results on the analyses performed under (paragraph) (f)(17)(ii)(A) of this section that are within ±40 percent of the actual amount of vinyl chloride in the Performance Evaluation sample.

(C) Achieve a method detection limit of 0.0005 mg/l, according to the procedures in appendix B of part 136 of this chapter.

(D) Receive approval or be currently approved by EPA or the State under paragraph (g)(11)(i) of this section.

(18) States may allow the use of monitoring data collected after January 1, 1988 required under section 1445 of

the Act for purposes of monitoring compliance. If the data are generally consistent with the other requirements in this section, the State may use these data (i.e., a single sample rather than four quarterly samples) to satisfy the initial monitoring requirement of paragraph (f)(4) of this section.

(19) States may increase required monitoring where necessary to detect variations within the system.

(20) Each approved laboratory must determine the method detection limit (MDL), as defined in appendix B to part 136 of this chapter, at which it is capable of detecting VOCs. The acceptable MDL is 0.0005 mg/l. This concentration is the detection concentration for purposes of this section.

(21) Each public water system shall monitor at the time designated by the State within each compliance period.

* * * * *

(g) For systems in operation before January 1, 1993, for purposes of initial monitoring, analysis of the contaminants listed in § 141.61(a) for purposes of determining compliance with the maximum contaminant levels shall be conducted as folows:

* * * * *

(8) Until January 1, 1993, the State may reduce the monitoring frequency in paragraph (g)(1) and (g)(2) of this section, as explained in this paragraph.

* * * * *

4. In § 141.32, paragraphs (e) (16), (25) through (27), and (e)(46) are added and paragraph (e) (13) through (14) are reserved to read as follows:

§ 142.32 [Amended]

* * * * *

(e) * * *

(13)–(14) [Reserved]

(16) *Barium.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that barium is a health concern at certain levels of exposure. This inorganic chemical occurs naturally in some aquifers that serve as sources of ground water. It is also used in oil and gas drilling muds, automotive paints, bricks, tiles and jet fuels. It generally gets into drinking water after dissolving from naturally occurring minerals in the ground. This chemical may damage the heart and cardiovascular system, and is associated with high blood pressure in laboratory animals such as rats exposed to high levels during their lifetimes. In humans, EPA believes that effects from barium on blood pressure should not occur below 10 ppm in drinking water. EPA has set the drinking water standard for barium at 2 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to barium.

* * * * *

(25) *Aldicarb.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that aldicarb is a health concern at certain levels of exposure. Aldicarb is a widely used pesticide. Under certain soil and climatic conditions (e.g., sandy soil and high rainfall), aldicarb may leach into ground water after normal agricultural applications to crops such as potatoes or peanuts or may enter drinking water supplies as a result of surface runoff. This chemical has been shown to damage the nervous system in laboratory animals such as rats exposed to high levels. EPA has set the drinking water standard for aldicarb at 0.003 parts per million (ppm) to protect against the risk of adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to aldicarb.

(26) *Aldicarb sulfoxide.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that aldicarb sulfoxide is a health concern at certain levels of exposure. Aldicarb is a widely used pesticide. Aldicarb sulfoxide in ground water is primarily a breakdown product of aldicarb. Under certain soil and climatic conditions (e.g., sandy soil and high rainfall), aldicarb sulfoxide may leach into ground water after normal agricultural applications to crops such as potatoes or peanuts or may enter drinking water supplies as a result of surface runoff. This chemical has been shown to damage the nervous system in laboratory animals such as rats exposed to high levels. EPA has set the drinking water standard for aldicarb sulfoxide at 0.003 parts per million (ppm) to protect against the risk of adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to aldicarb sulfoxide.

(27) *Aldicarb sulfone.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that aldicarb sulfone is a health concern at certain levels of exposure. Aldicarb is a widely used pesticide. Aldicarb sulfone is formed from the breakdown of aldicarb and is considered for registration as a pesticide under the name aldoxycarb. Under certain soil and climatic conditions (e.g., sandy soil and high rainfall), aldicarb sulfone may leach into ground water after normal agricultural applications to crops such as potatoes or peanuts or may enter drinking water supplies as a result of surface runoff. This chemical has been shown to damage the nervous system in laboratory animals such as rats exposed to high levels. EPA has set the drinking water standard for aldicarb sulfone at 0.003 parts per million (ppm) to protect against the risk of adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to aldicarb sulfone.

* * * * *

(46) *Pentachlorophenol.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that pentachlorophenol is a health concern at certain levels of exposure. This organic chemical is used as a wood preservative, herbicide, disinfectant, and defoliant. It generally gets into drinking water by runoff into surface water or leaching into ground water. This chemical has been shown to produce adverse reproductive effects and to damage the liver and kidneys of laboratory animals such as rats exposed to high levels during their lifetimes. Some humans who were exposed to relatively large amounts of this chemical also suffered damage to the liver and kidneys. EPA has set the drinking water standard for pentachlorophenol at 0.001 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to pentachlorophenol.

* * * * *

5. Section 141.50 is amended in the table by adding paragraphs (a)(15), (b)(4), (b)(5), and (b)(6) to read as follows:

§ 141.50 Maximum contaminant level goals for organic chemicals.

(a) * * *

(15) Pentachlorophenol

(b) * * *

Contaminant	MCLG (mg/l)
* * * * *	
(4) Aldicarb	0.001
(5) Aldicarb sulfoxide	0.001
(6) Aldicarb sulfone	0.002

* * * * *

6. Section 141.51 is amended by adding (b)(3) to read as follows:

§ 141.51 Maximum contaminant level goals for inorganic contaminants.

(b) * * *

Contaminant	MCLG (mg/l)
* * * * *	
(3) Barium	2
* * * * *	

7. Section 141.61 is amended by adding paragraphs (c)(2), (c)(3), (c)(4), and (c)(16) to read as follows:

§ 141.61 Maximum contaminant levels for organic contaminants.

* * * * *

(c) * * *

CAS No.	Contaminant	MCL (mg/l)
* * * * *		
(2) 116-06-3	Aldicarb	0.003
(3) 1646-87-3	Aldicarb sulfoxide	0.003
(4) 1646-87-4	Aldicarb sulfone	0.003
* * * * *		
(16) 87-86-5	Pentachlorophenol	0.001
* * * * *		

8. Section 141.62 is amended by adding paragraph (b)(3) to read as follows:

§ 141.62 Maximum contaminant levels for inorganic contaminants.

* * * * *

(b) * * *

Contaminant	MCL (mg/l)
(3) Barium	2
* * * * *	

PART 142—NATIONAL PRIMARY DRINKING WATER REGULATIONS—IMPLEMENTATION

1. The authority citation for part 142 continues to read as follows:

Authority: 42 U.S.C. 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4 and 300j–9.

2. Section 142.62 is amended by redesignating existing paragraphs (e), (f), (g), and (h) as (f), (g), (h), and (i) and by adding a new paragraph (e) to read as follows:

§ 142.62 Variances and exemptions from the maximum contaminant levels for organic and inorganic chemicals.

* * * * *

(e) If a system serving fewer than 3,300 people can demonstrate in accordance with criteria published by EPA, that none of the treatment methods identified in § 142.62(a)(9)–(36) and § 142.62(b) is affordable, the system shall be eligible for a variance under the provisions of section 1415(a)(1)(A).

* * * * *

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federal register

Wednesday
January 30, 1991

Part IV

Postal Service

39 CFR Part 111

Postal Rates, Fees, and Classifications; Notice and Final Rule

POSTAL SERVICE

Changes In Certain Postal Rates, Fees, and Mail Classifications

AGENCY: Postal Service.

ACTION: Changes in domestic rates, fees, and mail classifications.

SUMMARY: Pursuant to its authority under 39 U.S.C. 3625, the Postal Service is implementing the changes in domestic postage rates, fees, and mail classification indicated below.

EFFECTIVE DATE: February 3, 1991.

FOR FURTHER INFORMATION CONTACT: John Alepa (202) 268–2650.

SUPPLEMENTARY INFORMATION: On March 6, 1990, the Postal Service filed, pursuant to chapter 36, title 39, United States Code, a request with the Postal Rate Commission for recommended decisions on changes in rates of postage and fees for postal services, and changes in the Domestic Mail Classification Schedule. An explanation of the Postal Service proposals and an invitation to participate in Commission Docket No. R90–1 was published in the **Federal Register** by the Postal Rate Commission on March 15, 1990 (55 FR 9792).

On January 4, 1991, the Postal Rate Commission issued an Opinion and Recommended Decision in Docket No. R90–1. In its Recommended Decision the Commission recommended changes in permanent rates of postage and fees for domestic postal services, and changes in mail classification.

In a decision adopted on January 22, 1991, the Governors of the Postal Service allowed certain of the Commission's recommended changes in rates, fees, and mail classifications to take effect under protest. The Governors ordered these changes into effect on a permanent basis, pursuant to 39 U.S.C. 3625. Also on January 22, 1991, the Board of Governors determined that these changes would become effective at 12:01 a.m. on February 3, 1991. (The Governors decision, the record of the Commission's hearings, and the Commission's Opinion and Recommended Decision may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. The Governors' decision and the Commission's Opinion and Recommended Decision are available for inspection in the Library at Headquarters, United States Postal Service, 475 L'Enfant Plaza West, SW. Washington, DC 20260–1641).

In accordance with these actions by the Governors and the Board of Governors, the Postal Service hereby gives notice that the rate, fee, and classification changes listed below become effective at 12:01 a.m. on February 3, 1991.

Authority: 39 U.S.C. 101(d), 401, 403, 404, 3621, 3625, 3626.

Stanley F. Mires,

Assistant General Counsel, Legislative Division.

RATE SCHEDULE 100.—FIRST-CLASS MAIL

Mail type and postage rate unit	Rate [1] (cents)
Letters:	
Nonpresort:	
First ounce:	
Basic	29
ZIP+4	[2,3] 27.6
Nonstandard Surcharge	10
Additional ounce	[4] 23
Presort [5]:	
First ounce:	
3 and 5 Digit [6]:	
Basic	24.8
ZIP+4	[3] 24.2
Pre-barcode—3 Digit	23.9
Pre-barcode—5 Digit	23.3
Carrier Route [7]	23
Nonstandard Surcharge	5
Additional ounces	[4] 23
Cards:	
Nonpresort:	
Basic	19
ZIP+4	[2,3] 18
Pre-barcode	[8] 17.7
Presort:	
3 and 5 Digit: [6]	
Basic	17
ZIP+4	[3] 16.4
Pre-barcode—3 Digit	16.1
Pre-barcode—5 Digit	15.5
Carrier Route [7]	15.2

[1] The 5-digit presort rate applies only to each piece of a group of ten or more pieces destined for the same 5-Digit ZIP Code or each piece of a group of 50 or more pieces destined for the same 3-Digit ZIP Code. The lower carrier route rate applies only to mail presorted to carrier route, with a minimum of 10 pieces per route. A mailing fee of $75 must be paid once each year at each office of mailing by any person who mails presorted First-Class Mail. The fee for mailers allows usage of either or both of these rates.

[2] Nonpresorted ZIP+4 mail must be properly prepared and submitted in mailings of at least 250 pieces.

[3] ZIP+4 mail must be properly prepared and submitted in a single mailing of at least 250 pieces, except where the presort minimum of 500 applies. ZIP+4 rates are not availble for carrier route presort mail.

[4] Rate applies through 11 ounces. Heavier pieces are subject to Priority Mail rates.

[5] For presorted mailings weighing more than 2 ounces, subtract 4.2 cents per piece.

[6] Mail presorted to ZIP Code and prepared in mailings of 500 pieces or more as prescribed by the Postal Service.

[7] Mail presorted to carrier route and prepared in mailings of 500 pieces or more as prescribed by the Postal Service.

[8] Nonpresorted and pre-barcoded cards must be properly prepared and submitted in mailings of at least 250 pieces.

RATE SCHEDULE 103.—PRIORITY MAIL *

Weight not exceeding (pounds)	L,1,2,3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
1	2.90	2.90	2.90	2.90	2.90	2.90
2	2.90	2.90	2.90	2.90	2.90	2.90
3	4.10	4.10	4.10	4.10	4.10	4.10
4	4.65	4.65	4.65	4.65	4.65	4.65
5	5.45	5.45	5,45	5.45	5.45	5.45
6	5.55	5.75	6.10	6.85	7.65	8.60
7	5.70	6.10	6.70	7.55	8.50	9.65
8	5.90	6.50	7.30	8.30	9.40	10.70
9	6.10	7.00	7.95	9.05	10.25	11.75
10	6.35	7.55	8.55	9.80	11.15	12.80
11	6.75	8.05	9.20	10.55	12.05	13.80
12	7.15	8.55	9.80	11.30	12.90	14.85
13	7.50	9.10	10.40	12.05	13.80	15.90
14	7.90	9.60	11.05	12.80	14.65	16.95
15	8.30	10.10	11.65	13.55	15.55	18.00
16	8.70	10.65	12.30	14.30	16.45	19.05
17	9.10	11.15	12.90	15.05	17.30	20.10

RATE SCHEDULE 103.—PRIORITY MAIL *—Continued

Weight not exceeding (pounds)	L,1,2,3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
18	9.50	11.65	13.55	15.80	18.20	21.10
19	9.90	12.20	14.15	16.50	19.05	22.15
20	10.30	12.70	14.75	17.25	19.95	23.20
21	10.70	13.25	15.40	18.00	20.85	24.25
22	11.10	13.75	16.00	18.75	21.70	25.30
23	11.50	14.25	16.65	19.50	22.60	26.35
24	11.90	14.80	17.25	20.25	23.45	27.40
25	12.30	15.30	17.90	21.00	24.35	28.45
26	12.70	15.80	18.50	21.75	25.25	29.45
27	13.10	16.35	19.10	22.50	26.10	30.50
28	13.50	16.85	19.75	23.25	27.00	31.55
29	13.90	17.35	20.35	24.00	27.85	32.60
30	14.30	17.90	21.00	24.75	28.75	33.65
31	14.70	18.40	21.60	25.50	29.65	34.70
32	15.10	18.95	22.20	26.20	30.50	35.75
33	15.50	19.45	22.85	26.95	31.40	36.75
34	15.90	19.95	23.45	27.70	32.25	37.80
35	16.30	20.50	24.10	28.45	33.15	38.85
36	16.70	21.00	24.70	29.20	34.05	39.90
37	17.10	21.50	25.35	29.95	34.90	40.95
38	17.45	22.05	25.95	30.70	35.80	42.00
39	17.85	22.55	26.55	31.45	36.65	43.05
40	18.25	23.05	27.20	32.20	37.55	44.05
41	18.65	23.60	27.80	32.95	38.45	45.10
42	19.05	24.10	28.45	33.70	39.30	46.15
43	19.45	24.60	29.05	34.45	40.20	47.20
44	19.85	25.15	29.65	35.15	41.05	48.25
45	20.25	25.65	30.30	35.90	41.95	49.30
46	20.65	26.20	30.90	36.65	42.85	50.35
47	21.05	26.70	31.55	37.40	43.70	51.35
48	21.45	27.20	32.15	38.15	44.60	52.40
49	21.85	27.75	32.80	38.90	45.45	53.45
50	22.25	28.25	33.40	39.65	46.35	54.50
51	22.65	28.75	34.00	40.40	47.25	55.55
52	23.05	29.30	34.65	41.15	48.10	56.60
53	23.45	29.80	35.25	41.90	49.00	57.65
54	23.85	30.30	35.90	42.65	49.85	58.65
55	24.25	30.85	36.50	43.40	50.75	59.70
56	24.65	31.35	37.15	44.15	51.65	60.75
57	25.05	31.90	37.75	44.85	52.50	61.80
58	25.45	32.40	38.35	45.60	53.45	62.85
59	25.85	32.90	39.00	46.35	54.25	63.90
60	26.25	33.45	39.60	47.10	55.15	64.95
61	26.65	33.95	40.25	47.85	56.05	65.95
62	27.05	34.45	40.85	48.60	56.90	67.00
63	27.40	35.00	41.45	49.35	57.80	68.05
64	27.80	35.50	42.10	50.10	58.65	69.10
65	28.20	36.00	42.70	50.85	59.55	70.15
66	28.60	36.55	43.35	51.60	60.45	71.20
67	29.00	37.05	43.95	52.35	61.30	72.25
68	29.40	37.55	44.60	53.10	62.20	73.25
69	29.80	38.10	45.20	53.80	63.05	74.30
70	30.20	38.60	45.80	54.55	63.95	75.35

* Notes:
1. The 2-pound rate is charged for matter sent in a "flat rate" envelope provided by the Postal Service.
2. Add $4.50 for each pickup stop.
3. Pieces presented in mailings of at least 300 pieces and meeting applicable Postal Service regulations for presorted Priority Mail receive a 10-cent per piece discount.
4. Exception: Parcels weighing less than 15 pounds, measuring over 84 inches in length and girth combined, are chargeable with a minimum rate equal to that for a 15-pound parcel for the zone to which addressed.

RATE SCHEDULE 200.—SECOND-CLASS MAIL: REGULAR RATE PUBLICATIONS, OUTSIDE COUNTY [1] [2]

	Postage rate unit	Rate [3] (cents)
Per Pound:		
Nonadvertising Portion	Pound	14.7
Advertising Portion:		
Delivery Office [4]	Pound	16.8
S CF [5]	Pound	17.8
1 & 2	Pound	19.6
3	Pound	20.4
4	Pound	22.4

RATE SCHEDULE 200.—SECOND-CLASS MAIL: REGULAR RATE PUBLICATIONS, OUTSIDE COUNTY [1] [2]—Continued

	Postage rate unit	Rate [3] (cents)
5	Pound	25.8
6	Pound	29.2
7	Pound	33.2
8	Pound	36.7
Science of Agriculture:		
Delivery Office	Pound	12.0
S CF	Pound	12.3
1 & 2	Pound	14.1

RATE SCHEDULE 200.—SECOND-CLASS MAIL: REGULAR RATE PUBLICATIONS, OUTSIDE COUNTY [1] [2]—Continued

	Postage rate unit	Rate [3] (cents)
Per Piece: Less Editorial Factor of 0.05¢ per each 1% of Editorial Content.[10]		
A—Required Preparation [6].	Piece	20.1
B—Presorted to 3-d city / 5-digit.	Piece	15.8

RATE SCHEDULE 200.—SECOND-CLASS MAIL: REGULAR RATE PUBLICATIONS, OUTSIDE COUNTY [1] [2]—Continued

	Postage rate unit	Rate [3] (cents)
C—Presorted to Carrier Route.	Piece	11.9
Discounts:		
Prepared to Delivery Office [4].	Piece	1.4
Prepared to SCF [5]	Piece	.9
125 pces Walk Seq.[7]	Piece	.5
Saturation [8]	Piece	1.5
Automation Discounts for Automation Compatible Mail [9]		
From Required:		
ZIP+4	Piece	0.9
Prebarcode	Piece	1.9
From 3/5 Digit:		
ZIP+4	Piece	0.4
3-Digit Prebarcode.	Piece	1.1
5-Digit Prebarcode.	Piece	1.9

[1] The rates in this schedule also apply to commingled nonsubscriber, non-requester, complimentary, and sample copies in excess of 10 percent allowance in regular-rate, nonprofit, and classroom second-class mail.
[2] Rates do not apply to otherwise regular rate mail that qualifies for the In-County rates in Schedule 201.
[3] Charges are computed by adding the appropriate per piece charge to the sum of the nonadvertising portion and the advertising portion, as applicable.
[4] Applies to carrier route (including 125-piece walk sequence and saturation) mail delivered within the delivery area of the originating post office.
[5] Applies to mail delivered within the SCF area of the originating SCF office.
[6] Mail presorted to 3-digit (other than 3-digit city), SCF, states, or mixed states.
[7] For walk sequenced mail in batches of 125 pieces or more from carrier route presorted mail.
[8] Applicable to saturation mail from carrier route presorted mail.
[9] For automation compatible mail meeting applicable Postal Service Regulations.
[10] For postage calculations, multiply the editorial percent content by this factor and subtract from the applicable piece rate.

RATE SCHEDULE 201.—SECOND-CLASS MAIL: IN-COUNTY

	Rate (cents)
Pound Rates:	
General	11.6
Delivery Office [1]	10.6
Piece Rates:	
Required Presort	7.7
Carrier Route Presort	4.0
Piece Discounts:	
Delivery Office [2]	0.3
125 pces Walk Seq.[3]	0.5
Saturation	0.7
Automation Discounts for Automation Compatible Mail [4]	
From Required:	
ZIP+4	0.4
5-Digit Prebarcode	1.7

[1] Applicable only to the pound charge of carrier route (including 125-piece walk sequence and saturation) presorted pieces to be delivered within the delivery area of the originating post office.
[2] Applicable only to carrier presorted pieces to be delivered within the delivery area of the originating post office.
[3] Applicable only to batches of 125 or more pieces from carrier presorted pieces.
[4] For automation compatible pieces meeting applicable Postal Service regulations.

RATE SCHEDULE 202.—PUBLICATIONS OF AUTHORIZED NONPROFIT ORGANIZATIONS, OUTSIDE COUNTY

	Postage rate unit	Rate [1] (cents)
Per Pound:		
Nonadvertising Portion	Pound	10.6
Advertising Portion:		
Delivery Office [2]	Pound	12.0
S CF [3]	Pound	12.3
1 & 2	Pound	14.1
3	Pound	15.1
4	Pound	17.7
5	Pound	21.7
6	Pound	25.8
7	Pound	30.8
8	Pound	35.0
Per Piece: Less Editorial factor of 0.035¢ per each 1% of Editorial Content [9]		
A—Required Preparation.[5]	Piece	16.9
B—Presorted to 3-d city/5-digit.	Piece	12.6
C—Presorted to Carrier Route.	Piece	8.8
Discounts:		
Prepared to Delivery Office.[2]	Piece	0.5
Prepared to SCF	Piece	0.3
125 pces Walk Seq.[6]	Piece	0.2
Saturation [7]	Piece	0.7
Automation Discounts for Automation Compatible Mail.[8]		
From Required:		
ZIP+4	Piece	0.7
Prebarcode	Piece	1.7
From 3/5 Digit:		
ZIP+4	Piece	0.4
3-Digit Prebarcode.	Piece	1.0
5-Digit Prebarcode.	Piece	1.7

[1] Charges are computed by adding the appropriate per piece charge to the sum of the nonadvertising portion and the advertising portion, as applicable.
[2] Applies to carrier route (including 125-piece walk sequence and saturation) presort mail delivered within the delivery area of the originating post office.
[3] Applies to mail delivered within the SCF area of the originating SCF office.
[5] Mail presorted 3-digit (other than 3-digit city), SCF, states, or mixed states.
[6] For walk sequenced mail in batches of 125 pieces or more from carrier route presorted mail.
[7] Applicable to saturation mail from carrier route presorted mail.
[8] For automation compatible mail meeting applicable Postal Service Regulations.
[9] For postage calculation, multiply the editorial percent content by the factor and subtract from the applicable piece rate.

RATE SCHEDULE 203.—CLASSROOM PUBLICATIONS, OUTSIDE COUNTY

	Postage rate unit	Rate [1] (cents)
Per Pound:		
Nonadvertising Portion	Pound	10.6
Advertising Portion:		
Deliver Office [2]	Pound	12.0
S CF [3]	Pound	12.3
1 & 2	Pound	14.1
3	Pound	15.1
4	Pound	17.7

RATE SCHEDULE 203.—CLASSROOM PUBLICATIONS, OUTSIDE COUNTY—Continued

	Postage rate unit	Rate [1] (cents)
5	Pound	21.7
6	Pound	25.8
7	Pound	30.8
8	Pound	35.0
Per Piece: Less Editorial factor of 0.035¢ per each 1% of Editorial Content [9]		
A—Required Preparation.[5]	Piece	16.9
B—Presorted to 3-d city/5-digit.	Piece	12.6
C—Presorted to Carrier Route.	Piece	8.8
Discounts:		
Prepared to Deliver Office.[2]	Piece	0.5
Prepared to SCF	Piece	0.3
125 pces Walk Seq.[6]	Piece	0.2
Saturation [7]	Piece	0.7
Automation Discounts for Automation Compatible Mail.[8]		
From Required:		
ZIP+4	Piece	0.7
Prebarcode	Piece	1.7
From 3/5 Digit:		
ZIP+4	Piece	0.4
3-Digit Prebarcode.	Piece	1.0
5-Digit Prebarcode.	Piece	1.7

[1] Charges are computed by adding the appropriate per piece charge to the sum of the nonadvertising portion and the advertising portion, as applicable.
[2] Applies to mail delivered within the delivery area of the originating post office.
[3] Applies to mail delivered within the SCF area of the originating SCF office.
[5] Mail presorted to 3-digit (other than 3-digit city), SCF, states, or mixed states.
[6] For walk sequenced mail in batches of 125 pieces or more from carrier route presorted mail.
[7] Applicable to saturation mail from carrier route presorted mail.
[8] For automation compatible mail meeting applicable Postal Service Regulations.
[9] For postage calculation, multiply the editorial percent content by this factor and subtract from the applicable piece rate.

RATE SCHEDULE 300.—THIRD-CLASS MAIL: SINGLE PIECE

	Rate [1] (cents)
Single piece:	
1 ounce	29
2 ounces	52
3 ounces	75
4 ounces	98
6 ounces	121
8 ounces	133
10 ounces	144
12 ounces	156
14 ounces	167
16 ounces	179
Nonstandard surcharge [2]	10
Keys and identification devices:	
First 2 ounces	92
Each additional 2 ounces	51

[1] When the postage rate computed at the single piece third-class rate is higher than the rate prescribed in the corresponding fourth-class category

for which the piece qualifies, the applicable lower fourth-class rate is charged.

[2] Applies only to pieces weighing 1 ounce or less.

RATE SCHEDULE 301.—THIRD-CLASS MAIL: REGULAR BULK [1]

	Piece rate (cents)	Pound rate (cents)
Letter size:		
Piece rate	19.8	
Discounts (per piece):		
Destination entry:		
BMC	1.2	
SCF	1.7	
Delivery office [2]	2.2	
Presort level:		
3/5 digit	3.3	
Carrier route	6.7	
Saturation	7.4	
Automation: [4]		
ZIP+4 [4]		
Basic	0.9	
3/5 digit [5]	0.4	
Barcode [4]		
Basic	1.9	
3-digit [5]	1.1	
5-digit [5]	1.9	
Non-letter size:		
Piece rate [6]	23.3	
Discounts (per piece):		
Destination entry:		
BMC	1.2	
SCF	1.7	
Delivery office [2]	2.2	
Presort level:		
3/5 digit	4.6	
Carrier route	9.1	
Saturation	10.6	
Pound rate: [6]		
Pound rate plus per piece rate	10.9	60.0
Discounts:		
Destination entry (per pound):		
BMC		5.8
SCF		8.1
Delivery office [2]		10.4
Presort level (per piece):		
3/5 digit	4.6	
Carrier route	9.1	
Saturation	10.6	

[1] A fee of $75.00 must be paid once each 12-month period for each bulk mailing permit.

[2] Applies only to carrier route presort and saturation mail.

[3] For letter size pieces meeting applicable Postal Service regulations.

[4] Among ZIP+4 and barcode discounts, only one discount may be applied.

[5] Deducted from otherwise applicable 3/5-digit rate.

[6] Mailer pays either the piece or the pound rate, whichever is higher.

RATE SCHEDULE 302.—THIRD-CLASS MAIL: NONPROFIT BULK [1]

	Piece rate (cents)	Pound rate (cents)
Letter size:		
Piece rate	11.1	
Discounts (per piece):		
Destination entry:		
BMC	1.2	
SCF	1.7	
Delivery office [2]	2.2	
Presort level:		
3/5 digit	1.3	
Carrier route	3.7	
Saturation	4.0	
Automation: [3]		
ZIP+4: [4]		
Basic	0.7	
3/5 digit [5]	0.4	
Barcode: [4]		
Basic	1.7	
3-digit [5]	1.0	
5-digit [5]	1.7	
Non-letter size:		
Piece rate [6]	12.5	
Discounts (per piece):		
Destination entry:		
BMC	1.2	
SCF	1.7	
Delivery office [2]	2.2	
Presort Level:		
3/5 digit	1.4	
Carrier route	4.5	
Saturation	5.2	
Pound rate: [6]		
Pound rate plus per piece rate	5.4	34.1
Discounts:		
Destination entry (per pound):		
BMC		5.8
SCF		8.1
Delivery office [2]		10.4
Presort level (per piece):		
3/5 digit	1.4	
Carrier route	4.5	
Saturation	5.2	

[1] A fee of $75.00 must be paid once each 12-month period for each bulk mailing permit.

[2] Applies only to carrier route presort and saturation mail.

[3] For letter size pieces meeting applicable Postal Service regulations.

[4] Among ZIP+4 and barcode discounts, only one discount may be applied.

[5] Deducted from otherwise applicable 3/5-digit rate.

[6] Mailer pays either the piece or the pound rate, whichever is higher.

RATE SCHEDULE 400.—PARCEL POST RATES

Weight not exceeding (pounds)	Local	Zones 1/2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
2	2.12	2.19	2.32	2.46	2.74	2.85	2.85	2.85
3	2.19	2.29	2.49	2.70	3.12	3.54	4.00	4.05
4	2.25	2.39	2.65	2.94	3.50	4.06	4.35	4.60
5	2.31	2.49	2.81	3.17	3.88	4.58	5.20	5.40
6	2.38	2.59	2.98	3.41	4.26	5.10	6.33	8.55
7	2.44	2.68	3.14	3.65	4.64	5.62	7.06	9.60
8	2.50	2.78	3.31	3.89	5.02	6.14	7.78	10.65
9	2.57	2.88	3.47	4.12	5.40	6.67	8.51	11.70
10	2.63	2.98	3.63	4.36	5.78	7.19	9.24	12.75
11	2.69	3.08	3.80	4.60	6.16	7.71	9.97	13.75
12	2.76	3.18	3.96	4.83	6.54	8.23	10.69	14.80
13	2.80	3.25	4.08	4.99	6.79	8.57	11.17	15.85
14	2.85	3.32	4.19	5.16	7.04	8.92	11.65	16.90
15	2.89	3.38	4.28	5.27	7.23	9.17	11.99	17.95
16	2.93	3.43	4.36	5.39	7.40	9.40	12.31	19.00
17	2.97	3.48	4.44	5.49	7.56	9.62	12.61	19.91
18	3.01	3.53	4.51	5.60	7.72	9.83	12.90	20.38
19	3.05	3.58	4.59	5.69	7.87	10.03	13.17	20.83
20	3.08	3.63	4.65	5.79	8.01	10.22	13.43	21.26
21	3.12	3.68	4.72	5.88	8.15	10.40	13.68	21.66
22	3.15	3.72	4.79	5.97	8.28	10.57	13.91	22.05
23	3.18	3.77	4.85	6.05	8.40	10.74	14.14	22.43
24	3.22	3.81	4.91	6.13	8.52	10.90	14.36	22.78
25	3.25	3.85	4.97	6.21	8.64	11.05	14.57	23.13
26	3.28	3.89	5.03	6.29	8.76	11.20	14.77	23.46
27	3.32	3.93	5.09	6.36	8.87	11.35	14.97	23.78

RATE SCHEDULE 400.—PARCEL POST RATES—Continued

Weight not exceeding (pounds)	Local	Zones 1/2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
28	3.35	3.97	5.14	6.44	8.97	11.49	15.16	24.09
29	3.38	4.01	5.20	6.51	9.08	11.63	15.34	24.39
30	3.41	4.05	5.25	6.58	9.18	11.76	15.52	24.68
31	3.44	4.09	5.30	6.65	9.28	11.89	15.69	24.96
32	3.47	4.13	5.36	6.71	9.37	12.01	15.86	25.23
33	3.50	4.17	5.41	6.78	9.47	12.14	16.02	25.50
34	3.53	4.20	5.46	6.84	9.56	12.26	16.18	25.75
35	3.56	4.24	5.51	6.91	9.65	12.37	16.34	26.01
36	3.59	4.28	5.55	6.97	9.74	12.49	16.49	26.25
37	3.62	4.31	5.60	7.03	9.82	12.60	16.64	26.49
38	3.65	4.35	5.65	7.09	9.91	12.71	16.79	26.72
39	3.68	4.38	5.69	7.15	9.99	12.81	16.93	26.95
40	3.71	4.42	5.74	7.20	10.07	12.92	17.07	27.17
41	3.74	4.45	5.78	7.26	10.15	13.02	17.20	27.39
42	3.77	4.48	5.83	7.32	10.23	13.12	17.33	27.60
43	3.79	4.52	5.87	7.37	10.31	13.22	17.47	27.81
44	3.82	4.55	5.92	7.43	10.38	13.32	17.59	28.01
45	3.85	4.58	5.96	7.48	10.46	13.41	17.72	28.21
46	3.88	4.62	6.00	7.53	10.53	13.51	17.84	28.41
47	3.91	4.65	6.04	7.58	10.60	13.60	17.96	28.60
48	3.93	4.68	6.09	7.64	10.67	13.69	18.08	28.79
49	3.96	4.72	6.13	7.69	10.74	13.78	18.20	28.97
50	3.99	4.75	6.17	7.74	10.81	13.87	18.32	29.15
51	4.02	4.78	6.21	7.79	10.88	13.95	18.43	29.33
52	4.04	4.81	6.25	7.84	10.95	14.04	18.54	29.51
53	4.07	4.84	6.29	7.89	11.01	14.12	18.65	29.68
54	4.10	4.87	6.33	7.93	11.08	14.21	18.76	29.85
55	4.12	4.91	6.37	7.98	11.15	14.29	18.86	30.02
56	4.15	4.94	6.41	8.03	11.21	14.37	18.97	30.18
57	4.18	4.97	6.44	8.08	11.27	14.45	19.07	30.34
58	4.20	5.00	6.48	8.12	11.34	14.53	19.18	30.50
59	4.23	5.03	6.52	8.17	11.40	14.61	19.28	30.66
60	4.26	5.06	6.56	8.21	11.46	14.68	19.38	30.81
61	4.28	5.09	6.59	8.26	11.52	14.76	19.47	30.97
62	4.31	5.12	6.63	8.30	11.58	14.83	19.57	31.12
63	4.34	5.15	6.67	8.35	11.64	14.91	19.67	31.27
64	4.36	5.18	6.71	8.39	11.70	14.98	19.76	31.41
65	4.39	5.21	6.74	8.44	11.76	15.05	19.86	31.56
66	4.42	5.24	6.78	8.48	11.81	15.13	19.95	31.70
67	4.44	5.27	6.81	8.52	11.87	15.20	20.04	31.84
68	4.47	5.30	6.85	8.57	11.93	15.27	20.13	31.98
69	4.49	5.33	6.89	8.61	11.98	15.34	20.22	32.12
70	4.52	5.36	6.92	8.65	12.04	15.41	20.31	32.25

NOTES:
1. For Intra-BMC parcels, deduct: 27 cents
2. For nonmachinable Inter-BMC parcels, add: $1.50
3. For each pickup stop, add: $4.50

RATE SCHEDULE 401.—PARCEL POST: DESTINATION BMC/ASF SERVICE *

Weight not exceeding (pounds)	Zones 1/2	Zone 3	Zone 4	Zone 5	Weight not exceeding (pounds)	Zones 1/2	Zone 3	Zone 4	Zone 5
2	1.74	1.86	1.97	2.22	36	3.72	4.80	6.00	8.45
3	1.84	2.01	2.18	2.56	37	3.74	4.85	6.05	8.53
4	1.93	2.15	2.40	2.89	38	3.78	4.90	6.11	8.61
5	2.02	2.30	2.60	3.23	39	3.81	4.93	6.16	8.68
6	2.12	2.45	2.81	3.57	40	3.85	4.98	6.21	8.75
7	2.20	2.59	3.02	3.90	41	3.88	5.02	6.26	8.83
8	2.29	2.75	3.24	4.24	42	3.91	5.07	6.32	8.90
9	2.39	2.89	3.44	4.57	43	3.95	5.10	6.36	8.97
10	2.48	3.04	3.65	4.91	44	3.98	5.15	6.42	9.04
11	2.57	3.19	3.86	5.25	45	4.01	5.19	6.46	9.11
12	2.67	3.33	4.06	5.58	46	4.04	5.23	6.51	9.17
13	2.73	3.44	4.21	5.80	47	4.07	5.26	6.56	9.24
14	2.80	3.54	4.36	6.03	48	4.10	5.31	6.61	9.30
15	2.85	3.62	4.46	6.20	49	4.14	5.35	6.66	9.37
16	2.90	3.70	4.56	6.35	50	4.17	5.39	6.71	9.43
17	2.95	3.77	4.65	6.49	51	4.20	5.42	6.75	9.49
18	3.00	3.84	4.75	6.63	52	4.23	5.46	6.80	9.56
19	3.04	3.91	4.83	6.77	53	4.26	5.50	6.85	9.61
20	3.09	3.96	4.92	6.89	54	4.29	5.54	6.88	9.68
21	3.14	4.03	5.00	7.02	55	4.33	5.58	6.93	9.74
22	3.18	4.09	5.09	7.14	56	4.36	5.61	6.98	9.80
23	3.23	4.15	5.16	7.24	57	4.39	5.64	7.02	9.85
24	3.26	4.20	5.23	7.35	58	4.41	5.68	7.06	9.92
25	3.30	4.26	5.30	7.48	59	4.44	5.72	7.11	9.97
					60	4.47	5.76	7.14	10.03

RATE SCHEDULE 401.—PARCEL POST: DESTINATION BMC/ASF SERVICE *—Continued

Weight not exceeding (pounds)	Zones 1/ 2	Zone 3	Zone 4	Zone 5	Weight not exceeding (pounds)	Zones 1/ 2	Zone 3	Zone 4	Zone 5
26	3.34	4.32	5.37	7.57	61	4.50	5.79	7.19	10.08
27	3.38	4.37	5.44	7.67	62	4.53	5.82	7.23	10.14
28	3.42	4.42	5.51	7.76	63	4.56	5.86	7.27	10.19
29	3.45	4.47	5.57	7.86	64	4.59	5.90	7.31	10.25
30	3.49	4.52	5.64	7.95	65	4.62	5.93	7.36	10.31
31	3.53	4.57	5.70	8.04	66	4.65	5.97	7.40	10.35
32	3.57	4.62	5.76	8.12	67	4.68	6.00	7.43	10.41
33	3.61	4.67	5.82	8.21	68	4.71	6.03	7.48	10.46
34	3.64	4.72	5.88	8.29	69	4.74	6.07	7.52	10.51
35	3.68	4.76	5.94	8.37	70	4.77	6.10	7.55	10.56

* A fee of $75.00 must be paid once each year.

RATE SCHEDULE 402.—SPECIAL AND LIBRARY RATES

	Rates (cents)
Special:	
First Pound:	
Not presorted	105
Presorted to 5-digits [1] [2]	59
Presorted to BMC [1] [3]	88
Each additional pound through 7 pounds	43
Each additional pound over 7 pounds	25
Library (appropriation rates):	
First pound	65
Each additional pound through 7 pounds	24
Each additional pound over 7 pounds	12

[1] A fee of $75.00 must be paid once each 12-month period for each permit.

[2] For mailings of 500 or more pieces properly prepared and presorted to five-digit destination ZIP Codes.

[3] For mailings of 500 or more pieces properly prepared and presorted to Bulk Mail Centers.

RATE SCHEDULE 405.—FOURTH-CLASS MAIL: SINGLE PIECE BOUND PRINTED MATTER *

[Dollars]

Weight not exceeding (pounds)	Zones							
	Local	1 & 2	3	4	5	6	7	8
1.5	0.93	1.27	1.30	1.36	1.45	1.54	1.65	1.75
2	0.94	1.30	1.34	1.42	1.53	1.66	1.81	1.93
2.5	0.96	1.33	1.38	1.48	1.62	1.78	1.97	2.12
3	0.98	1.35	1.42	1.54	1.71	1.90	2.12	2.31
3.5	0.99	1.38	1.46	1.60	1.80	2.02	2.28	2.50
4	1.01	1.41	1.50	1.66	1.89	2.14	2.44	2.69
4.5	1.02	1.44	1.54	1.72	1.98	2.26	2.59	2.88
5	1.04	1.47	1.58	1.78	2.07	2.38	2.75	3.07
6	1.07	1.53	1.66	1.89	2.24	2.61	3.06	3.44
7	1.10	1.59	1.74	2.01	2.42	2.85	3.38	3.82
8	1.14	1.64	1.82	2.13	1.60	3.09	3.69	4.20
9	1.17	1.70	1.90	2.25	2.77	3.33	4.01	4.57
10	1.20	1.76	1.98	2.37	2.95	3.57	4.32	4.95
Per Piece Rate (Dollars)	0.88	1.18	1.18	1.18	1.18	1.18	1.18	1.18
Per Pound Rate (Dollars)	0.032	0.058	0.080	0.119	0.177	0.239	0.314	0.377

* Includes both catalogs and similar bound printed matter.

RATE SCHEDULE 406.—FOURTH-CLASS MAIL: BULK BOUND PRINTED MATTER

[Dollars]

Zone	Per-piece	Carrier route *	Per-pound
Local	0.440	0.385	0.020
1 & 2	0.590	0.535	0.042
3	0.590	0.535	0.064
4	0.590	0.535	0.103
5	0.590	0.535	0.162
6	0.590	0.535	0.223
7	0.590	0.535	0.298
8	0.590	0.535	0.361

* Applies to mailings of at least 300 pieces presorted to carrier route as prescribed by the Postal Service.

RATE SCHEDULES 500, 501, 502, and 503.—Express Mail Rates *

[Dollars]

Weight not exceeding (pounds)	Schedule 500 same day airport service	Schedule 501 custom designed	Schedule 502 next day and second day PO to PO	Schedule 503 next day and second day PO to addressee
½	8.35	8.75	9.50	9.95
1	9.70	12.95	11.15	13.95
2	9.70	12.95	11.15	13.95
3	11.05	14.95	13.15	15.95
4	12.10	16.95	15.15	17.95
5	13.10	18.95	17.15	19.95
6	14.15	22.50	20.70	23.50
7	15.20	23.50	21.70	24.50
8	16.25	24.55	22.75	25.55
9	17.30	25.55	23.75	26.55
10	18.30	26.60	24.80	27.60
11	19.35	27.60	25.80	28.60
12	20.40	28.65	26.85	29.65
13	21.45	29.65	27.85	30.65
14	22.50	30.70	28.90	31.70
15	23.50	31.70	29.90	32.70
16	24.55	32.75	30.95	33.75
17	25.60	33.80	32.00	34.80
18	26.65	34.80	33.00	35.80
19	27.70	35.85	34.05	36.85
20	28.70	36.85	35.05	37.85
21	29.75	37.90	36.10	38.90
22	30.80	38.90	37.10	39.90
23	31.85	39.95	38.15	40.95
24	32.90	40.95	39.15	41.95
25	33.90	42.00	40.20	43.00
26	34.95	43.00	41.20	44.00
27	35.90	44.05	41.25	45.05
28	36.75	45.05	43.25	46.05
29	37.65	46.10	44.30	47.10
30	38.50	47.15	45.35	48.15
31	39.35	48.15	46.35	49.15
32	40.25	49.20	47.40	50.20
33	41.10	50.20	48.40	51.20
34	41.95	51.25	49.45	52.25
35	42.85	52.25	50.45	53.25
36	43.70	53.30	51.50	54.30
37	44.55	54.30	52.50	55.30
38	45.45	55.35	53.55	56.35
39	46.30	56.35	54.55	57.35
40	47.15	57.40	55.60	58.40
41	48.05	58.40	56.60	59.40
42	48.90	59.45	57.65	60.45
43	49.75	60.50	58.70	61.50
44	50.65	61.50	59.70	62.50
45	51.50	62.55	60.75	63.55
46	52.35	63.55	61.75	64.55
47	53.25	64.60	62.80	65.60
48	54.10	65.60	63.80	66.60
49	54.95	66.65	64.85	67.65
50	55.85	67.65	65.85	68.65
51	56.70	68.70	66.90	69.70
52	57.55	69.70	67.90	70.70
53	58.45	70.75	68.95	71.75
54	59.30	71.80	70.00	72.80
55	60.20	72.80	71.00	73.80
56	61.05	73.85	72.05	74.85
57	61.90	74.85	73.05	75.85
58	62.80	75.90	74.10	76.90
59	63.65	77.00	75.20	78.00
60	64.50	78.20	76.40	79.20
61	65.40	79.50	77.70	80.50
62	66.25	80.70	78.90	81.70
63	67.10	81.90	80.10	82.90
64	68.00	83.20	81.40	84.20
65	68.85	84.40	82.60	85.40
66	69.70	85.70	83.90	86.70
67	70.60	86.90	85.10	87.90
68	71.45	88.20	86.40	89.20
69	72.30	89.40	87.60	90.40
70	73.20	90.60	88.80	91.60

* Notes:
1. The applicable 2-pound rate is charged for matter sent in a "flat rate" envelope provided by the Postal Service.
2. Add $4.50 for each pickup stop.
3. Add $4.50 for each Custom Designed delivery stop.

SCHEDULE SS–1.—ADDRESS CORRECTIONS

Description	Fee
Per manual correction	$0.35
Per automated correction	0.20

SCHEDULE SS–2.—BUSINESS REPLY MAIL

Description	Fee
Active business reply advance deposit account:	
Per Piece: Pre-barcoded	$0.02
Other	0.09
Payment of postage due charges if active business reply mail advance deposit account not used Per Piece	0.40
Annual License and Accounting Fees:	
Accounting Fee for Advance Deposit Account	185.00
Permit Fee (With or Without Advance Deposit Account)	75.00

SCHEDULE SS–4.—CERTIFICATES OF MAILING

Description	Fee (in addition to postage)
Individual pieces:	
Original certificates of mailing for listed pieces of all classes of ordinary mail (per piece)	$0.50
Three of more pieces individually listed in a firm mailing book or an approved customer provided manifest. (per piece)	0.20

SCHEDULE SS–4.—CERTIFICATES OF MAILING—Continued

Description	Fee (in addition to postage)
Each additional copy of original certificate of mailing or original mailing receipt for registered, insured, certified, and COD mail (each copy)	0.50
Bulk pieces:	
Identical pieces of First- and Third-class mail paid with ordinary stamps, precanceled stamps, or meter stamps are subject to the following fees:	
Up to 1,000 pieces (one certificate for total number)	2.50
Each additional 1,000 pieces or fraction	0.30
Duplicate copy	0.50

SCHEDULE SS–5.—CERTIFIED MAIL

Description	Fee
Per piece (in addition to postage)	$1.00

SCHEDULE SS–6.—COLLECT ON DELIVERY

Description	Fee (in addition to postage)
Amount to be collected, or Insurance Coverage Desired:	
$0.01 to 50	$2.50
50.01 to 100	3.25
100.01 to 200	4.00

SCHEDULE SS–6.—COLLECT ON DELIVERY—Continued

Description	Fee (in addition to postage)
200.01 to 300	4.75
300.01 to 400	5.50
400.01 to 500	6.50
500.01 to 600	7.00
Notice of nondelivery of COD	2.10
Alteration of COD charges or designation of new addressee	2.10
Registered COD	2.50

SCHEDULE SS–8.—MONEY ORDERS

Description	Fee
Domestic:	
$0.01 to $700	$0.75
APO–FPO:	
$0.01 to $700	0.25
Inquiry Fee, which includes the issuance of copy of a paid money order	2.50

SCHEDULE SS–9.—INSURED MAIL

Description	Fee (in addition to postage)
Liability:	
$0.01 to $50	$0.75
50.01 to 100	1.60
100.01 to 200	2.40
200.01 to 300	3.50
300.01 to 400	4.60
400.01 to 500	5.40
500.01 to 600	6.20

SCHEDULE SS–10.—POST OFFICE BOXES AND CALLER SERVICE

Box size	Box Capacity (cu. in.)	Semi-annual Fees ($)		
		IA	IB	IC
A. Semi-Annual Rates for Post Office Boxes:				
Group I—offices w/ city carrier service:				
1	under 296	21.50	19.50	17.50
2	296–499	31.00	27.50	24.50
3	500–999	57.50	50.00	46.50
4	1000–1999	95.00	84.00	77.50
5	2000 and over	157.50	140.00	130.00
Group II—offices w/o city carrier service:				
1	(annual)	7.25		
2	(annual)	11.25		
3		10.75		
4		15.75		
5		25.00		
Group III—offices w/o rural carrier service:				
1–5	(annual)	2.00		
B. Caller Service:				
For Caller Service (semi-annual)		225.00	215.00	202.50
For each Reserved Call Number	(annual)	25.00		

SCHEDULE SS-11a.—ZIP CODING OF MAIL LISTS

Description	Fee
Per Thousand Addresses	$54.00

SCHEDULE SS-11b.—CORRECTION OF MAILING LISTS

Description	Fee
Per submitted address	$0.15
Minimum charge per list corrected	5.00

SCHEDULE SS-11c.—ADDRESS CHANGES FOR ELECTION BOARDS AND REGISTRATION COMMISSIONS

Description	Fee
Per Change of Address	$0.15

SCHEDULE SS-11d.—CORRECTIONS ASSOCIATED WITH ARRANGEMENTS OF ADDRESS CARDS IN CARRIER DELIVERY SEQUENCE

Description	Fee
Per correction	$0.15

Note: When rural routes have been consolidated or changed to another post office, no charge will be made for corrections if the list contains only names of persons residing on the route or routes involved.

SCHEDULE SS-12.—ON-SITE METER SETTING

Description	Fee
First Meter:	
By appointment	$25.00
Unscheduled request	28.00
Additional Meters	2.75
Checking meter in or out of service (per meter)	6.50

SCHEDULE SS-13.—PARCEL AIR LIFT

Description	Fee (in addition to parcel post postage)
Up to 2 pounds	$0.35
Over 2 up to 3 pounds	0.70
Over 3 up to 4 pounds	1.05
Over 4 pounds	1.40

SCHEDULE SS-14.—REGISTERED MAIL

Value	Fees (in addition to postage)	
	For articles covered by insurance	For articles not covered by insurance
$0.00 to 100	$4.50	$4.40
100.01 to 500	4.85	4.70
500.01 to 1,000	5.25	5.05
1,000.01 to 2,000	5.70	5.40
2,000.01 to 3,000	6.15	5.75
3,000.01 to 4,000	6.60	6.10
4,000.01 to 5,000	7.05	6.45
5,000.01 to 6,000	7.50	6.80
6,000.01 to 7,000	7.95	7.15
7,000.01 to 8,000	8.40	7.50
8,000.01 to 9,000	8.85	7.85
9,000.01 to 10,000	9.30	8.20
10,000.01 to 11,000	9.75	8.55
11,000.01 to 12,000	10.20	8.90
12,000.01 to 13,000	10.65	9.25
13,000.01 to 14,000	11.10	9.60
14,000.01 to 15,000	11.55	9.95
15,000.01 to 16,000	12.00	10.30
16,000.01 to 17,000	12.45	10.65
17,000.01 to 18,000	12.90	11.00
18,000.01 to 19,000	13.35	11.35
19,000.01 to 20,000	13.80	11.70
20,000.01 to 21,000	14.25	12.05
21,000.01 to 22,000	14.70	12.40
22,000.01 to 23,000	15.15	12.75
23,000.01 to 24,000	15.60	13.10
24,000.01 to 25,000	16.05	13.45
$25,000.01 to $1,000,000	16.05	13.45
Plus handling charge per $1,000 or fraction over first $25,000	0.35	0.35
$1,000,000 to $15,000,000	357.30	354.70
Plus handling charge per $1,000 or fraction over first $1,000,000	0.35	0.35

Over $15,000,000 Additional charges may be based on consideration of weight, space and value.

SCHEDULE SS-15.—RESTRICTED DELIVERY

Description	Fee (in addition to postage)
Per Piece	$2.50

SCHEDULE SS-16.—RETURN RECEIPTS

Description	Fee (in addition to postage)
Requested at time of mailing:	
Showing to whom (signature) and date delivered	$1.00
Merchandise only—without another special service	1.10

SCHEDULE SS-16.—RETURN RECEIPTS—Continued

Description	Fee (in addition to postage)
Showing to whom (signature) and date and address where delivered	1.35
Merchandise only—without another special service	1.50

SCHEDULE SS–16.—RETURN RECEIPTS—Continued

Description	Fee (in addition to postage)
Requested after mailing:	
Showing to whom and date delivered	6.00

SCHEDULE SS–17.—SPECIAL DELIVERY

Description	Fee (in adition to postage)
First-Class and Priority Mail:	
Not more than 2 pounds	$7.65
Over 2 pounds but not over 10 pounds	7.95
Over 10 pounds	8.55
All Other Classes:	
Not more than 2 pounds	8.05
Over 2 pounds but not over 10 pounds	8.65
Over 10 pounds	9.30

SCHEDULE SS–18.—Special Handling

Description	Fee (in addition to postage)
Not more than 10 pounds	$1.80
Over 10 pounds	2.50

SCHEDULE SS–19.—STAMPED ENVELOPES

Description	Fee
Single Sale	$0.05
Bulk (500) #6¾ size:	
Regular	7.40
Window	8.00
Bulk (500) size > #6¾ through #10:	
Regular	11.00
Window	12.00
Multi-Color Printing (500):	
#6¾ size	9.00
#10 size	12.00
Printing Charge per 500 Envelopes (for each type of printed envelope:	
Minimum Order (500 envelopes)	4.00
Order for 1,000 or more Envelopes	4.00
Double Window (500)—size > #6¾ through #10	13.50
Household (50) size #6¾:	
Regular	2.70
Window	2.80
Household (50) size > #6¾ through #10:	
Regular	2.90
Window	3.00

Changes in the Domestic Mail Classification Schedule

The italicized language denotes additions to the Domestic Mail Classification Schedule. That which is bracketed denotes deletions.

100.02 Description of Subclasses.

100.020 Regular Mail.

Regular First-Class Mail consists of mailable matter posted at First-Class regular rates, weighing 11 ounces or less, and not mailed or eligible for mailing under sections 100.0201, *100.0203, 100.0204, 100.021, 100.0211,* [100.022, 100.0221,] or 100.023.

[100.0202] *100.0203* Presorted *First-Class* Mail.

Presorted First-Class Mail is First-Class Mail other than Priority Mail which is presented in a single mailing of 500 or more pieces, properly prepared and presorted.

[100.0203] *100.0204* Pre-barcoded ZIP+4 Presorted Mail.

Pre-barcoded ZIP+4 presorted mail is First-Class Mail presented in mailings of 500 or more pieces presorted to *three- or* five-digit ZIP Codes *or both,* which meets the specifications of the Postal Service and which meets the preparation requirements in section 100.047.

100.021 Postal and post cards.

* * * * *

c. To be eligible to be mailed as a [f]*F*irst-[c]*C*lass post card, a card may not exceed any of the following demensions:

* * * * *

100.0214 ZIP+4 Pre-barcode Rate Category Post Cards.

A ZIP+4 pre-barcode rate category post card is a privately printed mailing card for the transmission of messages which meets the eligibility and preparation requirements in sections 100.0211b, 100.043, and 100.047.

a. Double post cards may be mailed at the ZIP+4 Pre-barcode rate category for post cards. A double post card consists of two attached cards, one of which may be detached by the receiver and returned by mail as a single post card.

b. ZIP+4 pre-barcode rate category post cards must:

i. Bear a proper ZIP+4 barcode.

ii. Be presented in mailings of 500 or more pieces.

iii. Meet machinability criteria as prescribed by the Postal Service but may not exceed any of the following demensions:

(1) Length not greater than 6 inches;

(2) Width not greater than 4¼ inches; or

(3) Thickness not greater than 0.0095 inch and uniform.

iv. Meet address readability specifications for applicable mail processing equipment as prescribed by the Postal Service.

v. Meet barcoding specifications as prescribed by the Postal Service.

vi. Have postage paid in a manner not requiring cancellation.

100.023 Priority Mail.

Priority Mail consists of (1) First-Class Mail weighing more than the maximum weight established for regular First-Class Mail and (2) other mail matter (including First-Class *Mail*) which, at the option of the mailer, is mailed for expeditious mailing and transportations. Priority Mail may weigh up to and including 70 pounds.

100.0231 Pickup service is available for Priority Mail under terms and conditions as prescribed by the Postal Service.

100.0232 Presorted Priority Mail.

Presorted Priority Mail is Priority Mail which is presented in a single mailing of 300 or more pieces, properly prepared and presorted.

100.03 Physical Limitations.

100.031 Cards exceeding the maximum post card dimensions set forth in section 100.021c of 100.0211b *or section 100.0214* for ZIP+4 *and ZIP+4 prebarcode* rate category cards may be mailed only under sections 100.020, [100.022, 100.201 and 100.0221] *100.0201, 100.0203, 100.0204,* as appropriate.

100.04 Preparation of Mail.

100.041 First-Class Mail mailed under sections [100.0202] *100.0203, 100.0204, 100.2014 and 100.0232* must be presorted in accordance with regulations prescribed by the Postal Service.

100.042 First-Class Mail mailed under sections [100.0202] *100.0203, 100.0204, 100.0214 and 100.0232* must be prepared as follows:

a. All pieces in a mailing must be presented in manner specified by the Postal Service that preserves the presort and uniform orientation of the pieces.

b. All pieces in a mailing must bear markings identifying them as presorted First-Class Mail, as required by the Postal Service.

100.043 Postal and post cards, including ZIP+4 *and pre-barcoded ZIP+4* rate category post cards, with any of the following four characteristics are not mailable unless prepared as prescribed by the Postal Service:

a. Numbers of letters unrelated to postal purposes appearing on the address side of the card;

b. Punched holes;

c. Vertical tearing guide;

d. An address portion which is smaller than the remainder of the card.

100.047 Pieces mailed under sections 100.0201, 100.0202, 100.0203, *100.0204,* [and] 100.0211, *and 100.023* must be prepared as follows:

* * * * *

[Remainder of 100.047 remains unchanged]

100.08 Ancillary Services.

100.080 First-Class Mail, except as otherwise noted, will receive the following additional services upon payment of appropriate fees:

	Classification schedule
a. Address correction	SS-1
b. Business reply mail (except ZIP+4 rate category mail).	SS-2
c. Certificates of mailing	SS-4
d. Certified mail	SS-5
e. C[.]O[.]D[.]	SS-6
f. Insured mail	SS-9
g. Registered mail (except ZIP+4 rate category mail).	SS-14
h. Special delivery	SS-17
i. Return receipt [(Priority only)] (*Merchandise only*).	SS-16
j. Merchandise return	SS-20

200.0212 Nonprofit.

* * * * *

g. veterans',

* * * * *

200.0216 Nonsubscriber copies, including sample and complimentary copies, mailed at any time during the calendar year up to 10 percent of the total number of copies mailed to subscribers during the calendar year are preferred mail, provided that the nonsubscriber copies would have been preferred mail if mailed to subscribers. See Section 200.093 for mailings in excess of the 10 percent limitation.

[For sections 200.0211, 200.0212, and 200.0213, expedited second-class mail is available without additional charge, but only to publications that issue weekly, or more frequently, and consist of news of general interest.]

200.042 First- or third-class mail may be attached to or enclosed with second-class mail if additional postage is paid for the attachment or enclosure as if it has been mailed separately. If postage is not paid at the appropriate [f]*F*irst- or third-class rate, the combined piece is subject to the next higher rate which can be applied to the attachment or enclosure. When [f]*F*irst- or third-class mail is enclosed with or attached to second-class mail, an appropriate marking must identify the presence and class of the enclosure or attachment.

200.094 Copies of any second-class mail which are destined for delivery within the *destination* sectional center area *or the destination delivery office area* in which they are entered, *as defined by the Postal Service,* qualify for the applicable [SCF] discount as set forth in Rate Schedules 200, *201,* 202, and 203. [The sectional center areas will be prescribed by the Postal Service.]

200.095 Copies of any automation compatible second-class mail which bear a proper ZIP+4 code or ZIP+4 barcode and which meet machinability, address readability and barcoding specifications as prescribed by the Postal Service qualify for the applicable ZIP+4 or pre-barcoding discounts as set forth in Rate Schedules 200, 201, 202, and 203.

200.096 Second-class pieces presented in mailings which are walk sequenced and contain a minimum of 125 pieces per carrier route and which meet the preparation requirements prescribed by the Postal Service are eligible for the applicable discount set forth in Rate Schedules 200, 201, 202 and 203.

200.097 Saturation second-class mail presented in mailings which are walk sequenced and which meet the saturation and preparation requirements prescribed by the Postal Service qualifies for the applicable discount set forth in Rate Schedules 200, 201, 202 and 203.

300.010 Third-class mail is mailable matter weighing less than 16 ounces, except:

a. Matter mailed or required to be mailed as [f]*F*irst- [c]*C*lass [m]*M*ail;

* * * * *

300.02121 Nonprofit organizations or associations are organizations or associations not organized for profit, none of the net income of which benefits any private stockholder or individual, and which meet the qualifications set forth before for each type of organization or association. The standard of primary purpose applies to each type or organization or association, except veterans' and fraternal. The standard of primary purpose requires that each type of organization of association be both organized and operated for the primary purpose.

* * * * *

300.023 Bulk Rate Presort Categories.

Bulk rate mail sent under section 300.021 must meet the conditions of sections 300.0231, [or] 300.0232, *300.0233, 300.0234, 300.0235, 300.0236, 300.0237, 300.0239, or 300.02311* to be eligible for the applicable rate.

300.0230 [Required] *Basic* Sortation.

Mailers must sort third-class bulk mail as prescribed by the Postal Service. [The basic sortation, other than the two *those* described below, pays the "Required Presortation" rate] *Mail which is not presorted to 3-digit or 5-digit ZIP Code areas or to carrier routes qualifies for the basic rates* in Rate Schedules 301 and 302.

300.0231 [Required] *Basic* Sortation, ZIP+4 Coded Mail.

[Required] *Basic* Sortation, ZIP+4 coded mail is mail mailed under section 300.0230 [whose address contains the] *which bears a proper* ZIP+4 code and which meets the machinability, address readability and other preparation requirements prescribed by the Postal Service.

300.0232 Basic Sortation, ZIP+4 Pre-barcoded Mail.

Basic sortation ZIP+4 Pre-barcoded mail is mail mailed under section 300.0230 which bears a proper ZIP+4 barcode and which meets the machinability, address readability, and barcoding specifications and other preparation requirements prescribed by the Postal Service.

[300.0232] *300.0233 Three-and* Five-Digit Presort Level.

Three- and five-digit presort level mailings must contain at least 200 pieces or 50 pounds of [five-digit presort] mail prepared in accordance with USPS regulations. [so as to avoid handling of individual pieces prior to incoming secondary distribution.]

[300–0233] 300.0234 *Three- and* Five-Digit Presort Level, ZIP+4 Coded Mail.

Three- and [F]five-digit presort level, ZIP+4 coded mail is mail mailed under section [300.0232] *300.0233* [whose address contains the] *which bears a proper* ZIP+4 code and which meets the machinability, address readability and other preparation requirements prescribed by the Postal Service.

[300.0234] *300.0235 Three-Digit Presort Level, ZIP+4 Pre-Barcoded Mail.*

Three-digit presort level, ZIP+4 pre-barcoded mail is mail mailed under section 300.0233 which is presorted to three digits, is ZIP+4 pre-barcoded, and meets the machinability, address readability and other preparation requirements prescribed by the Postal Service.

[300.0234] *300.0236* Five-Digit Presort Level, ZIP+4 Pre-barcoded Mail.

Five-digit presort level, ZIP+4 pre-barcoded mail is mail mailed under section [300.0232] *300.0233* which is *presorted to five digits, is* ZIP+4 prebarcoded, and [which] meets the machinability, *address readability and barcode specifications,* and other preparation requirements prescribed by the Postal Service.

[300.0235] *300.0237* Carrier Route Presort Level.

Carrier route presort level mailings must contain at least 200 pieces or 50 pounds of carrier route presorted mail, with at least 10 pieces to each carrier route. The mail must be properly prepared in the manner prescribed by the Postal Service.

300.0239 Saturation Mail.

Saturation mail is mail presented in a mailing which is walk sequenced and

which meets the saturation and preparation requirements prescribed by the Postal Service.

300.02311 Destination Entry Mail.

Destination mail is third-class bulk mail which is destined for delivery within the service area of the BMC or auxiliary service facility, sectional center facility, or delivery office, as defined by the Postal Service, at which it is entered.

300.045 First-[c]*C*lass [m]*M*ail may be attached to or enclosed in third-class books, catalogs, and merchandise if additional postage is paid for the attachment or enclosure as if it had been mailed separately. If postage is not paid at the appropriate [f]*F*irst-[c]*C*lass rate, the third-class piece is subject to the higher [f]*F*irst-[c]*C*lass rate. When [f]*F*irst-[c]*C*lass [m]*M*ail is enclosed with or attached to third-class mail, an appropriate marking must identify the presence and class of the enclosure or attachment.

300.070 Undeliverable-as-addressed third-class mail will be returned on request of the mailer, or forwarded and returned on request of the mailer. Undeliverable-as-addressed combined [f]*F*irst-[c]*C*lass and third-class pieces will be returned as prescribed by the Postal Service. The single-piece third-class rate is charged for each piece receiving return only service. Charges for forwarding-and-return service are assessed only on those pieces which cannot be forwarded and are returned. The charge for those returned pieces is the appropriate single-piece third-class rate for the piece plus that rate multiplied by a factor equal to the number of third-class pieces nationwide that are successfully forwarded for every one piece that cannot be forwarded and must be returned.

300.080 Third-class single-piece mail will receive the following services upon payment of the appropriate fees:

	Classification schedule
a. Address correction	SS–1
b. Certificates of mailing	SS–4
c. C[.]O[.]D[.]	SS–6
d. Insured mail	SS–9
e. Special delivery	SS–17
f. Special handling	SS–18
g. Return receipt (merchandise only).	SS–16
h. Merchandise return	SS–20

400.010 Fourth-class mail is mailable matter weighing 16 ounces or more, except:

a. Matter mailed or required to be mailed as [f]*F*irst-[c]*C*lass [m]*M*ail;

b. Matter entered as second-class mail, except copies sent by a printer to a publisher, and except copies that would have traveled at the former transient rate;

[c. Matter entered as controlled circulation mail;]

[d]*c.* That the 16-ounce minimum weight does not apply to matter mailed under § 400.021 or 400.022.

400.0204 Pickup service is available under terms and conditions as prescribed by the Postal Service.

400.0205 Destination BMC Parcel Post Mail.

Parcel post mail is eligible for the bulk destination BMC rates described in rate schedule 401 if a mailing of 50 pieces or more is deposited at the destination BMC, auxiliary service facility, or other equivalent facility, as authorized by the Postal Service.

400.023 Bound Printed Matter.

Bound printed matter mail is fourth-class mail weighing not more than 10 pounds, and which:

a. Consists of advertising, promotional, directory, or editorial material, or any combination thereof;

b. Is securely bound by permanent fastenings including, but not limited to, staples, spiral bindings, glue, and stitching: loose leaf binders and similar fastenings are not considered permanent;

c. Consists of sheets of which at least 90 percent are imprinted with letters, characters, figures or images or any combination of these, by any process other than handwriting or typewriting;

d. Does not have the nature of personal correspondence;

[e. Is not a book eligible for mailing as fourth-class special mail;

f. Is not a book which would be eligible for mailing as fourth-class special mail but for the inclusion of advertising matter other than incidental announcements of books that either (i) is not permanently bound in the book itself or (ii) does not form an integral part of the book itself;]

[g.] *e.* Is not stationery, such as pads of blank printed forms.

400.044 First-[c]*C*lass [m]*M*ail or third-class mail other than specified in § 400.043 may be attached to or enclosed in fourth-class parcels if additional postage is paid for the attachment or enclosure as if it had been mailed separately. If postage is not paid at the appropriate [f]*F*irst-[c]*C*lass or third-class rate, the combined piece is subject to the next higher rate which can be applied to the attachment or enclosure. When [f]*F*irst-[c]*C*lass or third-class mail is attached to or enclosed with fourth-class mail, an appropriate marking must identify the presence and class of the enclosure or attachment.

400.070 Undeliverable-as-addressed fourth-class mail will be forwarded on request of the addressee, returned on request of the mailer, or forwarded and returned on request of the mailer; undeliverable-as-addressed combined [f]*F*irst-[c]*C*lass and fourth-class pieces, or third-class and fourth-class pieces, will be forwarded, and undeliverable combined [f]*F*irst-[c]*C*lass and fourth-class pieces, or third-class and fourth-class pieces, will be returned as prescribed by the Postal Service. Additional charges when fourth-class mail is forwarded or returned from one post office to another will be based on the appropriate single-piece fourth-class rate.

400.08 Ancillary Services.

400.080 Fourth-class mail will receive the following additional services upon payment of the appropriate fees:

	Classification schedule
a. Address correction	SS–1
b. Certificates of mailing	SS–4
c. C[.]O[.]D[.]	SS–6
d. Insured mail	SS–9
e. Special delivery	SS–17
f. Special handling	SS–18
g. Return receipt [(parcel post only] (*merchandise only*)	SS–16
h. Merchandise return	SS–20

400.081 Insurance, special delivery, special handling and C[.]O[.]D[.] services may not be used selectively for individual pieces mailed under section 400.020, unless the provisions of section 400.046 apply.

400.09 Rates and Fees.

400.090 The rates and fees for fourth-class mail are set forth as follows:

	Rate schedule
a. Single-piece parcel post mail	400
b. Bulk parcel post mail	400
c. Destination-BMC mail	*401*
[c] *d.* Single-piece special fourth-class mail	402
[d] *e.* Special fourth-class pre-sorted mail	402
[e] *f.* Library Mail	402
[f] *g.* Single-piece bound printed matter	405
[g] *h.* Bulk bound printed matter	406
i. Bulk catalog bound printed matter	*407*
[h] *j.* Fees	1000

500.02 Description of [Subclasses] *Services.*

[500.082 Express Mail postage rates are based on zones measured by great circle air miles between the airport serving the origin facility and the airport serving the destination facility, as follows:

Zone	Miles	
	Greater than—	Up to and including
1 and 2	0	150
3	150	300
4	300	600
5	600	1000
6	1000	1400
7	1400	1800
8	1800	2400
9	2400	....

500.090 The following services may be obtained in conjunction with mail sent under this classification schedule upon payment of applicable fees:

	Classification schedule
a. Address Correction	SS–1
b. Return Receipts	SS–16
c. C[.]O[.]D[.]	SS–6

2.010 Business reply mail is a service whereby business reply cards, envelopes, cartons and labels may be distributed by or for a business reply distributor for use by mailers for sending [f]*F*irst-[c]*C*lass [m]*M*ail without prepayment of postage to an address chosen by the distributor. A distributor is the holder of a business reply license.

3.020 Caller service uses post office box numbers as the address medium but does not actually use a [lockbox] *post office box.*

3.022 Caller service is provided to customers on the basis of mail volume received, and number of [lockboxes] *post office boxes* rented at any one facility.

6.01 Definition.

6.010 Collect on Delivery (C[.]O[.]D[.]) service is a service which allows a mailer to mail an article for which he has not been paid and have the price, the cost of postage and fees, and anticipated or past due charges collected by the Postal Service from the addressee when the article is delivered.

6.02 Description of Service.

6.020 C[.]O[.]D[.] service is available for collection of [$500] *$600* or less upon the delivery of postage prepaid mail sent under the following classification schedules:

	Classification schedule
a. First-[c]*C*lass [m]*M*ail	100
b. Third class (single piece only).	300
c. Fourth-class mail	400
d. Express Mail	500

6.0201 Service under this schedule is *not* available for:

* * * * *

c. Sending only bills or statements of indebtedness, even though the sender may establish that the adressee has agreed to collection in this manner; however, when the legitimate C[.]O[.]D[.] shipment consisting of merchandise or bill of lading, is being mailed, the balance due on a past or anticipated transaction may be included in the charges on a C[.]O[.]D[.] article, provided the adressee has consented in advance to such action;

6.021 C[.]O[.]D[.] service provides the mailer with insurance against loss, rifling and damage to the article as well as failure to receive the amount collected from the addressee. This provision insures only the receipt of the instrument issued to the mailer after payment of C[.]O[.]D[.] charges, and is not to be construed to make the Postal Service liable upon any such instrument other than a Postal Service money order.

6.022 A receipt is issued to the mailer for each piece of C[.]O[.]D[.] mail. Additional copies of the original mailing receipt may be obtained by the mailer.

6.023 Delivery of C[.]O[.]D[.] mail will be made in a manner specified by the Postal Service. If a delivery to the mailing address is not attempted or if a delivery attempt is unsuccessful, a notice of arrival will be left at the mailing address.

6.025 The mailer may designate a new addressee or alter the C[.]O[.]D[.] charges by submitting the appropriate form and by paying the appropriate fee as set forth in Rate Schedule SS–6.

6.027 C[.]O[.]D[.] indemnity claims must be filed within a specified period of time from the date the article was mailed.

6.030 C[.]O[.]D[.] mail must be identified as C[.]O[.]D[.] mail.

6.040 C[.]O[.]D[.] mail must be deposited in a manner specified by the Postal Service.

6.050 A mailer of C[.]O[.]D[.] mail guarantees to pay any return postage, unless otherwise specified on the piece mailed.

6.051 For C[.]O[.]D[.] mail sent as third- or fourth-class mail, postage at the applicable rate will be charged to the addressee:

a. When an addressee, entitled to delivery to the mailing address under Postal Service regulations, requests delivery of C[.]O[.]D[.] mail which was refused when first offered for delivery;

6.060 The following services, if applicable to the class of mail, may be obtained in conjunction with mail sent under this classification schedule upon payment of the applicable fee:

	Classification schedule
a. Registered mail, if sent as [f]*F*irst [c]*C*lass	SS–14
b. Restricted delivery	SS–15
c. Special delivery	SS–17
d. Special handling	SS–18

6.070 Fees for C[.]D[.]O[.] service are set forth in Rate Schedule SS–6.

9.02 Description of Service.

9.020 The maximum liability of the Postal Service under this schedule is [$500] *$600.*

9.021 Insured mail service is available for mail sent under the following classification schedules:

	Classification schedule
a. First-[c]*C*lass [m]*M*ail, if containing matter which may be mailed as third- or fourth-class mail	100
b. Third Class (single piece only)	300
c. Fourth-class mail	400

9.023 The mailer is issued a receipt for each item mailed. For items insured for more than [$25] *$50*, a receipt of delivery is obtained by the Postal Service.

9.024 For items insured for more than [$25] *$50*, a notice of arrival is left at the mailing address when the first attempt at delivery is unsuccessful.

9.05 Other Services.

9.050 The following services, if applicable to the class of mail, may be obtained in conjunction with mail sent under this classification schedule upon payment of the applicable fees:

	Classification schedule
a. Parcel Airlift	SS–13
b. Restricted delivery (for items insured for more than [$25] *$50*)	SS–15
c. Return receipt (for items insured for more than [$25] *$50*	SS–16
d. Special delivery	SS–17
e. Special handling	SS–18
f. Merchandise return (shippers only)	SS–20

12.01 Definition.

12.010 On-site meter setting *or examination* service is a service whereby the Postal Service will service a postage meter at the mailer's or meter manufacturer's premises.

12.02 Description of Service.

12.020 On-site meter setting *or examination* service is available on a scheduled basis, [except that] *and* meter setting may be done on an emergency bais for those customers enrolled in the

scheduled on-site meter setting *or examination* program.

12.03 Fees.

12.030 The fees for on-site meter setting *or examination* service are set forth in Rate Schedules SS–12.

14.02 Description of Service.

14.023 Registered mail service is not available for:

* * * * *

b. Mail of any class sent in combination with [f]*F*irst-[c]*C*lass [m]*M*ail;

* * * * *

15.01 Definition.

15.010 Restricted delivery service is a service that provides a means by which a mailer may direct that delivery will be made only to the addressee or to someone authorized by the addressee to receive [his] *such* mail.

15.020 This service is available for mail sent under the following classification schedules:

	Classification schedule
a. Certified mail	SS–5
b. C[.]O[.]D[.] mail	SS–6
c. Insured mail (if insured for more than [$25] *$50*)	SS–9
d. Registered mail	SS–14

16.02 Description of Service.

16.020 Return receipt service is available for mail sent under the following classification schedules:

	Classification schedules
a. Certified mail	SS–5
b. C[.]O[.]D[.] mail	SS–6
c. Insured mail (if insured for more than $50)	SS–9
d. Registered mail	SS–14
e. Express Mail	500
f. First-Class [(Priority Mail only)] (*merchandise only*)	100
g. Third class (merchandise only)	300
h. Fourth class [(parcel post only)] (*merchandise only*)	400

17.02 Description of Service.

17.020 Special delivery service is available for mail sent under the following classification schedules:

	Classification schedule
a. First-[c]*C*lass [m] *M*ail	100
b. Second-class mail	200
c. Third-class mail (single piece only)	300
d. Fourth-class mail	400

17.06 Other Services.

17.060 The following services, if applicable to the class of mail, may be obtained in conjunction with mail sent under this classification schedule upon payment of the applicable fees:

	Classification schedule
a. Certificate of mailing	SS–4
b. Certified mail	SS–5
c. C[.]O[.]D[.] mail	SS–6
d. Insured mail	SS–9
e. Parcel airlift	SS–13
f. Registered mail	SS–14

18.02 Description of Services.

18.020 Special handling service is available for mail sent under the following classification schedules:

	Classification schedules
a. First-[c]*C*lass [m]*M*ail	100
b. Third-class mail (single piece only)	300
c. Fourth-class mail	400

18.06 Other Services.

18.060 The following services may be obtained in conjunction with mail sent under this classification schedule upon payment of the applicable fees:

	Classification schedule
a. C[.]O[.]D[.] mail	SS–6
b. Insured mail	SS–9
c. Parcel airlift	SS–13
d. Merchandise return (shippers only).	SS–20

19.02 Description of Service.

19.020 Stamped envelopes are available for:

a. First-[c]*C*lass [single-piece mail] within the first rate increment.

b. Third-class bulk [nonprofit] mail mailed at the minimum per-piece rate. [Such envelopes may be purchased only by authorized nonprofit organizations or associations.]

19.021 Printed stamped envelopes may be obtained by special request.

20.02 Description of Services.

20.021 Merchandise return service is available for the return of any parcel under the following classification schedules.

	Classification schedule
a. First-[c]*C*lass [m]*M*ail	100
Third-class mail	300
Fourth-class mail	400

1000.010 The Postal Service provides the following modes of delivery:

a. Caller service. The fees for caller service are set forth in Rate Schedule SS–10.

b. Carrier delivery service.

c. General Delivery.

d. [Lockbox] *Post office box* service. The fees for [lockbox] *post office box* service are set forth in Rate Schedule SS–10.

1000.021 The addressee may control delivery of his mail. The addressee may refuse to accept a piece of mail at the time it is offered for delivery or after delivery by returning it unopened to the Postal Service except as provided below. The addressee or his representative may read and copy the name of the sender of registered, insured, certified and C[.]O[.]D[.] mail prior to accepting delivery. Upon signing the delivery receipt the piece may not be returned to the Postal Service without the applicable postage and fees affixed.

1000.026 Mail will be held for a specified period of time at the office of address upon request of the addressee, unless the mail:

a. has contrary retention instructions;

b. is perishable; or

c. is registered, C[.]O[.]D[.], insured, or certified for which the normal retention period expires before the end of the specified holding period.

3000.022 Matter authorized for mailing without prepayment of postage must bear markings identifying the class of mail service. Matter so marked will be billed at the applicable rate of postage set forth in this Schedule. Matter not so marked will be billed at the applicable [f]*F*irst-[c]*C*lass rate of postage.

3000.0301 There shall be no refund for registered, C[.]O[.]D[.], and insured fees when the article is later withdrawn by the mailer.

4000 Postal Zones.

4.000.010 [Except as provided in Classification Schedule 500, i] *I*n the determination of postal zones, the earth is considered to be divided into units of area thirty minutes square, identical with a quarter of the area formed by the intersecting parallels of latitude and meridians of longitude . . . .

5000.010 Matter not paid at [f]*F*irst-[c]*C*lass [m]*M*ail or Express Mail rates must be wrapped or secured in the manner prescribed by the Postal Service so that the contents may be examined. Mailing of sealed items as other than [f]*F*irst-[c]*C*lass [m]*M*ail or Express Mail is considered consent by the sender to the postal inspection of the contents.

5000.011 Matter mailed as [f]*F*irst-[c]*C*lass [m]*M*ail or Express Mail shall be treated as mail which is sealed against postal inspection and shall not be opened except as authorized by law.

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POSTAL SERVICE

39 CFR Part 111

Domestic Mail Manual Regulations To Implement Changes in Rates, Fees, and Classifications

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: As announced elsewhere in today's issue of the **Federal Register**, new domestic postal rates, fees, and classifications are scheduled to take effect at 12:01 a.m. on February 3, 1991. Implementing regulations for these rate, fee, and classification changes have been developed and are set forth below. Although they are to take effect on February 3, 1991, comments on these regulations are solicited, and any proposed changes will be considered and acted upon as appropriate.

EFFECTIVE DATE: February 3, 1991.

ADDRESSES: Written comments should be directed to the Director, Office of Classification and Rates Administration, Marketing and Customer Service Group, U.S. Postal Service, 475 L'Enfant Plaza West SW., Washington, DC 20260–5360. Copies of written comments received will be available for public inspection and photocopying between 9 a.m. and 4 p.m. Monday through Friday, in room 8430, 475 L'Enfant Plaza West SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Leo Raymond (202) 268–5199.

SUPPLEMENTARY INFORMATION: On December 17, 1990, the Postal Service published a proposed rule containing implementing regulations the Postal Service proposed to adopt if the Postal Rate Commission's recommended decision in PRC Docket No. R90–1 was consistent with the Postal Service's request to the Commission for rate, fee, and mail classification changes and the Governors of the Postal Service approved that recommended decision. The deadline for submitting comments on the proposed rule expired on January 8, 1991. The Postal Service received a total of 126 comments which are discussed below.

On January 4, 1991, the Commission issued its Opinion and Recommended Decision in Docket No. R90–1, recommending some, but not all, of the Postal Service's requested changes. In addition, the Commission recommended a number of rate, fee, and classification changes that had not been requested by the Postal Service. In a decision issued on January 22, 1991, the Governors allowed certain of the Commission's recommended rate fee, and classification changes to take effect under protest. For these reasons, this final rule does not contain some of the regulations proposed by the Postal Service on December 17, and it contains new regulations, not in the proposed rule, that are necessary to implement the rate, fee and classification changes adopted by the Governors that were not part of the Postal Service's request to the Commission. The following is a summary of the changes made to the proposed regulations to implement the rate, fee, and classification changes adopted by the Governors.

Summary of Changes

The dollar amounts of many of the rates and fees adopted by the Governors are different from those contained in the proposed rule. The final rule contains all of these rate and fee changes.

In First-Class Mail, all of the proposed classification changes reflected in the proposed rule were adopted, with the exception of a discounted rate category for nonpresorted, prebarcoded letter mail.

In Express Mail, the Postal Service's classification proposals were adopted, except for the volume discount proposal.

In second-class mail, the proposed rule is essentially retained, except that the proposed zoned editorial matter rate structure was not adopted and a 125-piece walk-sequence rate category was adopted.

In third- and fourth-class mail, the regulations in the proposed rule are substantially repeated without any classification changes.

The special services regulations are essentially the same as in the proposed rule, except for the adoption of separate address correction fees for manual and automated corrections and a change in the method of assessment of fees for second-class additional entry.

Mailing statements, illustrated in the proposed rule, have been modified based on the Governor's actions. These forms will also be published in a special issue of the POSTAL BULLETIN, extra copies of which are being provided to most post offices, and the actual forms will be distributed to post offices directly after being printed. Forms 3605R and 3605 PC will also be revised to provide for the collection of data on the mailing of catalogs at bound printed matter rates. The Postal Service will publish a Domestic Mail Manual change in the near future defining catalogs for this purpose and setting forth marking provisions for catalogs mailed as bound printed matter.

Discussion of Comments

1. General Comments

The Postal Service received 126 comments on its proposed rule (18 from trade associations, 104 from corporations/companies, 2 from mailing-related businesses, and 2 from individuals). These commenters submitted approximately 375 pages of material containing hundreds of individual comments on scores of general and specific issues.

Eight commenters liked the idea of a chapter 5 as a central source of information about automation-based mail.

One commenter provided notice that the new parcel post rates would result in substantial volume increases in parcel post mail.

A number of commenters expressed the general concern that the requirements for automation, destination entry, and other discounts would be difficult if not impossible to meet and that the discounts were, therefore, difficult or impossible to attain.

Six commenters objected to inclusion of references to Handbook DM 102, *Bulk Mail Acceptance*, since they did not have access to this publication. The Postal Service has removed these references from the final rule.

Five commenters expressed support for the DBMC parcel post rates.

The remainder of the comments addressed specific proposals and are discussed below by subject matter.

2. Plant-Verified Drop Shipments (PVDS)

General

Eighty-six commenters expressed views on this subject. Almost all who commented were opposed to the provisions for scheduling shipments into postal facilities, sealing of vehicles, and prohibiting the inclusion of other freight with drop ship mailings. Fruit shippers unanimously stated that unless the provisions relating to scheduling were changed they would not use the Postal Service to mail their produce.

Six commenters said they would like to see clarification of the definitions of Expedited Plant Load and Plant-Verified Drop Shipment.

One commenter said the language contained in proposed 154.732 (authorizing preparation of Expedited Plant Load Shipments) is unnecessarily restrictive and suggests that mailers be able to request authorization for up to 2 years without reference to any specific mailings.

Sixty-eight commenters expressed opposition specifically to the scheduling, sealing, and other freight provisions. Many felt that the provisions are so restrictive that if retained they will discourage mailers from participating in the destination entry program or cause them to resort to an alternative delivery service. Many said they find existing procedures satisfactory.

Scheduling

Fruit shippers as a group were particularly concerned about the procedures contained in proposed 722.432(b) for scheduling mail deposits since their business operations do not allow them to know far in advance what the mail volume will be for specific drop points and the perishable nature of fruit prevents loading vehicles far in advance of shipment. They advocate retaining the existing requirements, saying ample capacity exists to accept projected volume increase by drop shippers, that the current procedures are working well, and that any volume increase in drop shipping is within manageable limits of the Postal Service. The commenters also suggested that perishable loads be given scheduling priority. One mailer organization stated that the proposal should have been referred beforehand to its association.

The Postal Service has modified the final rule to exclude shipments of perishable items from the scheduling requirements.

Another commenter suggested that the provision for scheduling mail deposits within a period of up to 10 business days be eliminated and replaced with language requiring unloading within 8 hours after expected arrival. Two commenters suggested that unscheduled mailings be deferred no more than 24 hours. A second-class mail preparer said that the scheduling provisions could adversely affect time-sensitive publications and used the mailing of dailies and weeklies at night and on weekends as examples.

One commenter stated that the scheduling requirement is unduly burdensome and will discourage mailers from drop shipping. One commenter stated that the arrival window allowed is unrealistic, and another commenter said that arrival windows need to be flexible to allow for acts of God and the time sensitivity of mail, and that the current procedures work well.

One commenter had no objection to scheduling mailing deposits but asked that the criteria for scheduling mailings publicized ensure that all mailers were treated equally.

Another commenter proposed that the Postal Service allow standing, scheduled appointments for mailings made on a regular basis as a way of reducing the burden of the appointment process.

The Postal Service has decided to implement a scheduling policy for the short term that recognizes the legitimate concerns of the commenters while affording necessary workload control and planning opportunities for the Postal Service. The final rule will set out general requirements, such as a 24-hour minimum notice, and the availability of standing appointments, but will use less formal guidelines to publicize specific requirements that can be revised as justified by operational circumstances. These will be under continual review to ensure their ongoing relevance, and will be incorporated in the Domestic Mail Manual only as experience warrants. In general, the Postal Service seeks to impose regulations only where absolutely necessary, and to rely on more flexible procedures to manage routine issues related to the scheduling process.

Sealing

Twenty commenters specifically expressed opposition to the sealing provisions, basically because of the economics associated with full trailer loads. Several said that existing procedures should be retained.

Others stated that sealing will prevent consolidation of multiple mailings and the movement of mail on the same vehicle with other freight, such as newsstand copies, thus reducing incentives for drop shipping. Several sections of the proposed rule, (such as 154.735f, 154.737b, 465.252, and 465.65) discourage the consolidation business, they said.

One commenter said he was unaware of any revenue protection problems associated with mailings carried aboard unsealed vehicles after the mailings have been verified, and suggested the Postal Service use random re-verifications at destination facilities, or at least allow loading of mail and freight at any facility that has a DMU, so that plant-verified mailings from multiple plants could be consolidated.

Another commenter said that in the case of one-stop shipments, scheduling and sealing poses no problem but, in the case of multiple stops, scheduling and sealing will lead to longer periods of time to complete deliveries, resulting in tying up carriers so that an "exclusive use" situation arises and additional costs are incurred for all concerned. This commenter also asks if it would be possible to seal each skid on the trailer and not require sealing of the entire trailer.

Two commenters objected to the provision in proposed section 154.736 for noseloading freight carried with expedited plant load mail as being unnecessarily restrictive. One cited the practice of airlines in carrying freight with mail as an example of a workable combination method. He also said problems would be created when there are multiple stops for delivery of mail and freight aboard a vehicle.

Several commenters said that proposed sections 154.731 and 624.717b are contradictory.

The Postal Service recognizes that a sealing requirement and restrictions on the co-loading of freight may represent a limitation on how some mailers can plan or utilize transportation resources. The Postal Service also acknowledges that, in some cases, publishers or mailers may have to adjust their current shipping practices in order to take advantage of the reduced rates offered under the final rule.

The Postal Service did not propose its loading and sealing requirements for the purpose of unnecessarily impeding a mailer's choices or discouraging efficient transportation. Rather, it exercised legitimate measures to ensure that material that has passed postal inspection for preparation, classification, and postage accuracy remains undisturbed in transit and is intact (with regard to the characteristics verified) when subsequently presented for postal acceptance and induction into the mailstream.

The Postal Service believes that the uncontrolled commingling of mail and freight, or the transportation of unsealed verified mail shipments, disregards valid revenue protection concerns and needlessly risks tampering with or loss of control over material previously verified for shipment.

The comments do not overcome these basic concerns, and the final rule adopts the principles in the proposed rule concerning combination of mail and freight shipments and sealing of verified shipments.

The Postal Service intends to remain open, however, to changes with regard to consolidation and pool shipping situations. The Postal Service believes it is premature to either impose restrictive regulations or permit unregulated handling of mail, since these businesses are only beginning to take form, and have yet to demonstrate how they would handle mail shipments, either alone or in combination with freight. Since both the Postal Service and the mailing community lack experience that would allow formulation of less restrictive regulations, the final rule is

based on the premise that these mailings are being performed by printer/mailers and similar operations. The Postal Service will consider amending these regulations in the future, if appropriate, based on the industry's performance, experience, and suggestions concerning consolidation and pool shipment.

Postage Refund

Four commenters said that mailers who drop ship should not be liable for postage paid on mailings destroyed (or damaged to a point where it is not practical to mail) prior to acceptance at the destination.

The final rule retains the provisions of 147.2 which provides that a mailer may apply for a refund when postage has been paid and no service has been rendered by the Postal Service.

3. DMU Requirement

Four commenters asked whether a DMU is required for a mailer to take advantage of destination entry rates.

The Postal Service uses the term "DMU" (Detached Mail Unit) to describe any situation in which a postal employee performs mail verification or acceptance at a mailer's site. Although a DMU is not required for destination rate mailings, the Postal Service believes that optional mailing systems (such as Plant Verified Drop Shipment, which is retained in the final rule and which employs a DMU for certain purposes) make destination rate mailings easier to prepare and present.

4. Mailer Responsibility for Unloading

Five comments were received. Three opposed the requirement. One commenter questioned whether requiring drivers to offload was in violation of the Postal Service labor contract. Another commenter "assumed" that the requirement does not apply to bedloaded parcels.

The Postal Service has a long-standing policy at its bulk mail centers (BMCs) that mailer drop shipments are to be unloaded by the mailer's employee (or by the mailer's transportation service provider's employee) if the shipment is bedloaded, although postal personnel may assist as availability permits. Palletized material will be offloaded by postal personnel. With the advent of destination entry rates and the consequent increase in mailers' deposit of shipments at sectional center facilities (SCFs) and delivery units, the existing BMC procedures need to be adapted to these other situations while taking into account the differences in available resources.

Initially, the Postal Service will specify in its final rule only that bedloaded fourth-class shipments must be offloaded by the mailer, but will apply its long-standing policy with regard to other classes and bedloaded shipments as well, regardless of the type of facility at which deposited. Further, the existing BMC policy concerning palletized and similar containerized loads will be extended to SCFs, but the mailer will be responsible for all unloading at delivery units, recognizing the lack of postal resources to dedicate to this task.

The Postal Service will remain open to amending its policy and regulations in this regard, based on the suggestions received from the mailing industry and on its own experience in mailer patterns and practices.

5. Drop Ship Authorization Procedure and Agreements

Four commenters asked whether CPP mailers would need to convert to Plant-Verified Drop Shipment.

Several commenters objected either to the 2-year period of authorization to prepare plant-verified drop shipments saying it should be up to 5 years, or indefinite, or to the provisions in proposed 154.732c (regarding Expedited Plant Load Shipments) requiring that a mailer demonstrate the need for specific mailings to be deposited under expedited plant load procedures.

One commenter suggested the Postal Service create a form for use in requesting authorization.

Three commenters point out that proposed sections 154.735e and 465.252 contradict one another with respect to inclusion of other shipments with plant-verified mail. These sections are not contradictory because the first deals with the combination of mailable matter with material that will never be mailed and the second addresses the combining of plant-verified matter with other mailable matter.

Although no mailer is required to use Plant-Verified Drop Shipment, and although any such choice is appropriately a business decision for the mailer, the Postal Service believes Plant-Verified Drop Shipment is a desirable program that should be considered by any mailer planning to mail at destination entry rates. The Postal Service believes that Plant-Verified Drop Shipment is a viable system and includes it in the final rule as proposed. Based on experience, amendments may be considered at a later time, including adjustments to the authorization period. Mailers should note that regardless of the period of authorization, the Postal Service can review a mailer's compliance at any time.

The Expedited Plant Load Shipments proposal, which is adopted here, is a change in name only—the Postal Service will simply provide the existing program with a new name, since the name "Plant-Verified Drop Shipment" was being reassigned to (more accurately) describe parallel programs being implemented for second-, third-, and fourth-class destination entry rate mailings. Further, the proposed rule did not significantly amend the existing provisions for what is now Expedited Plant Load Shipment beyond what was needed to implement the name change. Any suggestions to modify the program's provisions will be considered as part of the general process of regulation maintenance.

Expedited Plant Load Shipments are movements of plant-loaded mail via mailer-provided (vs. Postal Service-provided) transportation, employed usually for service or time-value reasons. Conversely, Plant-Verified Drop Shipments are movements of pre-verified material on mailer transportation for deposit at a destination postal facility as required to earn a postage discount.

6. Mailing Statements

Six commenters expressed views on mailing statements covering different issues. Two said that mailing statements should be designed to facilitate computer generation.

Another said that the Postal Service should provide computer software to generate mailing statements. One said that the Postal Service should provide clearer guidelines with respect to the use and acceptability of computer-generated mailing statements. One said that mailing statements should include on them a clear statement that the Postal Service can collect postage subsequent to the acceptance of a mailing and despite the signature of a Postal Service acceptance clerk on the form. One commenter objected to joint liability on the part of a mailer and agent for unpaid postage.

The Postal Service does not want to undertake the production of software to generate mailing statements and has previousy published its policy on computer-generated facsimiles that are produced privately. The Postal Service is satisfied that the existing language below which the mailer signs is fair and adequate in protecting all parties if disputes arise over information presented on a mailing statement.

7. Destination Entry Rate Requirements

A total of 20 commenters expressed views on this subject. Sixteen

commenters opposed the minimum and maximum volume requirements for destination rate mailings and the measures proposed to control "jackpotting" of mail. Seven commenters stated that the requirements were discriminatory against small mailers and said that it would have a particularly adverse impact on lettershops with a small number of clients. One commenter said the Postal Service should be controlling the volume of mail per day rather than the number of mailings (4) per day. Another said that the Postal Service should allow each mailer one specific entry point that will be exempt from "jackpotting" restrictions so that mailers without DMUs would be on an equal footing with those mailers who do have DMUs. One commenter said that the "50 percent" requirement (i.e., that the mail claimed at destination rates represent 50% or more of the mail deposited at the same destination facility in any 24-hour period by the same mailer) is unrealistic for the majority of mailers, and described the rule as punitive for lettershops handling a wide variety of mailings. This commenter also suggested that limitations be placed on the volume of non-destination rate mail that accompanies destination rate mail. One commenter said that the definition of "mailer" contained in proposed 624.18b on minimum volumes should not apply in proposed 624.718c dealing with maximum volumes since it may penalize a particular mailer because of unrelated activities of the agent presenting the mail at a particular postal facility. He stated that 624.718c should be changed to make it clear that for the purpose of determining maximum volume the term "mailer" refer to the owner of the mail, not a party that may be acting as mailing agent. Four commenters asked whether the Postal Service intends that a mailer have a DMU to qualify for destination rates.

The Postal Service has become aware of the impact its proposed rules may have had on small, "local" mailers inadvertently affected by provisions designed to prevent undesirable practices by large mailers. Although the Postal Service did not find this impact desirable, it felt compelled to impose some form of control over the use of destination entry in order to inhibit counterproductive mailing patterns by mailers based on their own economic decisions about where and how to mail.

To resolve this problem, the final rule contains exceptions to the provisions limiting the number of mailings and setting a minimum volume of destination rate mail.

For second-class, where mailing patterns and mail volume are relatively stable, and where an entry structure controls access to the mailstream, the final rule's provisions except mailers depositing mail at either the original entry or at an additional entry serving the place where mail is prepared for mailing.

For third- and fourth-class, not only are mailing patterns and volumes less stable and less predictable, there is no effective entry management mechanism to meaningfully identify "local" mailers. Therefore, the Postal Service has used certain general characteristics as contraindicators for purposes of exceptions akin to those described for second-class. For third- and fourth-class, the number of mailings and minimum volume of destination rate mail provisions are waived for mailers who are neither plant load mailers nor plant-verified drop shipment program participants and who deposit the mail at the post office serving the point where it was prepared for mailing. The Postal Service believes that this description will afford relief to the typical small, "local" mailer without inappropriately granting exception to the larger mailer.

In all cases, the destination rate requirement that mail be deposited by the mailer at the corresponding destination facility remains in force, and, if the facility at which mail would be deposited under the exception is not that facility, the exception cannot be employed, and the mailing is subject to the otherwise applicable requirements.

8. Automation-Based Rates

Prebarcoding

Sixteen commenters expressed views with regard to automation-based discounts, barcode goals, and the proposed notice and comment process to set a 100 percent ZIP+4 barcoding requirement. Of 12 comments regarding the 100 percent requirement, all but one objected to the proposed rule on the grounds that it was too restrictive and would discourage mailers from prebarcoding mail, thus undercutting USPS automation goals, and that it was unattainable due to problems with address lists. One commenter suggested that the requirement be implemented on a phased basis. One commenter also indicated that the rate differential between presorted and nonpresorted barcoded mailings is too narrow and that mailers would be encouraged not to presort mailings. The adjustment of rate levels is beyond the scope of this rulemaking.

The statement in the proposed rule that the Postal Service was considering a separate rulemaking in 1991 to impose a requirement for 100 percent barcoding of ZIP+4 barcode rate mailings was not intended to solicit comments at this time. Before any new rule is proposed, other than the current "85% rule," the Postal Service will put a process in place to thoroughly discuss options which meet the mutual needs of both the Postal Service and the mailers.

2.5-Ounce Requirement

Thirteen commenters provided statements on the proposed 2.5-ounce maximum weight requirement. Almost all viewed the 2.5-ounce weight as being too restrictive and a serious obstacle to mailers. One commenter thought the USPS was allowing the limitations of mail processing equipment to take priority over customer needs and that the priority should be re-evaluated. Several commenters questioned whether the prohibiton of pieces in excess of the weight limitation from the relatively efficient automated mailstream was really cost effective and whether the equipment throughput rate gains from excluding such a small volume of mail are large enough to justify diverting the pieces to a non-automated mailstream. Most commenters favored allowing heavier pieces to qualify for the automation rate, and several proposed that consideration be given to raising the limitation to 3 ounces.

The 2.5-ounce proposal was extensively discussed during the notice-and-comment rulemaking on Eligibility Requirements for Automated Rate Categories, 55 FR 40560–40596 (October 3, 1990). The Postal Service's response to comments received on that proposal is part of the final rule issued on January 23, 1991 (55 FR 2598). In that rule the Postal Service established a 3.0 ounce limit until September 15, 1991, at which time the limit would become 2.5 ounces, unless amended by an intervening change. This final rule adopts provisions consistent with the provisions of the aforementioned rulemaking, and will be amended in the future as described herein.

Definition of "National Mailing"

One commenter questioned the definition of a "national" mailing, saying that a mailing could include pieces for automated and non-automated sites within a single state and under these circumstances could not be viewed as "national" in nature.

The Postal Service realizes that the selected term may not be perfectly descriptive for every mailing, such as that proposed by the commenter. Nonetheless, the final rule retains it,

believing that, with the definition provided by the final rule, the term "national mailing" is satisfactory for use in identifying a mailing that is not prepared exclusively for automated sites. (A "national mailing" is defined as one containing pieces for addresses served by both automated and non-automated postal facilities.)

9. Mail Preparation Requirements

Thirty-four commenters expressed concern about various requirements for mail preparation. The comments ranged from packaging, traying, and pallet make-up requirements to tying and banding procedures.

Prohibition of String Tying

Eight commenters took issue with the proposed requirements which require that packages of walk-sequenced letters and flats be secured by plastic or elastic bands or by shrink-wrap. They pointed out that thousands of string tying machines are presently in use and this rule would obsolete present equipment and cause mailers to invest considerable sums in new equipment. One commenter suggested that the USPS allow a period of years for a phase-in of this rule. Another suggested that proposed section 642.861 be reworded to include broken bundles as part of the error rate. Still another noted that plastic strapping is not biodegradable and millions of plastic straps could constitute an environmental impact.

The final rule retains the requirement that walk-sequenced mail must be prepared in packages, but eliminates any specification of material (except for using rubberbands for First-Class Mail). Broken bundles are already included in the error rate determined for presort verification procedures.

Requirement for Banding and Sleeving Trays

Six commenters objected to this proposal as unnecessary, especially for trays of Third-Class Mail which are placed on a pallet, shrink-wrapped, and deposited at a destinating facility. They claimed the rule will cause added material expense for mailers and increased labor costs for both mailers and the Postal Service. They also noted that it was environmentally unsound. Most said the rule is overly restrictive and should not be mandatory.

The Postal Services believes its proposed requirement is valid for automation-compatible mailings in general, regardless of the authority to palletize trayed Third-Class Mail assumed by the commenter. In order to ensure the integrity of trayed mail in transit, the proposed rule that trayed mail must be sleeved and banded is retained in the final rule.

Documentation for Trays

Seven commenters said these rules will require extremely difficult system changes and program development that could take a minimum of 2 to 3 years, if ever. Some said there is no known solution other than manually counting the pieces in each tray. They recommend that since mailers cannot comply, current or new documentation be allowed for an unspecified interim period or that the rules be deleted. Some suggested there are other methods for accomplishing the objectives of this rule.

The Postal Service recognizes the challenge the proposal represented and, where retained in the final rule, will only be an option to another, more conventional, form of documentation.

Traying Requirements—Grouping 3-Digit Areas and "Full" Trays

Nine commenters provided input on this subject. While several expressed support for using trays, many were concerned with the requirements. One mailer said proposed section 515.1, specifying the grouping of pieces for the same 3-digit area, will require manual intervention resulting in increased costs and decreased mailer participation. Many respondents said the "full" tray requirement in proposed sections 515.22 and 561.4 will cause mailers to continue to use sacks. Two suggested allowing use of half-trays or new quarter-trays and said a specific minimum tray piece count is needed because computers cannot determine subjective things like ¾ of a tray. One suggested a 125-piece minimum. One said the full tray is counterproductive to the objective of obtaining 5-digit sort and will cause more mail to go to 3-digit and SCF trays which are more expensive for USPS to process. Respondents said this rule pushes mail the wrong way on the automation ladder and will cause reduced mailer participation. In general, the industry supports the use of trays but requests the ability to use less than full trays.

The Postal Service believes that use of ½ or ¼ trays is an expensive option to offer and that "full" (i.e., at least ¾ full) trays are a reasonable requirement to ensure optimum use of paid transportation. Prescription of a fixed minimum is not desirable because it would, by definition, be an estimated average that would be too high or too low to yield "full" trays in some cases. The requirement for a 50-piece "group" to a 3-digit in an SCF tray is a condition of eligibility for the 3-digit presort rate. The final rule incorporates most of the requirements of the proposed rule substantially without change (while adding an allowance for the "last tray"). As with most requirements, these remain open for reconsideration as experience dictates.

Residual Pieces

One commenter noted that proposed section 561.54 states: "Residual pieces are not allowed in ZIP+4 mailings and must be prepared as a separate mailing." Section 562.233 states: "Residual Trays. Residual pieces may be eligible for the Basic ZIP+4 barcoded rate * * *". The commenter claims the reference to "residual pieces" in 561.54 is confusing and should be deleted.

The Postal Service has chosen different handling for residual third-class pieces in ZIP+4 and ZIP+4 barcoded mailings under chapter 5 because of the different relative value of further preparation of residual mail as it varies between ZIP+4 mail and ZIP+4 barcoded mail. The proposed requirements are retained in the final rule.

Containerization

One mailer commented that the proposed regulations do not provide a means for combining sacks from different mailings and argued that, if mailers are able to produce documentation to support revenue and verification requirements for the mailing, they should be allowed to combine sacked mail. The commenter also said that the combining of regular rate and non-profit mail should be allowed, and proposed that such allowances would further streamline containerization of mail.

The Postal Service does not intend to adopt new regulations for various forms of mail combinations at this time, but will consider such proposals as experience shows them to be appropriate. As discussed already, new regulations to support "consolidator" operations will be considered, when appropriate, based on experience and industry proposals.

Presorted Pieces in Packages on Pallets

One mailer commented there was no mention of presorted pieces on pallets in proposed sections 411.142–411.145 and 424.4 and questions if this is an inadvertent omission. If this is not the case, he feels that no final rule should be adopted until the Postal Service explains its reasons for proposing a new policy and mailers have the opportunity for further comment.

In most cases reference to "sack" assumes other containers as appropriate

to the class of mail and level of preparation. The final rule will more clearly note the alternative preparation of mail on pallets.

Third-Class Packaging Requirements

One presort mailer expressed concern over the new 3/5 digit presort rate for Third-Class Mail, claiming it does not promote a finer sort, does not benefit the Postal Service, and should not justify a discounted rate. The presort mailer stated that the proposal will jeopardize presort companies and prove costly to the Postal Service. The commenter also stated that the $0.03 discount proposed for unsorted prebarcoded mail compared to a $0.04 discount for Presorted First-Class Mail is not justifiable. This mailer also questioned why Third-Class Mail does not have the same presort requirements as First-Class Mail, and claims that the proposed rates promote raw mail with ZIP+4 codes or ZIP+4 barcodes and do not provide enough incentive for presorting.

This commenter raised issues that were explored during the Postal Rate Commission's proceedings in regard to the Postal Service's rate filing. Those issues are beyond the scope of this rulemaking, which is intended to implement the rate and classification changes produced by that process. Preparation of all classes of automation-compatible mail is being standardized by chapter 5 and this effort will continue with other types of mail in the future, to the extent possible within the boundaries set by the Commission.

Saturation/Walk-Sequenced Mail

Forty-one commenters expressed views on this general subject. All expressed deep concern and opposition to the provisions for updating address sequencing information every 45 days. They also claimed that facing slip and documentation requirements are unreasonable, unnecessary, and impossible to meet at this time. Several said provisions contained in the proposed 5% error rule were unbelievable, unthinkable and should not be enforced. Several resident list mailers urged the Postal Service to arrange a meeting with them before these rules are implemented to get the customer viewpoint on these issues.

Address Sequencing, 45-Day Update

Eighteen commenters described this proposal as arbitrary, burdensome, and outright unworkable and said it would pose an economic hardship on mailers. All said 45 days was an unrealistic timeframe and that neither the Postal Service nor the mailers were positioned to accomplish this requirement at this time. They noted that the Carrier Delivery Sequence (CDS) file product is not available nationwide and also objected that the cost of this service is too expensive. Several said it would be at least a year before the Postal Service and mailers would be ready for this. Many said that a 45-day update requirement would still be unnecessary in many situations and extremely costly compared to present methods. The majority suggested lengthening the update time period from 45 days to anywhere from 60 days to 6 months or having a transition period to phase in the requirement. One commenter, who claimed to represent over 130 customers who use this service, said the Postal Service was on the verge of making a very painful mistake and urged discussions with resident mail list compilers and mailers before implementing this rule. The commenters were unanimous in their opposition to the proposed rule.

The Postal Service believes that the use of current information is essential in preparing mailings whose deliverability is at all essential to its originator. Nonetheless, the Postal Service acknowledges the points raised by the commenters and has amended the final rule to require that mailings be based on lists updated within 6 months (rather than 45 days) of mailing.

Documentation—Facing Slips and Labeling

Thirteen commenters responded on this issue. All strongly opposed the proposed requirements for labeling and facing slips on walk-sequenced mail. The majority said the rule places a totally unreasonable requirement on mailers and serves no valuable purpose. One mailer said there was not enough paper for him to comply with this rule. Another said this rule must have been designed to kill the Address Card Sequencing Service. One suggested modifying facing slips to make them easier to prepare. Many said the USPS could not yet provide the information required to allow mailers to meet this rule because the CDS file product is not perfected yet. One mailer noted the rules were excessively stringent and asked that normal abbreviations (CR, HC, RR, etc.) be allowed on the facing slips. One mailer stated that the information requested in proposed 624.884 is totally redundant to the information requested in proposed 624.883. Most noted that this requirement will slow production, impose additional costs on mailers and require mailers to provide the Postal Service with its own data. In general, all commenters said this rule is unnecessary, unreasonable and impossible to comply with at this time.

The Postal Service believes that mailers must make a business decision concerning the use of walk-sequence rates that balances the value of discounts earned against the resources invested in earning them. In this case, mailers may need to amend their current methods to meet the requirements of the proposed rule, but the discount earned should be viewed as compensation for this effort. The Postal Service remains convinced that its carriers must be able to readily and easily identify the sequence of packages of pieces if casing is to proceed efficiently (as the rate discount contemplates), and errors in walk-sequence mailings are to be reliably detected.

Further, the Postal Service believes it consistent that mailers who prepare walk-sequence mailings should know certain fundamental facts about the routes to which pieces are addressed because, absent this knowledge, the mailer cannot claim to meet the requirements for the saturation walk-sequence rate. Although some latitude on method has been adopted, the package labeling requirement of the proposed rule is retained in the final rule.

Five Percent Error Rate Rule

Six commenters addressed this proposal. They noted that it has the potential to embarrass mailers unnecessarily and should include a provision for contacting the mailer's agent and not the owner of the mail. Two commenters said the rule needs further clarification on how the provisions of the 5% error rate will be applied. One noted that this rule should not be enforced until the Postal Service can supply accurate walk-sequence data. One commented that the rule provided an unreasonable penalty on the mailer and that stopping the mail was unthinkable.

The mailer is responsible for preparing walk-sequence mailings that meet the requirements of the Postal Service, the specifications and expectations of its customer, and the accuracy standards contemplated by the 6-month update requirements. Failing to do so, the mailer cannot be protected from legitimate consequences, and the Postal Service cannot absorb the added cost of reprocessing mail paid at a rate that is based on accurate walk-sequencing. Mailers who are concerned over possible problems should use the notification provisions of the final rule so that, in the event of problems, prompt action can effect the needed remedial

work and allow the mailing to go forward. The Postal Service believes that the provisions of the proposed rule, although they may be potentially unpleasant for some mailers, are nonetheless appropriate and justifiable given the rate discounts available, and are incorporated in the final rule.

Modify Section 624.82 to Include 125-Piece Requirement

The preparation requirements in proposed section 624.82 do not need to be modified to include wording for 125-piece requirement because the a 125-piece walk-sequence discount was not approved.

10. Miscellaneous Postage and Regulation Issues in R90–1

Twenty-three comments were received concerning various postage related issues and regulation changes proposed by the Postal Service.

Splitting Business Reply Mail (BRM) Fees

One comment was received regarding this issue. This comment was in favor of the proposal to again split the permit and accounting fees required for customers who use Business Reply (BRM) mail.

The Governors adopted a BRM fee structure consistent with the Postal Service's filing, and that structure, which was in the proposed rule, is incorporated in the final rule.

Bound Printed Matter

One commenter responded to the proposal to revise section 723.1 to eliminate language that makes eligibility for the bound printed matter and special fourth class rates an either/or proposition. The response was strongly in favor of the proposal that would allow items eligible for the special fourth-class mail rate to be mailed at the bound printed matter rates if they meet the requirements for these rates. This would effectively eliminate the requirements for insertion of advertising in "books" so they can be mailed as bound printed matter.

This aspect of the proposed rule was based on a classification change contained in the Postal Service's filing. This change was adopted by the Governors. Therefore, the proposed provision is brought forward in the final rule.

Recomputation of Postage—Fourth-Class

One comment was received concerning this subject, and urged that the wording in the proposed rule be changed to eliminate the requirement for recomputation of postage if the Postal Service redirects the mailing.

The Postal Service does not believe it is appropriate to waive computation of the applicable rate on mailings that are redirected to another facility, regardless of the reason for that redirection. Consequently, the provisions of the proposed rule have been incorporated intact in the final rule.

Clearance Documents

One comment was received concerning clearance documents required in proposed section 664.24c, which was claimed to be in conflict with proposed section 624.713, which reads "other than the mailing statement, no specific documentation is required". The commenter requested clarification of what clearance documents are needed to support the mailing and who is to provide them. He also expressed his concern not to be burdened with additional paperwork and felt that the mailing statement is sufficient documentation.

The Postal Service believes that it is entirely appropriate to expect mailers to support any rate eligibility claimed on mailing statements with applicable documentation. The reference to no other "specific documentation" was to what the mailer must present with the mailing to the Postal Service, while the "clearance documents" are produced by the Postal Service as a form of receipt and evidence that the mailer has met certain preparation and postage obligations. The final rule adopts the provisions of the proposed rule.

Drop Shipping to Destination Entry

Two comments were received relative to this subject. One questioned whether a plant load agreement situation would be suitable for obtaining this discount. The other noted many second-class mailers cannot drop ship mail to SCFs or delivery offices and will want to drop ship mail to a BMC, GMF or other facility authorized to accept in-bound second-class mail so that mail can be entered at the "lower zone" rates and believes that this section should be clarified to allow mailers this opportunity.

The proposed and final rules explicitly exclude plant-loaded mailings from eligibility for the destination rates. Plant-verified drop shipments, by contrast, are eligible for those rates. Mailers who, for their own business reasons, claim they cannot meet the requirement that destination entry mail be brought to the corresponding destination facility, and who want to get the rate at an alternative facility, are specifically excluded from the destination rates in both the proposed and final rules. The discount reflects reduced transportation by the Postal Service, and that reduction does not occur if the mailer is allowed to use an alternative facility.

Second-class mail (which can be prepared as a plant-verified drop shipment) retains its pre-existing zoned rates, so publishers can continue to select entry points based on their individual cost-determinations.

Nonprofit Publications With 10% or Less Advertising

One commenter proposed a new section be added to the classroom rates section of the proposed regulations to allow them to use the "10% or less" exception when computing the nonadvertising adjustment. The wording for the commenter's proposed new section 411.345 would be identical to the wording in proposed section 411.335.

This proposal goes beyond the scope of this rulemaking and will not be considered at this time.

Treatment of Undeliverable-As-Addressed (UAA) Mail

One comment was received opposing the requirement for rounding the charge for each individual third-class UAA mailpiece that is returned (the 2.472 factor). The commenter believes rounding should be used only after the postage has been calculated for a group of pieces. He claims the method proposed is inconsistent with the method used to calculate postage based on fractional cents per piece on outgoing mail and wants to know why postage should be calculated differently on incoming mail.

Undeliverable-as-addressed mail is not considered to be a form of bulk mail, particularly since each piece is processed individually. Each piece is treated as an individual transaction, and the service is given and charged on a per-piece basis. Allowing the volume customer to pay a fractional amount per-piece, while assessing the rounded sum to the single-piece customer, would be both a misapplication of the fee and an inequitable preference for the volume customer.

Proposal for a $0.25 First-Class Rate for Mail Deposited for Delivery Within a 3-Digit ZIP Code Area

One individual claimed it does not cost the Postal Service as much to deliver a piece of mail within the same 3-digit area as it does to deliver it to a different 3-digit area. He proposed that the First-Class one-ounce rate remain at $0.25 for mail deposited and delivered within the same 3-digit area. He says

this is only fair and would give consumers a cost of service break such as those available to commercial mailers for many years.

Proposals and arguments about how various rates should be proposed or amended must be considered in the ratemaking process provided for by 39 U.S.C. 3621, *et seq.* This proposal is beyond the scope of this rulemaking.

Concern That Mail Will be Verified Twice

Two commenters expressed concern that the language in proposed section 465.12(f) makes it appear that the Plant-Verified Drop Shipment mail is to be verified twice: once at the plant and again at the destination facility. They believe this is not the intention of the Postal Service and suggest that this section may need to be rewritten.

The Postal Service verifies mail for various purposes at the mailer's site under the Plant-Verified Drop Shipment Program, then ascertains that, as deposited at the destination postal facility, the material received is the same as that which was pre-verified. The term "verify" is appropriate in both cases.

Delivery Office Zone Rates

Two comments were received on this subject. One noted the language in proposed section 424.2 appears to say that mail for delivery offices must be sacked in order to qualify for the delivery office zone rate, and questions whether palletized or containerized mail is eligible for the rate if it meets all other requirements. The other commenter was concerned that proposed section 424.42 seems to indicate that publishers entering at destination facilities under exceptional dispatch would not be eligible for delivery office zone rates, while publishers entering at SCF facilities under exceptional dispatch would be eligible for SCF zone rates. They believe this makes no sense and would create an enormous amount of paperwork without any concomitant gain.

As stated earlier, use of the term "sack" assumes other types of containers as well, based on what may be used for the particular class mail, so pallets, if authorized, may be used in lieu of sacks, as appropriate.

The Postal Service's proposed rule allowed pieces deposited under exceptional dispatch to be claimed at the destination entry rates in a manner consistent with what was provided for pieces deposited otherwise, and the final rule continues these provisions. Mail deposited by exceptional dispatch will be eligible for a destination rate only if that eligibility exists at both the authorized entry post office, the office where the mail is deposited under exceptional dispatch.

Second-Class Additional Entry Fees

One comment noted there appears to be confusion regarding proposed section 412.14 and 412.15d, and that they seem to contradict each other. The commenter believes that these sections need to be clarified. Proposed section 412.14 says one fee ($75) is charged to establish more than one additional entry and/or to modify or cancel existing additional entries. Proposed section 412.15d says a fee of $45 is charged for modification or cancellation of an additional entry.

The comment has been rendered moot by the Commission's Recommended Decision which recommended that the $75 fee collected for each post office at which an additional entry is added, deleted, or modified. This recommendation was adopted by the Governors and appropriate conforming amendments have been made in the final rule.

More Than One Second-Class Additional Entry in Same County

Two commenters responded to this issue, one was in favor and one opposed. One commenter opposed the rule on policy grounds and also believes the implementation of this rule would be illegal. The commenter believes adoption of this rule would severely undercut the utility of destination delivery office rates for small newspaper publishers and that the Postal Service should not adopt this rule or any version of it. The other commenter was in favor of this proposal and believes it removes a long-standing technical problem which could impede the flexibility for drop shipping at various destination offices.

The Postal Service adopts a final rule which imposes no significant limitation on additional entries in the same county where there is more than one post office, regardless of the location of the office of original entry. Removal of the existing limitations is within the authority of the Postal Service and, contrary to one commenter's belief, should be welcomed by small publishers as a barrier removed that would otherwise have prevented use of destination entry rates.

Second-Class Host Piece Rates Extend to Third-Class Enclosures

Four comments were received concerning this issue. Three commenters noted an apparent misprint in proposed section 136.232a where the wording should be "The attachment need *not* meet the volume requirements. . . ." instead of "The attachment need *to* meet the volume requirements. . . ." One commenter was very much in favor of proposed section 136.3 which allows third-class enclosures with second-class pieces to enjoy the same qualification for destination zone rates as the host piece. Another commenter felt it was good to clarify this issue and to have this information in one location.

The sections of the proposed rule concerning attachments to and enclosures with second-class publications had a "not" inadvertently omitted as printed in the **Federal Register**. This error, and some ambiguity in the wording of the proposed rule, have been rectified in the final rule.

In addition to the changes discussed above, this final rule also includes new sections 665 and 785 to provide postage payment procedures for use by plant-verified drop shipment mailers. The new procedures will allow for preparation of consolidated mailing statements and mailing statement registers in those situations where large volumes of individual plant-verified drop shipment mailings make processing of the associated mailing statements a significant workload. The final rule also adjusts the requirements for First- and third-class mail to clarify that in all cases except carrier-route mailings, the minimum quantity that must be mailed is determined apart from qualification for any particular presort or other discount.

Comments on the regulation changes adopted in the final rule that were not included in the proposed rule are invited at any time and will be considered for future amendments to the Domestic Mail Manual. Prompt submission of such comments is encouraged.

The regulations that follow are distinct from the Domestic Mail Manual changes contained in the final rule on Eligibility Requirements for Automated Rate Categories that was published on January 23, 1991 (55 FR 2598–2631), to be effective on February 24, 1991. The regulations published here do not reflect the changes to the Domestic Mail Manual that will be made by the automation eligibility final rule on February 24. Similarly, the automation eligibility regulations do not reflect the changes to the Domestic Mail Manual that are made by this final rule. When the automation eligibility rule becomes effective on February 24, the Domestic Mail Manual will be revised and renumbered to incorporate the requirements of both final rules. As part of those revisions, section 510, which describes the contents of Chapter 5 of the Domestic Mail Manual to be

effective on February 3, will be amended to include a description of sections 520–550, which will be added to Chapter 5 by the automation eligibility rule. Issue 38 of the Domestic Mail Manual will incorporate these nonsubstantive changes, and will be effective February 24, 1991.

Although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service ordinarily invites comment from the public whenever it proposes a new or amended regulation which might have a substantive effect on the public. In this instance, however, the rate, fee, and classification changes reflected in the regulations set forth below were adopted following ten months of on-the-record hearings at the Postal Rate Commission (Docket No. R90–1, *see* 39 U.S.C. 3624). Interested parties had a full opportunity to comment on those changes during the course of those hearings. In addition, most of the amended regulations were included in the Postal Service's December 17 proposed rule discussed above.

Accordingly, the Postal Service finds it unnecessary to publish the rules set forth below as a new proposed rule for comment before they become effective. See 5 U.S.C. 553(d). However, we reiterate that additional comments are welcomed on the published rules, and that any proposed changes will be considered and acted upon as appropriate.

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. These changes will be published in the **Federal Register** as provided in 39 CFR 111.3.

In view of the considerations discussed above, the Postal Service hereby adopts the following revisions to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

Stanley F. Mires,

Assistant General Counsel, Legislative Division.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a), 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

2. The implementing Domestic Mail Manual regulations for the domestic rate, fee, and mail classification changes are set forth in the following exhibit:

BILLING CODE 7710–12–M

EXHIBIT

CHAPTER 1 - DOMESTIC MAIL SERVICES

110 General Information

111 Scope

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111.3 Mailer Responsibilities

111.31 Compliance with Regulations. Text of existing 111.3.

111.32 Payment of Postage. All mailings are accepted based on an examination of the mailing and, where applicable, the accompanying mailing statement prepared by the mailer. The signature of a postal employee on the mailing statement, and the subsequent acceptance of the mailing, do not constitute a verification of the accuracy of that statement, and do not limit the Postal Service's ability to demand proper payment after acceptance when it becomes apparent such payment was not made.

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120 Preparation for Mailing

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122 Delivery Address

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122.4 Alternative Addressing Formats

122.41 Simplified Address Format

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122.412 City Routes and Post Office Boxholders

a. The addressee's name and street address or post office box number may be omitted from the address on pieces mailed as official matter by agencies of the federal government, any state, county, or municipal government, and the governments of the District of Columbia, the Commonwealth of Puerto Rico, and any United States territory or possession listed in 111.2a, when distribution is to be made to each stop or possible delivery on city carrier routes or to each post office boxholder at a post office which has city carrier service.

b. If the addressee's name and address are omitted, as provided by 122.412a, one of the following forms of address must be used:

(1) Postal Customer.

(2) Residential Customer (delivery desired at residential addresses only).

(3) Business Customer (delivery desired at business addresses only).

c. Mailpieces must be prepared as prescribed by 122.413, 624.8 (if applicable), and 640.

d. At least 10 days before the date of mailing, the mailer must furnish a sample mailpiece and the following information to the postmaster of the entry post office:

(1) Proposed date of mailing.

(2) Total number of pieces being mailed.

(3) Method of postage payment.

(4) Names of all city delivery post offices that will receive part of the mailing and the number of pieces for each office.

e. The postmaster gives the mailer a mailing schedule that the mailer must follow.

122.413 Preparation Requirements

a. Add to the end of the section: "Walk-sequence rate pieces must be prepared to meet the applicable requirements of 424.7 or 624.8."

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122.42 Occupant Address Format

122.421 Style of Address. **Text of existing 122.42.**

122.422 Prohibited Use. Copies of a second-class publication bearing an occupant form of address cannot be counted as subscriber or requester copies to meet the circulation requirements in 423.121 or 423.421.

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122.6 ZIP Code System

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122.63 Assignment of ZIP Codes. In Exhibit 122.63m, change the title to read "Three-Digit Labeling List for Automated Site Mailings" and delete the opening paragraph. In Exhibit 122.63n, change the title to read "Sectional Center Facility (SCF) Labeling List for Automated Site Mailings" and delete the opening paragraph. In Exhibit 122.63o, change the title to read "Automated Area Distribution Center (AADC) Labeling List for Automated Site Mailings" and delete the opening paragraph.

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130 Mail Classification

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136 Mixed Classes of Mail

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136.2 Attachments of Two Different Classes

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136.23 Postage

136.231 Computation and Payment. Postage for the host second-, third-, or fourth-class mailpiece must be paid as provided by 460, 660, or 780, respectively. Except for incidental First-Class attachments as described in 136.4, First- or third-class attachments must have postage affixed at the appropriate rate.

136.232 Discounts and Reduced Rates

a. Presort. If a host piece qualifies for a presort discount, a First- or third-class attachment is eligible for the comparable First- or third-class presort rate. For example, if a host second-class mailpiece qualifies for the level C1 (carrier route) rate, a third-class attachment would qualify for the third-class carrier route presort rate. The attachment need not meet the volume requirements that would apply if it were mailed separately.

b. Automation. If a host piece qualifies for an automated rate, a First- or third-class attachment is eligible for the comparable First- or third-class rate. For example, if a host second-class mailpiece is eligible for a rate that includes a ZIP+4 discount, a third-class attachment would qualify for the corresponding third-class rate that includes a similar discount. The attachment need not meet the volume requirements that would apply if it were mailed separately. An automated rate may not be claimed for an attachment unless a similar automated rate is claimed for the host piece. If the attachment renders the host piece incompatible with automation requirements, neither the host piece nor the attachment is eligible for an automation rate.

c. Walk-Sequence. If a host piece qualifies for a walk-sequence rate, a First- or third-class attachment is eligible for the comparable First- or third-class rate provided every host piece for which the walk-sequence rate is claimed has a third-class attachment. The attachment need not meet the volume requirements that would apply if it were mailed separately. A walk-sequence rate cannot be claimed for an attachment unless a similar rate is claimed for the host piece.

d. Destination Entry. If a host piece qualifies for the delivery office zone rates, a third-class attachment is eligible for the destination delivery unit reduction. If a host piece qualifies for the SCF zone rates, a third-class attachment can qualify for the destination SCF third-class rate only if the host piece and attachment are deposited and accepted at the SCF facility serving the delivery address of the mailpiece. The attachment need not meet the volume requirements that would apply if it were mailed separately. A rate including a destination entry discount cannot be claimed for an attachment unless a similar rate is available and claimed for the host piece.

136.234 Mailing Statements. Separate mailing statements using the appropriate Postal Service forms must be prepared for the host piece and the attachment. The statement for the attachment must be annotated to indicate it is for postage for a First- or third-class attachment. The statement for the attachment must be submitted with the statement for the host piece at the time of mailing.

136.234 Fee. The annual bulk mailing fee (see 612.1) must be paid for the current 12-month period at each office where postage for a third-class attachment is paid at any bulk third-class rate.

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136.3 Mailing Enclosures of Different Classes

136.31 With Second-Class Publications

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136.313 Computation of Postage

a. General Rule. The appropriate First- or third-class rate, based on the comparable second-class rate applicable to the addressed piece containing the enclosure, must be paid for the enclosed material.

b. Presort. If a host piece qualifies for a presort discount, a First- or third-class enclosure is eligible for the comparable First- or third-class presort rate. For example, if a host second-class mailpiece qualifies for the level C1 (carrier route) rate, a third-class enclosure would qualify for the third-class carrier route presort rate. The enclosure need not meet the volume

requirements that would otherwise apply if it were mailed separately.

c. Automation. If a host piece qualifies for an automated rate, a First- or third-class enclosure is eligible for the comparable First- or third-class rate. For example, if a host second-class mailpiece is eligible for a rate that includes a ZIP+4 discount, a third-class enclosure would qualify for the corresponding third-class rate that includes a similar discount. The enclosure need not meet the volume requirements that would apply if it were mailed separately. An automated rate may not be claimed for an enclosure unless a similar automated rate is claimed for the host piece. If the enclosure renders the host piece incompatible with automation requirements, neither the host piece nor the enclosure is eligible for an automation rate.

d. Walk-Sequence. If a host piece qualifies for a walk-sequence rate, a First- or third-class enclosure is eligible for the comparable First- or third-class rate provided every host piece for which the walk-sequence rate is claimed has a third-class enclosure. The enclosure need not meet the volume requirements that would apply if it were mailed separately. A walk-sequence rate cannot be claimed for an enclosure unless a similar rate is claimed for the host piece.

e. Destination Entry. If a host piece qualifies for the delivery office zone rates, a third-class enclosure is eligible for the destination delivery unit reduction. If a host piece qualifies for the SCF zone rates, a third-class enclosure can qualify for the destination SCF third-class rate only if the host piece and enclosure are deposited and accepted at the SCF facility serving the delivery address of the mailpiece. The enclosure need not meet the volume requirements that would apply if it were mailed separately. A rate including a destination entry discount cannot be claimed for an enclosure unless a similar rate is available and claimed for the host piece.

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136.316 Method of Payment -- Enclosed Material

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e. Fee. The annual bulk mailing fee (see 612.1) must be paid for the current 12-month period at each office where postage for a third-class enclosure is paid at any bulk third-class rate.

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136.318 Documentation

a. **Replace "Form 3541 or 3541-A, as appropriate" with "the appropriate mailing statement."**

b. **Replace "claimed on Form 3602-PC" with "reported on the appropriate mailing statement."**

c. **Replace "declared on Form 3602" with "claimed on the appropriate mailing statement." After the Note to 136.318c, add the following as new 136.318d:**

d. Mailing Statements. Separate mailing statements using the appropriate Postal Service forms must be prepared for the host piece and the enclosure. The statement for the enclosure must be annotated to indicate it is for postage for a First- or third-class enclosure. The statement for the enclosure must be submitted with the statement for the host piece at the time of mailing.

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136.32 With Third- and Fourth-Class Parcels

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136.324 Postage

a. Payment. **Text of existing 136.324.**

b. Mailing Statements. When required, separate mailing statements using the appropriate Postal Service forms must be prepared for the host piece and the enclosure. The statement for the enclosure must be annotated to indicate it is for postage for a First- or third-class enclosure. The statement for the enclosure must be submitted with the statement for the host piece at the time of mailing.

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136.7 Express Mail Drop Shipment

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136.73 Rates

136.731 Class of Mail Enclosed

a. General Rule. **Text of existing 136.731.**

b. Discounted Rates. A reduced rate (based on presort, automation compatibility, walk-sequencing, or destination entry) may be claimed if the applicable requirements (including volume, preparation, and documentation) are met. See 136.751a, 136.753, and the specific sections of Chapters 3, 4, 5, 6, and 7 that apply to the discounted rate claimed.

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136.75 Preparation Requirements

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136.753 Additional Preparation Requirements for Enclosed Classes of Mail

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c. **Add to the end of the section, after the EXAMPLE:**

Note: For purposes of this section, pieces paid at different level A rates need not be separated from each other within the group of sacks containing pieces eligible for level A. Similarly, pieces paid at different level B3 or B5 rates need not be separated from each other within the group of sacks containing pieces eligible for level B, and pieces paid at level C1, C2, and C3 rates need not be separated within the group of sacks containing pieces eligible for level C. Any additional documentation required by 424 must be submitted with the corresponding mail.

d. Identical-Weight, Third-Class 3/5 Presort Rate Mailings That Include Basic Presort Rate Pieces. **Replace "5-digit presort level rate" and "5-digit rate" with "3/5 presort rate." Replace "basic third-class bulk rate" with "basic presort rate."**

e. Fourth-Class Parcel Post and Bound Printed Matter. **Add to the end of the section: "The DBMC entry rate may be claimed subject to the provisions of 722.4."**

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136.8 Combined Mailings of Special Fourth-Class and Bound Printed Matter

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136.83 Postage

a. Payment. **Text of existing 136.83.**

b. Mailing Statements. When required, separate mailing statements using the appropriate Postal Service forms must be prepared for the special fourth-class portion and the bound printed matter portion of the combined mailing. Both statements must be annotated to indicate they are for postage on part of a combined mailing, and must be submitted together at the time of mailing.

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136.9 Priority Mail Drop Shipment

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136.93 Rates

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136.932 Enclosed Mail

a. General Rule. **Text of existing 136.932.**

b. Discounted Rates. A reduced rate (based on presort, automation compatibility, walk-sequencing, or destination entry) may be claimed if the applicable requirements (including volume, preparation, and documentation) are met. See 136.951b, 136.953, and the specific sections of Chapters 3, 4, 5, 6, and 7 that apply to the discounted rate claimed.

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136.95 Preparation Requirements

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136.953 Additional Preparation Requirements for Enclosed Classes of Mail

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b. **Add to the end of the section, after the EXAMPLE:**

Note: For purposes of this section, pieces paid at different level A rates need not be separated from each other within the group of sacks containing pieces eligible for level A. Similarly, pieces paid at different level B3 or B5 rates need not be separated from each other within the group of sacks containing pieces eligible for level B, and pieces paid at level C1, C2, and C3 rates need not be separated within the group of sacks containing pieces eligible for level C. Any additional documentation required by 424 must be submitted with the corresponding mail.

c. Identical-Weight, Third-Class 3/5 Presort Rate Mailings That Include Basic Presort Rate Pieces. **Replace "5-digit presort level rate" and "5-digit rate" with "3/5 presort rate." Replace "basic third-class bulk rate" with "basic presort rate."**

d. Fourth-Class Parcel Post and Bound Printed Matter. **Add to the end of the section: "The DBMC entry rate may be claimed subject to the provisions of 722.4."**

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137 Official Mail

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137.2 Penalty Mail -- Executive and Judicial Officers

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137.26 Services, Classes, Rates, and Preparation Requirements

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137.263 Mail Preparation

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b. Bulk Rate Mailings

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(3) Rate Eligibility and Presort. **Replace the first sentence with the following: "Mailings at any presort, bulk, or discounted First-, second-, third-, or fourth-class rate must meet the same eligibility and preparation requirements as mailings of other mailers. See 320, 360, 420, 440, 560, 620, 640, 720, and 760."**

(4) Mailing Statements. The appropriate Postal Service mailing statement must be submitted with every mailing. A duplicate is required if a receipt is desired for a permit imprint mailing. Form 3606 is required if a receipt is desired for an identical-weight postage-affixed mailing. Mailings will be refused if they are not submitted with the necessary completed Postal Service mailing statements.

Note: GPO Form 712 (available from the Government Printing Office) is not a Postal Service mailing statement.

(5) Rate Documentation. Agencies or their contractors, just as other mailers, must provide any documentation required by regulation for the rate claimed for a mailing. See 320, 360, 420, 440, 560, 620, 640, 720, and 760.

(6) Acceptance. **In the second sentence, replace the number "10" with "5."**

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c. Special Procedures for Nonpresorted ZIP+4 Mail.

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(3) **Replace "Form 3602" with "Form 3602-R."**

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137.27 Penalty Indicia Format

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137.274 Penalty Permit Imprint Mail

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c. Mailings

(1) General. **Replace the second and third sentences, as follows: "The appropriate Postal Service mailing statement must be submitted with every mailing. (A duplicate is required if a receipt is desired.) Mailings will be refused if they are not submitted with the necessary completed Postal Service mailing statements." At the end of the fourth sentence, replace "in the upper right corner of the accompanying Forms 3602 or 3605" with "on the accompanying mailing statement." Add to the end of the section:**

Note: GPO Form 712 (available from the Government Printing Office) is not a Postal Service mailing statement.

(2) Exception for GPO Contractor Mailings. * * * * **Replace the Note at the end of the section, as follows: "In addition to Form 3602-G or GPO Form 712, GPO contractors must also submit the applicable Postal Service mailing statement."**

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137.276 Penalty Reply Mail

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h. Penalty Merchandise Return

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(8) Payment of Postage and Fees

(a) **Replace "$60" with "$75."**

(b) **Replace "$0.20" with "$0.25."**

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137.28 Contractors

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137.283 Mailing Statements. The appropriate Postal Service mailing statement must be submitted with every mailing. A duplicate is required if a receipt is desired for a permit imprint mailing. Form 3606 is required if a receipt is desired for an identical-weight postage-affixed mailing. Mailings will be refused if they are not submitted with the necessary completed Postal Service mailing statements. (A mailing statement must accompany all permit imprint mailings, all First-Class mailings other than at the single-piece rates, all second-class mailings, all third-class mailings at other than the single-piece rates, and all bulk or presorted fourth-class mailings.)

Note: GPO Form 712 (available from the Government Printing Office) is not a Postal Service mailing statement.

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140 Postage

141 Stamped Envelopes, Postal Cards, Aerogrammes

141.1 Plain Stamped Envelopes

141.11 Envelopes Available at Post Offices

Kind	Size	Denomination	Quantity and Price: Each (less than 500)	500	1,000
Regular	6-3/4	$0.29	$0.34	$152.40	$304.80
	10[1]	0.29	0.34	156.00	312.00
Single Window	6-3/4	$0.29	$0.34	$153.00	$306.00
	10[1]	0.29	0.34	157.00	314.00
Double Window	10[1]	$0.29	$0.34	$158.50	$317.00
Special Regular[2]	6-3/4	$0.29	$0.34	$154.00	$308.00
	10[1]	0.29	0.34	157.00	314.00
Nonprofit Regular	6-3/4	$0.111		$62.90	$125.80
	10[1]	0.111		66.50	133.00
Nonprofit Sngl.Wndw.	6-3/4	$0.111		$63.50	$127.00
	10[1]	0.111		67.50	135.00

[1] Applies to all intermediate sizes through 10.
[2] Envelopes with a multicolor indicia such as a "Love" stamp or a hologram.

141.12 Sales at Post Offices. Only sizes 6-3/4 and 10 regular and window envelopes are sold in less than full box lots. Boxes contain 500 envelopes.

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141.14 Window Envelopes. Delete existing section 141.141; renumber existing section 141.142 and 141.143 as new 141.141 and 141.142, respectively.

141.15 Envelope Sales at Philatelic Centers. In the first and third sentences, delete "window and;" in the second sentence, delete "window or."

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141.2 Printed Stamped Envelopes (Special Request)

141.21 Printed Stamped Envelopes Available by Mail Order

Kind	Size	Denomination	Quantity and Price: Each (less than 500)	500	1,000
Regular	6-3/4	$0.29	$17.20	$156.40	$312.80
	10[1]	0.29	17.40	160.00	320.00
Single Window	6-3/4	$0.29	$17.30	$157.00	$314.00
	10[1]	0.29	17.50	161.00	322.00
Special Regular[2]	6-3/4	$0.29	$17.20	$158.00	$316.00
	10[1]	0.29	17.40	161.00	322.00
Nonprofit Regular	6-3/4	$0.111		$66.90	$133.80
	10[1]	0.111		70.50	141.00
Nonprofit Sngl.Wndw.	6-3/4	$0.111		$67.50	$135.00
	10[1]	0.111		71.50	143.00

[1] Applies to all intermediate sizes through 10.
[2] Envelopes with a multicolor indicia such as a "Love" stamp or a hologram.

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141.3 Postal Cards Available

Denomination	Description
$0.19	Domestic regular or commemorative, cut single card
$0.19	Domestic regular, sheet of 40 (see note below)
$0.38	Domestic regular, double reply-paid card
$0.40	International airmail, cut single card

Note: Change "$6" to "$7.60."

141.4 Aerogrammes. Change "$0.39" to "$0.45."

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142 Adhesive Stamps

142.1 Availability and Use

142.11 Types. See Exhibit 142.11.

Purpose	Form	Denominations
Regular Postage	Single or Sheet (panes of 100)	$0.01, .02, .03, .04, .05, .06, .07, .08, .09, .10, .15, .19, .20, .22, .23, .25, .28, .29, .30, .35, .40, .45, .50, .52, .65, .75
	Panes of 20	$1, $2, $2.90, $5, $9.95
	10- or 20-Stamp Booklets	$0.19 ($3.80 booklets), $0.29 ($2.90 or $5.80 booklets)
	Coils of 100	$0.19, .25, .29 (Dispensers and stamp affixers for use with these coils also available.)
	Coils of 500	$0.01, .02, .03, .04, .05, .10, .15, .19, .20, .23, .25, .29, $1
	Coils of 3,000	$0.01, .02, .03, .04, .05, .10, .15, .19, .20, .23, .25, .29
	Coils of 10,000	$0.29
Precanceled Postage	Coils of 500, 3,000, and 10,000	Various denominations available only to permit holders (see 143).
Commemorative	Panes of up to 50	$0.29 or other denominations, including airmail, as announced.
	20-Stamp Booklets	$0.29 ($5.80 booklets)
Airmail	Panes of 50	$0.40, .50 (For international airmail use.)

Exhibit 142.11

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144 Postage Meters and Meter Stamps

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144.3 Setting Meters

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144.35 On-Site Meter Setting or Examination Program

144.351 General

a. This program allows Postal Service employees to set and examine postage meters at a customer's place of business within the area covered by the licensing post office.

b. **In the second sentence, insert "or examined" after "will be set."**

c. Fees for on-site meter setting or examination are:

	First Meter	Each Additional Meter	Each meter checked in or out of service
Scheduled basis	$25.00	$2.75	$6.50
Unscheduled basis	28.00	2.75	6.50

d. The fees in 144.351c apply to meters set or examined at a customer's place of business or at a meter company's offices.

e. **Replace "$5" with "$6.50."**

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144.354 Setting or Examining Meters at Customer's Place of Business

a. **In the fourth sentence, replace "meter fees" with "meter-setting or examination fees."**

b. **In the first sentence, replace "meter-setting fees" with "meter-setting or examination fees."**

c. **In each sentence, replace "meter-setting fees" with "meter-setting or examination fees."**

144.355 Setting or Examining Meters at Company Branch Offices

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d. Payment

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(2) Payment for meter-setting or examination fees must be by check or through an advance deposit account.

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(3) The Postal Service will collect meter-setting or examination fees through an advance deposit account as follows:

(a) The Postal Service employee will record each meter set, examined, or checked out of service on the meter-setting log sheet, compute the applicable fees, and sign the log. The meter manufacturer's representative will also sign the log.

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144.356 Reporting Revenue and Fees

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b. * * * * * *

(1) **Replace "meter-setting fees" with "meter-setting or examination fees."**

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(6) **Replace "Meter Setting Fees" with "Meter-Setting or Examination Fees."**

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c. The accounting unit will do the following:

(1) **Replace "meter-setting charges" with "meter-setting or examination fees."**

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145 Permit Imprints

145.1 General

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145.12 Application. Replace "$60" with "$75."

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145.5 Mailings with Permit Imprints

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145.53 Preparation of Mailing. Replace the third sentence, as follows: Within each class of mail, each group of pieces prepared as a separate mailing must be presented with a completed mailing statement (see 145.55).

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145.55 Mailing Statement. The mailing statement applicable to the class of mail (see 380, 460, 660, or 780) must be completed in ink, typewriter, or computer printer to provide all the information required on the form. The statement must be signed by the mailer and presented with the corresponding mailing. If a receipt is desired for a mailing paid by permit imprint, the mailer must submit the required mailing statement in duplicate. If approved by the entry office postmaster, a computerized facsimile of the applicable Postal Service mailing statement may be submitted provided it is in the same format and includes all information required by the Postal Service mailing statement, although portions may be omitted if they solely concern rates not being claimed for the mailing.

145.56 Prepayment of Postage Required. Replace the last sentence with the following: Compute postage as required by 380, 460, 660, or 780, as appropriate to the class of mail.

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145.7 Manifest Mailing System (MMS)

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145.72 General Qualification Requirements

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145.723 Computerized Manifest. * * * * *

a. **In the second sentence, delete "(Form 3602)."**

b. **In the third sentence, delete "(Form 3602 or 3605)."**

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145.728 Mailing Statement. The mailer must submit a complete and accurate mailing statement with each mailing (see 145.55). If approved by the entry office postmaster, a computerized facsimile of the applicable Postal Service mailing statement may be submitted provided it is in the same format and includes all information required by the Postal Service mailing statement, although portions may be omitted if they solely concern rates not being claimed for the mailing.

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145.74 Markings

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145.742 Letter-Size Mail.

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c. Rate Category Abbreviations. The only acceptable rate category abbreviations for letter-size mail keyline data are the following:

(1) First-Class Mail:

(a) ZB - 5-DIGIT ZIP+4 BARCODED
(b) TB - 3-DIGIT ZIP+4 BARCODED
(c) NB - NONPRESORTED ZIP+4 BARCODED
(d) ZP - ZIP+4 PRESORT
(e) ZN - NONPRESORTED ZIP+4
(f) FP - PRESORTED FIRST-CLASS
(g) CP - CARRIER ROUTE PRESORT
(h) FN - NONPRESORTED FIRST-CLASS

(2) BULK THIRD-CLASS MAIL (Regular and Special Rates):

(a) ZB - 5-DIGIT ZIP+4 BARCODED
(b) TB - 3-DIGIT ZIP+4 BARCODED
(c) BB - BASIC ZIP+4 BARCODED
(d) ZP - 3/5 ZIP+4
(e) ZN - BASIC ZIP+4
(f) CP - CARRIER ROUTE
(g) FD - 3/5 PRESORT
(h) BA - BASIC PRESORT
(i) DB - DESTINATION BMC
(j) DS - DESTINATION SCF
(k) DD - DESTINATION DELIVERY UNIT
(l) ST - SATURATION WALK-SEQUENCE

Note: All mailpieces that qualify for more than one rate of postage must indicate each rate category abbreviation, separated by a "/" (slash) in the keyline. For example, a mailpiece that qualifies for the 3/5 ZIP + 4 rate of postage and is entered at the destination SCF will have a keyline that includes both the "ZP" and "DS" rate abbreviations separated by a slash (e.g., ZP/DS).

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145.75 Authorization Procedures

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145.752 Service Agreement and Support Documentation.

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c. Sample mailing statement.

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149 Indemnity Claims

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149.2 General Instructions for Filing Claims on Insured, COD, and Registered Mail

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149.23 Copies of Delivery Records. Change "$5" to "$6."

149.24 Required Information

149.241 Evidence of Insurance, COD, or Registration. **In the note, replace "$50" with "$100."**

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149.3 Insured and COD Claims

149.31 How to File

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149.312 Evidence of Loss or Damage

a. Complete Loss Claims Filed by the Mailer.

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(2) **Change "$5" to "$6."**

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149.4 Registered Mail Claims

149.41 Claim Filing Instructions

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149.412 Evidence of Loss or Damage

a. Claims for Complete Loss Filed by the Mailer.

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(2) **Change "$5" to "$6."**

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150 Collection and Delivery

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154 Plant Load Operations

154.1 Definitions

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154.12 Mailer's Plant and Mailings

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154.122 Plant Load Mailings. **Replace "a single Form 3541, 3541-A, 3602, 3602-G, 3602-PC, or 3605, mailing statement, is" with "a single mailing statement is."**

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154.17 Expedited Plant Load Shipment. Under an expedited plant load shipment authorization, the Postal Service verifies the mail for presort and postage at the mailer's plant, and postage is paid at the post office where the mailer is authorized plant load. The mailer then transports the expedited plant load shipment at the mailer's expense to destination postal facilities where the shipment is deposited and accepted into the mailstream. Only plant load mailers who have been authorized to do so may transport expedited plant load shipments at their own expense under the conditions specified in 154.732-154.737.

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154.4 Verification and Collection of Postage

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154.42 Verification of Intraservice Area Plant Loads

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154.423 Verification at Postal Facility.

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e. **Replace the first sentence, as follows:** If a mailing statement must be completed, the original must accompany the corresponding mailing in the vehicle.

f. **Replace the first sentence, as follows:** If an alternative method of paying postage using permit imprint (e.g., manifesting) is used, an original of the appropriate mailing statement and a manifest must accompany each vehicle if there is only one mailing in the vehicle or one manifest for each mailing segment in the vehicle.

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154.7 Transportation

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154.72 Mailer Transportation. In the second sentence, replace "a Plant-Verified Drop Shipment" with "an Expedited Plant Load Shipment" and, in the note, replace "a plant-verified drop shipment" with "an expedited plant load shipment."

154.73 Expedited Plant Load Shipment

154.731 Definition. Under an expedited plant load shipment authorization, the Postal Service verifies the mail for presort and proper preparation at the mailer's plant, and postage is paid at the post office where the mailer is authorized plant load. The mailer then transports the expedited plant load shipment at the mailer's expense to destination postal facilities where the shipment is deposited and accepted into the mailstream. Only plant load mailers who have been authorized to do so may transport expedited plant load shipments at their own expense under the conditions specified in 154.732-154.737.

154.732 Authorization

a. Request. An authorized plant load mailer may seek authorization to submit expedited plant load shipments by submitting a written request to the field division general manager/postmaster who authorized the plant load. The mailer's request must describe, for each destination to which mail will be transported, the material to be deposited as an expedited plant load shipment (e.g., the class, characteristics, and quantity), the frequency of mailing, and whether the request is for one or for a series of specific mailings. No form is provided for this purpose.

b. Action on Mailer's Request. The field division general manager/postmaster or designee reviews the mailer's request, obtains appropriate advice from the serving TMSC, ensures the availability of sufficient postal resources (e.g., DMU staff) to support the mailer's request, and provides the mailer with a written decision. If the request is approved, the authorization will be for a specific mailing or group of mailings, and for a time period not to exceed 2 years, after which a new request must be submitted. If the request is denied, the denial notice must explain the reasons for that decision. A denial is considered a classification decision and may be appealed as provided by 133.

c. General Conditions. The mailer's request for expedited plant load shipment authorization may be approved when such approval is in the best interest of the Postal Service and the following conditions exist:

(1) the mailer is in compliance with the requirements for a plant load operation;

(2) the mailer has complied with the additional requirements for expedited plant load shipment;

(3) the mailer has obtained the necessary permits, and has established the appropriate postage accounts at the post office administering the plant load (office of mailing);

(4) the mailer has demonstrated the need for authorization because the nature of the mailings to be prepared as expedited plant load shipments requires a level of service or a timeframe for delivery (delivery window) that the normal mode of Postal Service transportation for that class of mail cannot provide or meet.

e. Plant Load Agreement. If the expedited plant load shipment request is approved for more than one-time use, the plant load agreement must be amended by attachment of a completed and signed Form 8026, *Plant-Verified Drop Shipment Agreement--Plant Load Mailings*, and additional attachments to detail the material to be prepared as expedited plant load shipments.

154.733 Verification and Collection of Postage. **In the first sentence, replace "plant-verified drop shipment" with "expedited plant load shipment."**

154.734 Liability. **In the second sentence, replace "a plant-verified drop shipment" with "an expedited plant load shipment."**

154.735 Mailer Responsibilities. **In the first sentence, replace "plant-verified mailings" with "expedited plant load shipments."**

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b. All of the mailpieces in each expedited plant load shipment must destinate within the service area of the postal facility where the shipment is deposited and accepted. For example, if an expedited plant load shipment is deposited at a BMC, all the pieces in the shipment must be for addresses within the service area of that BMC.

c. **Replace "plant-verified mail" with "the expedited plant load shipment."**

d. **Replace "plant-verified mailing or mailing segment" with "expedited plant load shipment;" replace "mailing or mailing segment" with "shipment."**

e. When the vehicle used for expedited plant load shipment will also contain other material carried as freight, the mailer must load all freight in the nose (front) of the vehicle, clearly marked and separated from the expedited plant load shipment, and must ensure that the method of separation prevents the freight and expedited plant load shipment from becoming mixed in transit.

f. When the vehicle is loaded to make multiple stops, the mailer must ensure that only the appropriate shipment is removed at each stop, that no other material (mail or freight) is added, and that any remaining shipments are kept separate from any other freight remaining on the vehicle.

g. The mailer must present the required mailing statements and documentation to the DMU for each mailing. At destination, the mailer must provide the necessary documentation (provided by the Postal Service) to prove the required postage was paid for the expedited plant load shipment.

h. The mailer must meet the requirements that apply to any presort or automation-based rates claimed on the mailing being prepared as an expedited plant load shipment. Expedited plant load shipments are not eligible for destination entry rates.

154.736 Detached Mail Unit (DMU) Responsibilities. **In the first sentence, replace "plant-verified mailings" with "expedited plant load shipments."**

a. Prior to Dispatch. **In the first sentence, replace "plant-verified mail" with "an expedited plant load shipment."**

(1) **Replace "plant-verified mail" with "an expedited plant load shipment."**

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(4) Ensure that any material carried as freight on the same vehicle as an expedited plant load shipment is confined to the nose (front) of the vehicle, is separated by a clearly marked separation, and is loaded to avoid becoming mixed with the expedited plant load shipment in transit.

(5) **Text of existing 154.736a(4).**

b. After Dispatch. **Replace "plant-verified mail" with "an expedited plant load shipment."**

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(2) Follow up with any post office where an expedited plant load shipment was deposited but from which no Form 3607-C or Form 8017 was returned.

154.737 Destination Postal Facility Responsibilities

a. **Text of existing 154.737; in the first sentence, replace "plant-verified drop shipment" with "expedited plant load shipment."**

b. Each destination postal facility receiving expedited plant load shipments must determine whether the mailer's vehicle has other expedited plant load shipments on board for deposit at other postal facilities. If more shipments are found, the vehicle must be sealed by postal personnel prior to departure. If the vehicle is empty or found to contain only freight, no postal seal will be applied.

c. **Text of the existing "note" to 154.737; replace "plant-verified mail" with "an expedited plant load shipment."**

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159 Undeliverable Mail

159.1 Mail Undeliverable as Addressed

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159.15 Treatment of Undeliverable-as-Addressed Mail

159.151 **In Exhibits 159.151c-e, replace the first sentence of footnote 1 as follows:** The weighted fee is the appropriate single-piece third-class rate, multiplied by a factor of 2.472, and rounded to the next (higher) whole cent (if the computation yields a fraction of a cent in the result). The weighted fee is computed (and rounded if necessary) for each mailpiece individually. Neither the applicable postage, the factor, nor any necessary rounding is applied cumulatively to multiple pieces.

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CHAPTER 2 - EXPRESS MAIL

210 Rates and Fees

211 General Rate Information

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211.4 In the first sentence, replace "$4" with "$4.50."

212 Express Mail Same Day Airport Service Rates.
See Exhibit 210.

213 Express Mail Custom Designed Service Rates.
The rates for Express Mail Custom Designed Service (see Exhibit 210) are subject to the following additional fees:

a. $4.50 for each delivery stop for items tendered for delivery to addressee.

b. $4.50 per occurrence for each pickup stop, regardless of the number of Express Mail pieces picked up.

214 Express Mail Next Day and Second Day Services Rates.
The rates for Express Mail Next Day and Second Day Services (see Exhibit 210) are subject to an additional fee of $4.50 per occurrence for each pickup stop, regardless of the number of Express Mail pieces picked up.

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216 Flat Rate Envelope.
Any amount of material that can be mailed in the special flat rate envelope available from the Postal Service is subject to the rate of postage that applies to a 2-pound piece at the level of service requested by the customer (see Exhibit 210), regardless of the weight of the material placed in the flat rate envelope.

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220 Classification

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227 Express Mail Reshipment

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***b.* Replace "$4" with "$4.50."**

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280 Payment of Postage

281 Express Mail

281.1 General. Mailers of Express Mail items may pay postage by adhesive stamps, meter stamps, or through the use of an Express Mail corporate account (see 282). The mailer is responsible for proper payment of postage. See 111.32.

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Exhibit 210
Express Mail Rates

Weight Not Over (Pounds)	Service			
	Same Day Airport Service	Custom Designed	Next Day & Second Day PO to PO	Next Day & Second Day PO to Addressee
1/2	8.35	8.75	9.50	9.95
1	9.70	12.95	11.15	13.95
2	9.70	12.95	11.15	13.95
3	11.05	14.95	13.15	15.95
4	12.10	16.95	15.15	17.95
5	13.10	18.95	17.15	19.95
6	14.15	22.50	20.70	23.50
7	15.20	23.50	21.70	24.50
8	16.25	24.55	22.75	25.55
9	17.30	25.55	23.75	26.55
10	18.30	26.60	24.80	27.60
11	19.35	27.60	25.80	28.60
12	20.40	28.65	26.85	29.65
13	21.45	29.65	27.85	30.65
14	22.50	30.70	28.90	31.70
15	23.50	31.70	29.90	32.70
16	24.55	32.75	30.95	33.75
17	25.60	33.80	32.00	34.80
18	26.65	34.80	33.00	35.80
19	27.70	35.85	34.05	36.85
20	28.70	36.85	35.05	37.85
21	29.75	37.90	36.10	38.90
22	30.80	38.90	37.10	39.90
23	31.85	39.95	38.15	40.95
24	32.90	40.95	39.15	41.95
25	33.90	42.00	40.20	43.00
26	34.95	43.00	41.20	44.00
27	35.90	44.05	42.25	45.05
28	36.75	45.05	43.25	46.05
29	37.65	46.10	44.30	47.10
30	38.50	47.15	45.35	48.15
31	39.35	48.15	46.35	49.15
32	40.25	49.20	47.40	50.20
33	41.10	50.20	48.40	51.20
34	41.95	51.25	49.45	52.25
35	42.85	52.25	50.45	53.25

Weight Not Over (Pounds)	Service			
	Same Day Airport Service	Custom Designed	Next Day & Second Day PO to PO	Next Day & Second Day PO to Addressee
36	43.70	53.30	51.50	54.30
37	44.55	54.30	52.50	55.30
38	45.45	55.35	53.55	56.35
39	46.30	56.35	54.55	57.35
40	47.15	57.40	55.60	58.40
41	48.05	58.40	56.60	59.40
42	48.90	59.45	57.65	60.45
43	49.75	60.50	58.70	61.50
44	50.65	61.50	59.70	62.50
45	51.50	62.55	60.75	63.55
46	52.35	63.55	61.75	64.55
47	53.25	64.60	62.80	65.60
48	54.10	65.60	63.80	66.60
49	54.95	66.65	64.85	67.65
50	55.85	67.65	65.85	68.65
51	56.70	68.70	66.90	69.70
52	57.55	69.70	67.90	70.70
53	58.45	70.75	68.95	71.75
54	59.30	71.80	70.00	72.80
55	60.20	72.80	71.00	73.80
56	61.05	73.85	72.05	74.85
57	61.90	74.85	73.05	75.85
58	62.80	75.90	74.10	76.90
59	63.65	77.00	75.20	78.00
60	64.50	78.20	76.40	79.20
61	65.40	79.50	77.70	80.50
62	66.25	80.70	78.90	81.70
63	67.10	81.90	80.10	82.90
64	68.00	83.20	81.40	84.20
65	68.85	84.40	82.60	85.40
66	69.70	85.70	83.90	86.70
67	70.60	86.90	85.10	87.90
68	71.45	88.20	86.40	89.20
69	72.30	89.40	87.60	90.40
70	73.20	90.60	88.80	91.60

NOTE: Additional fees or discounts may apply; see 211.

290 Ancillary Services

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292 Address Correction and Directory Services

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292.2 Address-Change Service (ACS)

a. ACS is designed to centralize, automate, and improve the processing of address-correction requests for mailers. The ACS process involves the transmission of change-of-address information to a central point where the changes are consolidated onto a magnetic tape filed by unique identifier. These records are sequentially organized by USPS assigned codes and distributed to each participating mailer. Label formats are found in 441.232.

b. ACS is available to mailers who maintain their address records on computers. For further information, write to:

ADDRESS CHANGE SERVICE
ADDRESS INFORMATION CENTER
US POSTAL SERVICE
6060 PRIMACY PARKWAY SUITE 101
MEMPHIS TN 38188-0002

292.3 Text of existing 292.2.

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CHAPTER 3 - FIRST-CLASS MAIL

310 Rates and Fees

311 Single-Piece Rates

311.1 Card Rates (for Postal Cards and Postcards)

311.11 Eligibility

311.111 Definitions

a. Postal Cards. Postal cards are cards sold by the Postal Service with a postage stamp printed or impressed on it.

b. Postcards. Postcards are cards sold commercially and require the addition of postage.

311.112 Size Limits. To be eligible for the card rates, each postcard and each half of a double post card must measure no more than 4-1/4 inches high, 6 inches long, or .0095 inch thick. Cards that exceed these dimensions must be paid at the rates for matter other than cards (see 311.2).

311.12 Rate Application. The single-piece card rates in 311.13 apply to each postcard or double post card that meets the requirements in 311.11 and 322. The reply part of a double postcard does not have to bear postage when originally mailed; when returned, it must bear the correct postage at the applicable rate.

311.13 Rates

Single	$ 0.19 each
Double	0.38 ($ 0.19 each part; see 311.12)

311.2 Rates for Matter Other Than Cards

311.21 Rate Application. The single-piece rates in 311.22 for matter other than cards apply to each piece weighing 11 ounces or less according to its weight. See 314 for the rates that apply to heavier pieces.

311.22 Regular Rates

First ounce or fraction of an ounce	$0.29
Each additional ounce or fraction of an ounce	0.23

Weight Not Exceeding Ounces	Rate
1	$0.29
2	0.52
3	0.75
4	0.98
5	1.21
6	1.44
7	1.67
8	1.90
9	2.13
10	2.36
11	2.59

312 Nonpresorted Bulk Rates

312.1 Nonpresorted ZIP+4 Rate

312.11 Card Rate

312.111 Rate Application. The nonpresorted ZIP+4 rate in 312.112 applies to cards meeting the requirements of 311.11, 322, and 327.

312.112 Rate The nonpresorted ZIP+4 rate for cards is $0.18 each.

312.12 Rate for Matter Other than Cards

312.121 Rate Application. The nonpresorted ZIP+4 rates in 312.122 for matter other than cards apply to mailings prepared as required by 327.

312.122 Rates

First ounce or fraction of an ounce	$0.276
Each additional ounce or fraction of an ounce	0.230

Weight Not Exceeding Ounces	Rate
1	$0.276
2	0.506
3	0.736

312.2 Nonpresorted ZIP+4 Barcoded Rate

312.21 Card Rate

312.211 Rate Application. The nonpresorted ZIP+4 Barcoded rate in 312.212 applies to cards meeting the requirements of 311.11, 322, and 328.

312.212 Rate. The nonpresorted ZIP+4 Barcoded rate for cards is $0.177 each.

312.22 Rate for Matter Other than Cards. None.

313 Presorted Bulk First-Class Rates

313.1 General

313.11 Cards. To be mailed at the presorted First-Class rates in 313, each postal card or postcard must meet the requirements of 311.11 and 322 in addition to the requirements that apply to the particular rate.

313.12 Fee. The annual presort fee prescribed by 315.4 and 341 must be paid in order to mail at any of the presorted First-Class rates in 313.

313.2 Presorted First-Class Rates

313.21 Rate Application. The Presorted First-Class rates in 313.22 apply to mailings prepared as required by 323.1, 361.4, 362.2, 367.1, 367.5, and 382.

313.22 Rates

313.221 Cards. The Presorted First-Class rate for cards is $0.17 each.

313.222 Matter Other than Cards

First ounce or fraction of an ounce (For pieces weighing not more than 2 ounces)	$0.248
(For pieces weighing more than 2 ounces)	0.206
Each additional ounce or fraction of an ounce	0.230

Weight Not Exceeding Ounces	Rate
1	$ 0.248
2	0.478
3	0.666
4	0.896
5	1.126
6	1.356
7	1.586
8	1.816
9	2.046
10	2.276
11	2.506

313.3 Carrier Route Rates

313.31 Rate Application. The carrier route rates in 313.32 apply to mailings prepared as required by 323.2, 361.4, 362.3, 367.3 and 367.4, and 382.

313.32 Rates

313.321 Cards. The carrier route First-Class rate for cards is $0.152 each.

313.322 Matter Other than Cards

First ounce or fraction of an ounce (For pieces weighing not more than 2 ounces)	$0.230
(For pieces weighing more than 2 ounces)	0.188
Each additional ounce or fraction of an ounce	0.230

Weight Not Exceeding Ounces	Rate
1	$ 0.230
2	0.460
3	0.648
4	0.878
5	1.108
6	1.338
7	1.568
8	1.798
9	2.028
10	2.258
11	2.488

313.4 (Reserved)

313.5 (Reserved)

313.6 ZIP+4 Presort Rates

313.61 Rate Application. The ZIP+4 Presort rates in 313.62 apply to pieces prepared as required by 324, 361.5, 362.5, 365 or 366, 368.2, and 382.

313.62 Rates

313.621 Cards. The ZIP+4 Presort rate for cards is $0.164 each.

313.622 Matter Other than Cards

First ounce or fraction of an ounce	
(For pieces weighing not more than 2 ounces)	$0.242
(For pieces weighing more than 2 ounces)	0.200
Each additional ounce or fraction of an ounce	0.230

Weight Not Exceeding Ounces	Rate
1	$ 0.242
2	0.472
3	0.660

313.7 3-Digit ZIP+4 Barcoded Rates

313.71 Rate Application. The 3-digit ZIP+4 Barcoded rates in 313.72 apply to pieces prepared as required by 325, 361.6, 362.6, 364, and 382.

313.72 Rates

313.721 Cards. The 3-digit ZIP+4 Barcoded rate for cards is $0.161 each.

313.722 Matter Other than Cards

First ounce or fraction of an ounce	
(For pieces weighing not more than 2 ounces)	$0.239
(For pieces weighing more than 2 ounces)	0.197
Each additional ounce or fraction of an ounce	0.230

Weight Not Exceeding Ounces	Rate
1	$0.239
2	0.469
3	0.657

313.8 5-Digit ZIP+4 Barcoded Rates

313.81 Rate Application. The 5-digit ZIP+4 Barcoded rates in 313.82 apply to pieces prepared as required by 325, 361.6, 362.6, 364, and 382.

313.82 Rates

313.821 Cards. The 5-digit ZIP+4 Barcoded rate for cards is $0.155 each.

313.822 Matter Other than Cards

First ounce or fraction of an ounce	
(For pieces weighing not more than 2 ounces)	$0.233
(For pieces weighing more than 2 ounces)	0.191
Each additional ounce or fraction of an ounce	0.230

Weight Not Exceeding Ounces	Rate
1	$ 0.233
2	0.463
3	0.651

314 Priority Mail

314.1 General

314.11 Eligibility. Pieces of First-Class Mail weighing more than 11 ounces are subject to the Priority Mail rates. Pieces weighing 11 ounces or less may be mailed at the minimum Priority Mail rates. Priority Mail must meet the eligibility requirements in 326.

314.12 Oversize Items. Parcels weighing less than 15 pounds but measuring more than 84 inches in length and girth combined are chargeable with a minimum rate equal to that for a 15-pound parcel for the zone to which addressed.

314.13 Flat Rate Envelope. Any amount of material that can be mailed in the special flat rate envelope available from the Postal Service is subject to the rate of postage that applies to a 2-pound piece at the single-piece Priority Mail rates (see Exhibit 314.1), regardless of the weight of the material placed in the flat rate envelope.

314.2 Single-Piece Priority Mail Rates. The single-piece Priority Mail rates in Exhibit 314.1 apply to pieces meeting the conditions of 326.1.

314.3 Presorted Priority Mail Rates. The presorted Priority Mail rates in Exhibit 314.2 apply to mailings prepared as required by 326.1, 326.4, 383.2, and 383.3. The annual presort fee prescribed by 315.4 and 341 must be paid in order to mail at the Presorted Priority Mail rates in Exhibit 314.2.

315 Fees and Surcharges

315.1 Nonstandard Surcharge

315.11 Application. Each piece of First-Class Mail weighing 1 ounce or less that exceeds the size limits in 353.1 must pay the nonstandard surcharge.

315.12 Pieces Mailed at the Single-Piece Rates. The surcharge for each piece of nonstandard First-Class Mail that is mailed at the single-piece rates in 311 is $0.10.

315.13 Presorted Bulk First-Class Rates. The surcharge for each piece of nonstandard First-Class Mail that is mailed at the Presorted First-Class and carrier route rates is $0.05. Pieces that would be subject to a surcharge under 315.11 are not eligible for any ZIP+4 or ZIP+4 Barcoded rate.

315.2 Address Correction Service Fee

315.21 Manual Correction. The fee for manual address correction service is $0.35 per notice issued.

315.22 Automated Correction. The fee for automated address correction service is $0.20 per notice issued.

315.3 Priority Mail Pickup Service Fee. A fee of $4.50 must be paid by the mailer every time pickup service is provided, regardless of the number of pieces picked up.

315.4 Presort Fee. As required by 341, the $75 presort fee must be paid before mailing at any of the rates described in 313 or 314.

320 Classification

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324 ZIP+4 Presort First-Class Mail

324.1 General

324.11 Definitions

324.111 National Mailing. A national mailing may contain pieces for addresses served by both automated and nonautomated postal facilities.

324.112 Automated Site Mailing. An automated site mailing includes a qualifying portion in which all pieces are destined for addresses in the 3-digit ZIP Code areas served by the automated postal facilities listed in Exhibit 122.63m. Pieces in the residual portion can include those destined for addresses in other 3-digit ZIP Code areas.

324.12 Eligibility

324.121 National Mailings Under 365

a. Qualifying Portion. Pieces that are packaged and trayed as required by 367.1 and 367.2 are eligible for the ZIP+4 Presort rate (if they also meet the requirements of 324.2-324.8) or the Presorted First-Class rate.

b. Residual Portion. Pieces in the residual portion are eligible for the nonpresorted ZIP+4 rate (if they meet the requirements of 324.5-324.7) or the single-piece First-Class rates.

324.122 Automated Site Mailings Under 366

a. Qualifying Portion. Pieces that are trayed to 3-digit destinations as required by 366.2 are eligible for the ZIP+4 Presort rate (if they meet the requirements of 324.2-324.8) or the Presorted First-Class rate.

b. Residual Portion. Pieces in the residual portion (see 366.221) may qualify for the nonpresorted ZIP+4 rate (if they meet the requirements of 324.5-324.7) or the single-piece First-Class rates.

324.2 Volume Requirements

324.21 Minimum Number of Pieces. Each ZIP+4 Presort mailing must contain at least 500 pieces.

324.22 Eighty-Five Percent Requirement. In each ZIP+4 Presort mailing, at least 85% of the total number of pieces (at all rates and presort levels) must bear the correct ZIP+4 code. Remaining pieces must bear the correct 5-digit ZIP Code. A correct ZIP+4 barcode prepared as described in 324.7 will satisfy the requirement for a correct ZIP+4 code, but pieces bearing a ZIP+4 barcode must also bear either the correct numeric 5-digit ZIP Code or the correct numeric ZIP+4 code in the address.

324.3 Size and Weight Requirements

324.31 Cards. To be eligible for the ZIP+4 Presort rates in 313.421, cards must meet the requirements in 311.11 and 322.

324.32 Matter Other than Cards. Each piece in a ZIP+4 Presort mailing must meet the following criteria: **Text of existing 324.3a-d.**

e. its weight must not exceed 2.5 ounces, *except that*, until September 15, 1991, the weight of each mailpiece in a ZIP+4 or ZIP+4 Barcoded rate mailing must not exceed 3 ounces.

Weight not exceeding pounds	Zone/Rate					
	1, 2, & 3	4	5	6	7	8
1	$2.90	$2.90	$2.90	$2.90	$2.90	$2.90
2	2.90	2.90	2.90	2.90	2.90	2.90
3	4.10	4.10	4.10	4.10	4.10	4.10
4	4.65	4.65	4.65	4.65	4.65	4.65
5	5.45	5.45	5.45	5.45	5.45	5.45
6	5.55	5.75	6.10	6.85	7.65	8.60
7	5.70	6.10	6.70	7.55	8.50	9.65
8	5.90	6.50	7.30	8.30	9.40	10.70
9	6.10	7.00	7.95	9.05	10.25	11.75
10	6.35	7.55	8.55	9.80	11.15	12.80
11	6.75	8.05	9.20	10.55	12.05	13.80
12	7.15	8.55	9.80	11.30	12.90	14.85
13	7.50	9.10	10.40	12.05	13.80	15.90
14	7.90	9.60	11.05	12.80	14.65	16.95
15	8.30	10.10	11.65	13.55	15.55	18.00
16	8.70	10.65	12.30	14.30	16.45	19.05
17	9.10	11.15	12.90	15.05	17.30	20.10
18	9.50	11.65	13.55	15.80	18.20	21.10
19	9.90	12.20	14.15	16.50	19.05	22.15
20	10.30	12.70	14.75	17.25	19.95	23.20
21	10.70	13.25	15.40	18.00	20.85	24.25
22	11.10	13.75	16.00	18.75	21.70	25.30
23	11.50	14.25	16.65	19.50	22.60	26.35
24	11.90	14.80	17.25	20.25	23.45	27.40
25	12.30	15.30	17.90	21.00	24.35	28.45
26	12.70	15.80	18.50	21.75	25.25	29.45
27	13.10	16.35	19.10	22.50	26.10	30.50
28	13.50	16.85	19.75	23.25	27.00	31.55
29	13.90	17.35	20.35	24.00	27.85	32.60
30	14.30	17.90	21.00	24.75	28.75	33.65
31	14.70	18.40	21.60	25.50	29.65	34.70
32	15.10	18.95	22.20	26.20	30.50	35.75
33	15.50	19.45	22.85	26.95	31.40	36.75
34	15.90	19.95	23.45	27.70	32.25	37.80
35	16.30	20.50	24.10	28.45	33.15	38.85
36	16.70	21.00	24.70	29.20	34.05	39.90
37	17.10	21.50	25.35	29.95	34.90	40.95
38	17.45	22.05	25.95	30.70	35.80	42.00
39	17.85	22.55	26.55	31.45	36.65	43.05
40	18.25	23.05	27.20	32.20	37.55	44.05
41	18.65	23.60	27.80	32.95	38.45	45.10
42	19.05	24.10	28.45	33.70	39.30	46.15
43	19.45	24.60	29.05	34.45	40.20	47.20
44	19.85	25.15	29.65	35.15	41.05	48.25
45	20.25	25.65	30.30	35.90	41.95	49.30
46	20.65	26.20	30.90	36.65	42.85	50.35
47	21.05	26.70	31.55	37.40	43.70	51.35
48	21.45	27.20	32.15	38.15	44.60	52.40
49	21.85	27.75	32.80	38.90	45.45	53.45
50	22.25	28.25	33.40	39.65	46.35	54.50
51	22.65	28.75	34.00	40.40	47.25	55.55
52	23.05	29.30	34.65	41.15	48.10	56.60
53	23.45	29.80	35.25	41.90	49.00	57.65
54	23.85	30.30	35.90	42.65	49.85	58.65
55	24.25	30.85	36.50	43.40	50.75	59.70
56	24.65	31.35	37.15	44.15	51.65	60.75
57	25.05	31.90	37.75	44.85	52.50	61.80
58	25.45	32.40	38.35	45.60	53.40	62.85
59	25.85	32.90	39.00	46.35	54.25	63.90
60	26.25	33.45	39.60	47.10	55.15	64.95
61	26.65	33.95	40.25	47.85	56.05	65.95
62	27.05	34.45	40.85	48.60	56.90	67.00
63	27.40	35.00	41.45	49.35	57.80	68.05
64	27.80	35.50	42.10	50.10	58.65	69.10
65	28.20	36.00	42.70	50.85	59.55	70.15
66	28.60	36.55	43.35	51.60	60.45	71.20
67	29.00	37.05	43.95	52.35	61.30	72.25
68	29.40	37.55	44.60	53.10	62.20	73.25
69	29.80	38.10	45.20	53.80	63.05	74.30
70	30.20	38.60	45.80	54.55	63.95	75.35

NOTES:
1. The 2-pound rate is charged for matter sent in a 'flat rate' envelope provided by the Postal Service.
2. Add $4.50 for each pickup stop.
3. Pieces presented in mailings of at least 300 pieces and meeting applicable Postal Service regulations for presorted Priority Mail receive a 10-cent per piece discount.
4. **Exception:** Parcels weighing less than 15 pounds but measuring more than 84 inches in length and girth combined are chargeable with a minimum rate equal to that for a 15-pound parcel for the zone to which addressed.

Exhibit 314.1, Single-Piece Priority Mail Rates

*Weight not exceeding pounds	Zone/Rate					
	1, 2, & 3	4	5	6	7	8
1	$2.80	$2.80	$2.80	$2.80	$2.80	$2.80
2	2.80	2.80	2.80	2.80	2.80	2.80
3	4.00	4.00	4.00	4.00	4.00	4.00
4	4.55	4.55	4.55	4.55	4.55	4.55
5	5.35	5.35	5.35	5.35	5.35	5.35
6	5.45	5.65	6.00	6.75	7.55	8.50
7	5.60	6.00	6.60	7.45	8.40	9.55
8	5.80	6.40	7.20	8.20	9.30	10.60
9	6.00	6.90	7.85	8.95	10.15	11.65
10	6.25	7.45	8.45	9.70	11.05	12.70
11	6.65	7.95	9.10	10.45	11.95	13.70
12	7.05	8.45	9.70	11.20	12.80	14.75
13	7.40	9.00	10.30	11.95	13.70	15.80
14	7.80	9.50	10.95	12.70	14.55	16.85
15	8.20	10.00	11.55	13.45	15.45	17.90
16	8.60	10.55	12.20	14.20	16.35	18.95
17	9.00	11.05	12.80	14.95	17.20	20.00
18	9.40	11.55	13.45	15.70	18.10	21.00
19	9.80	12.10	14.05	16.40	18.95	22.05
20	10.20	12.60	14.65	17.15	19.85	23.10
21	10.60	13.15	15.30	17.90	20.75	24.15
22	11.00	13.65	15.90	18.65	21.60	25.20
23	11.40	14.15	16.55	19.40	22.50	26.25
24	11.80	14.70	17.15	20.15	23.35	27.30
25	12.20	15.20	17.80	20.90	24.25	28.35
26	12.60	15.70	18.40	21.65	25.15	29.35
27	13.00	16.25	19.00	22.40	26.00	30.40
28	13.40	16.75	19.65	23.15	26.90	31.45
29	13.80	17.25	20.25	23.90	27.75	32.50
30	14.20	17.80	20.90	24.65	28.65	33.55
31	14.60	18.30	21.50	25.40	29.55	34.60
32	15.00	18.85	22.10	26.10	30.40	35.65
33	15.40	19.35	22.75	26.85	31.30	36.65
34	15.80	19.85	23.35	27.60	32.15	37.70
35	16.20	20.40	24.00	28.35	33.05	38.75
36	16.60	20.90	24.60	29.10	33.95	39.80
37	17.00	21.40	25.25	29.85	34.80	40.85
38	17.35	21.95	25.85	30.60	35.70	41.90
39	17.75	22.45	26.45	31.35	36.55	42.95
40	18.15	22.95	27.10	32.10	37.45	43.95
41	18.55	23.50	27.70	32.85	38.35	45.00
42	18.95	24.00	28.35	33.60	39.20	46.05
43	19.35	24.50	28.95	34.35	40.10	47.10
44	19.75	25.05	29.55	35.05	40.95	48.15
45	20.15	25.55	30.20	35.80	41.85	49.20
46	20.55	26.10	30.80	36.55	42.75	50.25
47	20.95	26.60	31.45	37.30	43.60	51.25
48	21.35	27.10	32.05	38.05	44.50	52.30
49	21.75	27.65	32.70	38.80	45.35	53.35
50	22.15	28.15	33.30	39.55	46.25	54.40
51	22.55	28.65	33.90	40.30	47.15	55.45
52	22.95	29.20	34.55	41.05	48.00	56.50
53	23.35	29.70	35.15	41.80	48.90	57.55
54	23.75	30.20	35.80	42.55	49.75	58.55
55	24.15	30.75	36.40	43.30	50.65	59.60
56	24.55	31.25	37.05	44.05	51.55	60.65
57	24.95	31.80	37.65	44.75	52.40	61.70
58	25.35	32.30	38.25	45.50	53.30	62.75
59	25.75	32.80	38.90	46.25	54.15	63.80
60	26.15	33.35	39.50	47.00	55.05	64.85
61	26.55	33.85	40.15	47.75	55.95	65.85
62	26.95	34.35	40.75	48.50	56.80	66.90
63	27.30	34.90	41.35	49.25	57.70	67.95
64	27.70	35.40	42.00	50.00	58.55	69.00
65	28.10	35.90	42.60	50.75	59.45	70.05
66	28.50	36.45	43.25	51.50	60.35	71.10
67	28.90	36.95	43.85	52.25	61.20	72.15
68	29.30	37.45	44.50	53.00	62.10	73.15
69	29.70	38.00	45.10	53.70	62.95	74.20
70	30.10	38.50	45.70	54.45	63.85	75.25

*Exception: Parcels weighing less than 15 pounds but measuring more than 84 inches in length and girth combined are chargeable with a minimum rate equal to that for a 15-pound parcel for the zone to which addressed.

Exhibit 314.2, Presorted Priority Mail Rates

324.4 Presort. All pieces in a ZIP+4 Presort mailing must be presorted either as required by 365 or, if all pieces in the mailing are destined for the 3-digit areas listed as automated sites in Exhibit 122.63m, by 366. An alternative method of preparation without packages is contained in Chapter 5.

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324.7 Prebarcoded Mail at ZIP+4 Rates

324.71 General Requirements

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b. Pieces Prepared with 5-Digit Barcodes

(1) General. **Revise the first sentence to read: ZIP+4 Presort mailings presorted under 365 or 366 may include pieces prepared with 5-digit barcodes subject to the 85% requirement in 324.2.**

(2) Five-Digit Barcodes Printed Directly on Mailpieces. **Replace "the 85-percent ZIP+4 requirement in 365.22 or 366.11b" with "the 85% requirement in 324.2."**

(3) Five-Digit Barcodes Printed on Inserts. **Replace "the 85-percent ZIP+4 requirement in 365.22 or 366.11b" with "the 85% requirement in 324.2."**

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324.8 Documentation. ZIP+4 Presort mailings must be accompanied by documentation as described in 365, 366, or Chapter 5, as applicable.

325 ZIP+4 Barcoded Mail

325.1 General

325.11 Description

325.111 Definitions

a. National Mailing. A national mailing may contain pieces for addresses served by both automated and nonautomated postal facilities.

b. Automated Site Mailing. An automated site mailing includes a qualifying portion in which all pieces are destined for addresses in the 3-digit ZIP Code areas served by the automated postal facilities listed in Exhibit 122.63m. Pieces in the residual portion can include those destined for addresses in other 3-digit ZIP Code areas.

325.112 Eligibility

a. National Mailings. Pieces in a ZIP+4 Barcoded national mailing that bear the correct and properly prepared ZIP+4 barcode and meet the requirements of 325 qualify for the 5-digit ZIP+4 Barcoded rate, the 3-digit ZIP+4 Barcoded rate, or the nonpresorted ZIP+4 Barcoded rate depending upon their sortation (see 325.12). Pieces that are not ZIP+4 barcoded may be included in the mailing subject to the 85% requirement in 325.3.

b. Automated Site Mailings. Pieces in a ZIP+4 barcoded automated site mailing that bear the correct and properly prepared ZIP+4 barcode and meet the requirements of 325 qualify for the 3-digit ZIP+4 Barcoded rate or the nonpresorted ZIP+4 Barcoded rate depending upon their sortation (see 325.13). Pieces that are not ZIP+4 barcoded may be included in the mailing subject to the 85% requirement in 325.3.

325.12 Applicable Rates by Sortation Category for National Mailings

325.121 Five-Digit Sortation. A piece in a ZIP+4 Barcoded rate national mailing that is contained in a 5-digit package in accordance with 364.12 can qualify for any of the following rates based upon its preparation.

a. Five-Digit Barcoded Rate. A piece in a 5-digit package will qualify for the ZIP+4 Barcoded rate if it bears a ZIP+4 barcode prepared in accordance with 324.72 through 324.77, and 325.51.

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325.122 Three-Digit Sortation. A piece in a ZIP+4 Barcoded rate national mailing sorted in accordance with 364.14 (3-digit packages) can qualify for any of the following rates based upon its preparation:

a. Three-Digit ZIP+4 Barcoded Rate. A piece in a 3-digit package will qualify for the 3-digit ZIP+4 Barcoded rate if it bears a ZIP+4 barcode prepared in accordance with 324.72 through 324.77, and 325.51.

b. ZIP+4 Presort Rate. A piece in a 3-digit package will qualify for the ZIP+4 Presort rate if it is prepared in either of the following two ways: **Text of existing 325.122a(2) and (3).**

c. Presorted First-Class Rate. **Text of existing 325.122b.**

325.123 Residual Sortation. A piece in the residual portion of a ZIP+4 Barcoded rate national mailing (see 364.16) may qualify for one of the following rates based on its preparation:

a. Nonpresorted ZIP+4 Barcoded Rate. A piece in the residual portion of a ZIP+4 Barcoded rate mailing will qualify for the nonpresorted ZIP+4 Barcoded rate if it bears the correct ZIP+4 barcode prepared in accordance with 324.72 through 324.77, and 325.51.

b. Nonpresorted ZIP+4 Rate. A piece in the residual portion of a ZIP+4 Barcoded rate mailing will qualify for the nonpresorted ZIP+4 rate if it is prepared in either of the following two ways: **Text of existing 325.123a(2) and (3).**

c. Single-Piece First-Class Rate. **Text of existing 325.123b.**

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325.13 Applicable Rates by Sortation Category for Automated Site Mailings (364.3)

325.131 Three-Digit Sortation. A piece in a ZIP+4 Barcoded rate automated site mailing sorted in accordance with 364.32 and 364.33 (3-digit packages in 3-digit or SCF trays) qualifies for the 3-digit ZIP+4 Barcoded rate, the ZIP+4 Presort rate, or the Presorted First-Class rate based upon its preparation (see 325.122a-c).

325.132 Residual Sortation. A piece in a ZIP+4 Barcoded rate automated site mailing prepared in accordance with 364.34 qualifies for the nonpresorted ZIP+4 Barcoded rate, the nonpresorted ZIP+4 rate, or the full single-piece First-Class rate based upon its preparation (see 325.123a-c).

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325.2 Minimum Quantity. Each mailing must consist of at least 500 pieces.

325.3 Eighty-Five Percent Requirement. * * * * * **In the EXCEPTION, change the reference from 364.44 to 364.24.**

325.4 Requirements for All Pieces in the Mailing

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325.44 Presort. Change the references from 364.1, 364.2, and 364.3 to 364.12, 364.13, and 364.14, respectively.

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326 Priority Mail

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326.2 Preparation

326.21 Additions and Enclosures. Text of existing 326.2.

326.22 Sealing. Text of existing 363.

326.23 Marking. Priority Mail must be marked as required by 362.1.

326.3 Reshipment of Mail. Replace the phrase "may be reshipped via Priority Mail," with "may be reshipped via Priority Mail at single-piece Priority Mail rates."

326.4 Presorted Priority Mail

326.41 Minimum Quantity Requirements. Each mailing must contain at least 300 qualifying pieces.

326.42 Marking. Each piece in the mailing must bear the appropriate rate marking as described in 362.1.

326.43 Presort. Presorted Priority Mail must be presorted as required by 363.

326.5 Pickup Service

326.51 General. Pickup service for single-piece rate Priority Mail is available at designated postal facilities, subject to the conditions in this section. Pickup service is not available for Presorted Priority Mail.

326.52 Fee

326.521 General Terms. The fee prescribed in 315.3 must be paid by the mailer every time pickup service is provided, regardless of the number of pieces picked up. Only one fee will be charged if Express Mail or parcel post is also picked up at the same time.

326.522 Exception. The fee will not be charged when Express Mail, Priority Mail, or parcel post is collected during a delivery stop or during a scheduled stop made to collect other mail not subject to a pickup fee.

326.523 Method of Payment. The fee must be paid by meter, precanceled, or adhesive stamps affixed to Form 5541, *Express Mail Service Pickup Statement.* (At the top of side A, check "Other" and write "Priority Mail pickup fee," complete the blocks identifying the mailer and the date of mailing, and affix the postage to the bottom of the form under "Comments.")

326.53 Postage. The mailer must affix the full required postage to each mailpiece being picked up. Use of precanceled and meter stamps must be as provided by 143 and 144, respectively. Pieces paid by permit imprint cannot be mailed using pickup service.

326.54 Other Mail. As a service to the mailer, the Postal Service will concurrently collect incidental amounts of other fully prepaid, postage affixed, full-rate mail when picking up mail for which pickup service is provided (Express Mail, Priority Mail, and parcel post). Presort, bulk, or reduced rate mail, and any mail paid by permit imprint must be deposited at the serving postal facility.

326.55 On-Call Pickup Service

326.551 When Available. On-call pickup service may be requested during the regular business hours of the serving postal facility. The pickup will be made within 2 hours after the request unless requested less than 2 hours before the end of any business day. Such pickups may be deferred until the next day when service is available.

326.552 Where Available. On-call pickup service is available only at post offices with city delivery (see Publication 65, *National Five-Digit ZIP Code and Post Office Directory*).

326.553 Cancellation. The pickup fee is waived for a pickup canceled by the customer if the requested pickup is not performed. The Postal Service may refuse to provide on-call pickup service when weather or road conditions, facility emergencies at mailer or postal premises, unforeseen personnel or vehicle shortages, or other exceptional situations make it impossible or unsafe to provide pickup service.

326.554 Volume. When calling for a pickup, the mailer must advise the serving postal facility of the volume of mail to be picked up. The Postal Service reserves the right to defer pickup, or to make multiple pickups at no additional charge to the mailer, when the volume to be picked up exceeds available vehicle capacity.

326.56 Scheduled Pickup Service

326.561 When Available. Scheduled pickup service may be requested during the regular business hours of the serving postal facility. Scheduled pickup service will begin the next day when service is available and continue until canceled by the mailer.

326.562 Where Available. Scheduled pickup service is available at post offices with city delivery (see Publication 65, *National Five-Digit ZIP Code and Post Office Directory*), and at other post offices where the mailer's address is along the line of travel of a rural or highway contract route.

326.563 Service Agreement. Mailers who desire scheduled pickup service must enter into a service agreement with the Postal Service, specifying the time, place, day or date, and frequency of service, and the approximate volume per pickup. (Form 5631, *Express Mail Service Agreement*, may be adapted for this use.) Mailers will be charged the pickup fee for a scheduled pickup regardless of volume collected.

326.564 Cancellation and Changes in Volume. The mailer must notify the serving post office at least 24 hours in advance of the scheduled pickup if the pickup is not needed (canceled) or if the volume of mail to be picked up exceeds the amount specified in the service agreement by more than 20%. Mailers are not charged the pickup fee for a scheduled pickup that is canceled as required. Mailers who do not notify the serving post office of exceptional volume will be charged the pickup fee for each additional trip required.

326.565 Volume. There are no minimum or maximum limitations on the number of pieces that can be mailed using pickup service. However, the Postal Service reserves the right to defer pickup or to make multiple pickups at no additional charge to the mailer when the volume to be picked up exceeds available vehicle capacity, and to establish plant load service where warranted based on mailer volume.

326.566 Changes in Service

a. By the Mailer. Scheduled pickup service (the service agreement) may be changed by the mailer effective 5 business days from the receipt of the mailer's written notice to the serving postal facility.

b. By the Postal Service. Scheduled pickup service (the service agreement) may be changed by the Postal Service effective 5 days from the mailer's receipt of written notice from the serving post office. The mailer may appeal this notice as provided by 133, but must pay all pickup fees chargeable during the appeal period.

c. Disruptions in Service. The Postal Service may suspend scheduled pickup service when weather or road conditions, facility emergencies at mailer or postal premises, unforeseen personnel or vehicle shortages, or other exceptional situations make it impossible or unsafe to provide pickup service.

326.567 Termination of Service

a. By the Mailer. Scheduled pickup service will be terminated within 24 hours of receipt of the mailer's written notice to the serving postal facility. The mailer will be liable for fees for pickup service provided prior to termination of service.

b. By the Postal Service. The Postal Service may terminate pickup service effective 24 hours from the mailer's receipt of written notice from the serving post office. Termination must be based on the mailer's failure to pay postage and fees or to meet the requirements that apply to pickup service or mailing at Priority Mail rates. The mailer may appeal this notice as provided by 133, but must pay all pickup fees chargeable during the appeal period.

326.57 Preparation Requirements

326.571 Priority Mail Pieces. Each piece of Priority Mail must meet the applicable eligibility and preparation requirements in 326.1, 361.3, and 362.1.

326.572 Drop Shipment. Material prepared for Priority Mail Drop Shipment must meet the requirements in 136.9.

326.573 Refusal. The Postal Service may refuse to pick up Priority Mail not prepared as required by this section.

327 Nonpresorted ZIP+4 Mail

327.1 Minimum Quantity. Each mailing must contain at least 250 pieces.

327.2 Eighty-Five Percent Requirement. In each nonpresorted ZIP+4 mailing, at least 85% of the total number of pieces (at all rates) must bear the correct ZIP+4 code. Remaining pieces must bear the correct 5-digit ZIP Code. A correct ZIP+4 barcode prepared as described in 324.7 will satisfy the requirement for a correct ZIP+4 code, but pieces bearing a ZIP+4 barcode must also bear either the correct numeric 5-digit ZIP Code or the correct numeric ZIP+4 code in the address.

327.3 Physical Characteristics

327.31 Size and Weight Requirements. Each piece in the mailing must meet the size and weight criteria in 324.3.

327.32 Barcode Clear Zone. Each piece in the mailing must meet the barcode clear zone requirements in 324.5.

327.33 OCR Readability. Each piece in the mailing must meet the OCR readability requirements in 324.6.

327.4 Preparation

327.41 Addressing. Each piece in the mailing must be addressed as required by 361.5.

327.42 Marking. Each piece in the mailing must be marked as required by 362.4.

327.43 Traying. Each piece in the mailing must be trayed in accordance with 368.1.

327.5 Documentation. Mailings containing 5-digit ZIP Coded pieces must be accompanied by documentation as required in 368.12.

328 Nonpresorted ZIP+4 Barcoded Mail

328.1 Minimum Quantity. Each mailing must contain at least 250 pieces.

328.2 Eighty-Five Percent Requirement. In each nonpresorted ZIP+4 Barcoded mailing, at least 85% of the total number of pieces (at all rates) must bear the correct ZIP+4 barcode. Each piece must also bear either the correct numeric ZIP+4 code or the correct numeric 5-digit ZIP Code. Pieces that do not bear the correct ZIP+4 barcode or ZIP+4 code must be claimed at the single-piece rate.

328.3 Physical Characteristics

328.31 Size and Weight Requirements. Each piece in the mailing must meet the size and weight criteria in 324.4.

328.32 Barcode Requirements. ZIP+4 barcodes must meet the requirements of 325.51. 5-digit barcodes are permitted subject to the 85% requirement in 328.2. 5-digit barcodes must be prepared in accordance with 325.52.

328.33 OCR Readability Requirements. None.

328.4 Preparation

328.41 Addressing. Each piece in the mailing must be addressed as required by 361.6.

328.42 Marking. Each piece in the mailing must be marked as required by 362.7.

328.43 Traying Requirements. Each piece in the mailing must be trayed in accordance with 368.2.

328.5 Documentation Requirements. Mailings containing pieces prepared without ZIP+4 barcodes must be separated or accompanied by documentation as described in 368.223.

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340 Authorizations and Permits

341 Annual Presort Fee

In the first sentence, replace "and/or ZIP+4 Barcoded rates" with "3-digit ZIP+4 Barcoded, 5-digit ZIP+4 Barcoded, and/or Presorted Priority Mail rates."

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360 Preparation Requirements

361 Addressing

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361.5 ZIP+4 First-Class Mail. The address of at least 85% of the pieces in nonpresorted ZIP+4 mailings and in ZIP+4 Presort mailings must contain a correct ZIP+4 code. Pieces that do not bear the correct ZIP+4 code must bear the correct 5-digit ZIP Code.

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362 Marking Requirements

362.1 Priority Mail

362.11 Single-Piece Rate Priority Mail. The words "Priority" or "Priority Mail" must be placed prominently on the address side of each piece of single-piece rate Priority Mail (see 362.13).

362.12 Presorted Priority Mail

362.121 Content Each piece in a Presorted Priority Mail mailing must be marked "Priority," "Priority Mail," or "Presorted Priority Mail."

362.122 Method and Location. The markings must be printed or otherwise identified either as part of, or immediately adjacent to, the permit imprint, meter stamp, or precanceled stamp. One of the markings may be located in the address area either on the line immediately above the address or, preferably, two lines above the address. If the marking is located in the address area, no other information may appear on the line containing the rate marking information except for the carrier route information.

362.13 Use of Priority Mail Identifiers. In order to permit easy recognition of Priority Mail pieces in the mailstream, customers are urged to use Priority Mail envelopes and identification stickers.

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362.7 Nonpresorted ZIP+4 Barcoded Mail

362.71 Content. Each piece in a nonpresorted ZIP+4 Barcoded mailing must be marked "First-Class." In addition, mailers are encouraged, but not required, to mark each piece in the mailing "ZIP+4 Barcoded."

362.72 Method and Location. The markings must be printed or rubber-stamped either as part of, or immediately adjacent to, the permit imprint, meter stamp, or precanceled stamp. One of the markings may be located in the address area either on the line immediately above the address or, preferably, two lines above the address. If the marking is located in the address area, no other information may appear on the line containing the rate marking information except for the carrier route information.

Exception: A mailer authorized to mail letter-size pieces under the Manifest Mailing System (MMS) in 145.7 must place the rate category identification marking in a keyline as described in 145.742.

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363 Preparation Requirements for Presorted Priority Mail

363.1 Presort Requirements for Letters and Flats

363.11 Packaging Requirements

363.111 General. Each letter- or flat-size piece in the qualifying portion of a Presorted Priority Mail mailing must be presorted and packaged as required by 363.112-363.115. Rubber bands must be used in securing packages unless the size of the package makes their use unsafe.

363.112 Five-Digit Packages. When there are 6 or more addressed pieces for the same 5-digit ZIP Code destination, they must be faced and secured together as a 5-digit package. Packages containing fewer than 6 pieces must not be prepared. A red Label D must be affixed to the lower left corner of the address side of the top piece in each package, or the optional endorsement (package label) line described in 369 for 5-digit packages must be placed on each piece.

363.113 Three-Digit Packages. After all possible 5-digit packages have been prepared, if there are 6 or more addressed pieces remaining for the same 3-digit ZIP Code area, they must be secured together as a 3-digit package. Packages containing fewer than 6 pieces must not be prepared. A green Label 3 must be affixed to the lower left corner of the address side of the top piece in each package, or the optional endorsement (package label) line described in 369 for 3-digit packages must be placed on each piece.

363.114 SCF Packages. After all possible 5-digit and 3-digit packages have been prepared, if there are 6 or more addressed pieces remaining for one of the SCFs listed in Exhibit 122.63d, they must be secured together as an SCF package. Packages containing fewer than 6 pieces must not be prepared. Pieces within each package must be for the same zone or eligible for a rate that does not vary by zone. A green Label 3 must be affixed to the lower left corner of the address side of the top piece in each package, or the optional endorsement (package label) line described in 369 for SCF packages must be placed on each piece.

363.115 Residual Pieces. Pieces that cannot be packaged as required by 363.112-363.114 are residual pieces. Residual pieces must be packaged in groups of 25 pieces, identified with a facing slip carrying the number of pieces in the package and the words "Residual Pieces," and sacked separately from qualifying mail as provided by 363.125.

363.12 Sacking Requirements

363.121 General. The packages prepared as required by 363.11 must be sacked as required by 363.122-363.125.

363.122 Five-Digit Sacks. When there are at least 15 pounds of mail packaged for the same 5-digit ZIP Code destination, the packages must be placed in a 5-digit sack. Sacks containing fewer than 15 pounds of mail may be prepared if there is at least one package of 6 pieces in each sack. 5-digit sacks must be labeled in the following manner:

Line 1: City, two-letter state abbreviation, and 5-digit ZIP Code.
Line 2: The words "PRIORITY MAIL," followed by the processing category (LETTERS or FLATS).
Line 3: City and two-letter state abbreviation of the post office of mailing.

363.123 Three-Digit Sacks. After all possible 5-digit sacks have been prepared, if there are at least 15 pounds of mail for the same 3-digit ZIP Code area, the packages must be placed in a 3-digit sack. Sacks containing fewer than 15 pounds of mail may be provided if there is at least one package of 6 pieces in each sack. 3-digit sacks must be labeled in the following manner:

a. Unique 3-Digit ZIP Code Prefixes

Line 1: City, two-letter state abbreviation and unique 3-digit prefix as shown in Exhibit 122.63b.
Line 2: The words "PRIORITY MAIL," followed by the processing category (LETTERS or FLATS).
Line 3: City and two-letter abbreviation of the post office of mailing.

b. Other 3-Digit ZIP Code Prefixes

Line 1: Name of SCF and two-letter state abbreviation of the SCF, followed by the 3-digit ZIP Code prefix of the pieces in the sack (see Exhibit 122.63c or d for the name of the SCF serving the 3-digit ZIP Code area.
Line 2: The words "PRIORITY MAIL," followed by the processing category (LETTERS or FLATS).
Line 3: City and two-letter state abbreviation of the post office of mailing.

363.124 SCF Sacks. After preparing all possible 5-digit and 3-digit sacks, if there are at least 15 pounds of mail either for the same zone or eligible for a rate that does not vary by zone, and that mail is all for the same SCF service area, the packages must be placed in an SCF sack. Sacks containing fewer than 15 pounds of mail may be prepared if there is at least one package of 6 pieces in each sack. SCF sacks must be labeled in the following manner:

Line 1: Letters "SCF" followed by the name of the SCF, the two-letter state abbreviation of the SCF, and the 3-digit ZIP Code prefix for the SCF as shown in Exhibit 122.63d.
Line 2: The words "PRIORITY MAIL," followed by the processing category (LETTERS or FLATS).
Line 3: City and two-letter state abbreviation of the post office of mailing.

363.125 Residual. The packages of residual pieces prepared as required by 363.115 must be sacked according to zone if part of a mailing of identical-weight pieces prepared with permit imprints, or part of a mailing of identical-weight metered mail in which the entire mailing is metered at the Presorted Priority Mail rates. Sacks of residual mail must be sacked separately from the qualifying mail sacked as required by 363.122-363.124. Sacks of residual mail must be labeled as follows:

Line 1: Word "RESIDUAL," (followed by the zone if the zone is required).
Line 2: The words "PRIORITY MAIL," followed by the processing category (LETTERS OR FLATS).
Line 3: City and two-letter state abbreviation of the post office of mailing.

363.2 Presort Requirements for Parcels

363.21 Packaging Requirements. None.

363.22 Sacking Requirements. Parcels must be sacked in accordance with the following requirements. Both machinable and nonmachinable parcels may be placed in the same sack.

363.221 Five-Digit Sacks. When there are at least 6 addressed pieces for the same 5-digit ZIP Code destination, the pieces must be placed in a 5-digit sack. Sacks containing fewer than 6 pieces of mail must not be prepared. 5-digit sacks must be labeled in the following manner:

Line 1: City, two-letter state abbreviation, and 5-digit ZIP Code.
Line 2: PRIORITY MAIL - PARCELS
Line 3: City and two-letter state abbreviation of the post office of mailing.

363.222 Three-Digit Sacks. After all possible 5-digit sacks have been prepared, if there are at least 6 pieces remaining for the same 3-digit ZIP Code area, they must be placed in a 3-digit sack. Sacks containing fewer than 6 pieces must not be prepared. 3-digit sacks must be labeled in the following manner:

a. Unique 3-Digit ZIP Code Prefixes

Line 1: City, two-letter state abbreviation, and unique 3-digit prefix as shown in Exhibit 122.63b.
Line 2: PRIORITY MAIL - PARCELS
Line 3: City and two-letter abbreviation of the post office of mailing.

b. Other 3-Digit ZIP Code Prefixes

Line 1: Name of SCF and two-letter state abbreviation of the SCF, followed by the 3-digit ZIP Code prefix of the pieces in the sack (see Exhibit 122.63c or d for the name of the SCF serving the 3-digit ZIP Code area.
Line 2: PRIORITY MAIL - PARCELS
Line 3: City and two-letter state abbreviation of the post office of mailing.

363.223 SCF Sacks. After all possible 5-digit and 3-digit sacks have been prepared, if there are at least 6 pieces remaining either for the same zone or eligible for a rate that does not vary by zone, and those pieces are all for the same SCF service area, they must be placed in an SCF sack. Sacks containing fewer than 6 pieces must not be prepared. SCF sacks must be labeled in the following manner:

Line 1: Letters "SCF" followed by the name of the SCF, the two-letter state abbreviation of the SCF, and the 3-digit ZIP Code prefix for the SCF as shown in Exhibit 122.63d.
Line 2: PRIORITY MAIL - PARCELS
Line 3: City and two-letter state abbreviation of the post office of mailing.

363.224 Residual Pieces

a. Definition. Residual mail is those pieces that cannot be placed in a sack of 6 or more pieces as required by 363.221-363.223.

b. Preparation. Residual mail must be sacked separately from qualifying mail. In addition, residual mail must be sacked according to zone if part of a mailing of identical-weight pieces prepared with permit imprints, or part of a mailing of identical-weight metered mail in which the entire mailing is metered at the Presorted Priority Mail rates. Sacks of residual mail must be labeled as follows:

Line 1: Word "RESIDUAL" (followed by the zone if the zone is required).
Line 2: PRIORITY MAIL - PARCELS
Line 3: City and two-letter state abbreviation of the post office of mailing.

363.3 Physical Requirements for Sacks

363.31 Maximum Weight. The total weight of any sack (including the weight of the sack) must not exceed 70 pounds.

363.32 Color and Size. Orange sacks must be used for Presorted Priority Mail. It is recommended that No. 2 sacks provided by the Postal Service be used.

363.33 Sack Labels

363.331 Color. Sack labels must be white or manila.

363.332 Size

a. Length (Parallel to the Printing). Minimum, 3-5/16 inches, maximum, 3-3/8 inches.

b. Height (Perpendicular to the Printing). Minimum 15/16 of an inch, maximum 31/32 of an inch.

363.333 Method of Preparation. The Postal Service prefers machine-printed labels to ensure legibility, although legible hand-printed labels are acceptable. Illegible labels are unacceptable. Machine-printed labels may be ordered from the Postal Service.

363.334 Trailing Zeros. Two zeros may follow 3-digit prefixes on sack labels.

363.335 Abbreviations. The destination and office of mailing lines may contain abbreviated information if such abbreviations are those shown in Publication 65, *National Five-Digit ZIP Code and Post Office Directory*. The following authorized abbreviations may be used on the contents line of sack labels.

Letters	LTRS
Flats	FLTS
Priority Mail	PRIORITY

363.336 Line 1. Line 1, the destination line, must be the first visible line on the label. It must be completely visible and legible when placed in the label holder or otherwise affixed for use. To ensure this, the Postal Service recommends that the top line is no less than 1/8 (.125) inch below the top of the label when the label is cut and prepared for use. The destination line must contain only the information described in 363.12 and 363.22.

363.337 Line 2. Line 2, the contents line, must be the second visible line on the label and must contain the information described in 363.12 or 363.22.

363.338 Line 3. Line 3, the office of mailing line, must be prepared as described in 363.12 and 363.22.

363.339 Extraneous Information. Extraneous information is prohibited from the destination and contents lines. The mailer may place it elsewhere as provided by 441.323a and 441.323d-f.

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364 ZIP+4 Barcoded First-Class Mail

364.1 National Mailings - Presort Requirements

364.11 General. ZIP+4 Barcoded rate national mailings (as defined in 325.111a), claimed at the rates described in 325.12, must be packaged and trayed in accordance with 364.11-364.16 or 364.14-364.16, as applicable. Mailers must prepare mailings as required by 364.12 and 364.13 only if the 5-digit ZIP+4 Barcoded rate is claimed for the corresponding mail. If that rate is not being claimed, sortation can begin with the requirements of 364.14. An optional method of preparation (unpackaged mail in trays that are at least 3/4 full) is described in Chapter 5.

364.12 Five-Digit ZIP+4 Barcoded Rate Packaging Requirements

364.121 General. When there are 10 or more pieces in a ZIP+4 Barcoded rate national mailing that are addressed to the same 5-digit ZIP Code, those pieces must be prepared in a 5-digit package to that destination. Those packages must then be trayed in accordance with 364.13.

364.122 Package Preparation. Pieces must be faced in the same direction and either secured with one or two rubber bands as prescribed in 367.112 or separated by visible index tabs or separator cards to delineate each package. A package must not be more than 4 inches thick.

364.123 Package Label. A red Label D must be affixed to the lower left corner of the address side of the top piece in the package.

364.124 Packages in Trays. Pieces in 5-digit trays need not be prepared in packages.

364.13 Five-Digit ZIP+4 Barcoded Rate Traying Requirements

364.131 General. Packages prepared as required by 364.12 must be trayed as specified in 364.132-364.136. Pieces that are packaged under 364.12 and packaged as prescribed by 364.132-364.134 may qualify for the 5-digit ZIP+4 Barcoded rate if they also bear the correct ZIP+4 barcode and meet all other requirements of 325, or for the ZIP+4 Presort or Presorted First-Class rates. Pieces in packages trayed as prescribed in 364.135-364.136 may qualify for the Presorted First-Class rate.

364.132 Five-Digit Trays. **Text of existing 364.121.**

364.133 Unique 3-Digit Trays. **Text of existing 364.122.**

364.134 SCF Trays. **Text of existing 364.123; change the reference "364.121 and 364.122" to "364.132 and 364.133."**

364.135 ADC Trays. **Text of existing 364.124; change the reference "364.121 through 364.123" to "364.132-364.134."**

364.136 Mixed ADC Trays. **Text of existing 364.125; change the reference "364.121, 364.122, 364.123, and 364.124" to "364.132-364.135."**

364.14 Three-Digit ZIP+4 Barcoded Rate Packaging Requirements

364.141 General. After any 5-digit packages have been prepared, if applicable, if there are 50 or more pieces remaining that are addressed to the same 3-digit ZIP Code area, those pieces must be prepared in 3-digit packages for that destination. Those packages must then be trayed in accordance with 364.15.

364.142 Package Preparation. Pieces must be faced in the same direction and either secured with one or two rubber bands as prescribed in 367.112 or separated by visible index tabs or separator cards to delineate each package. A package must not be more than 4 inches thick.

364.143 Package Label. A green Label 3 must be affixed to the lower left corner of the address side of the top piece in each package.

364.144 Packages in Trays. Pieces in 3-digit trays need not be prepared in packages if all the pieces would have been prepared in 3-digit packages to the same destination.

364.145 Residual. Pieces that remain after all 5-digit and 3-digit packages have been prepared are residual pieces and must be prepared as prescribed by 364.16.

364.15 Three-Digit ZIP+4 Barcoded Rate Traying Requirements

364.151 General. Packages prepared as required by 364.14 must be trayed as specified in 364.152-364.155. Pieces that are packaged under 364.14 and packaged as prescribed by 364.152 and 364.153 may qualify for the 3-digit ZIP+4 Barcoded rate if they also bear the correct ZIP+4 barcode and meet all other requirements of 325, or for the ZIP+4 Presort or Presorted First-Class rates. Pieces in packages trayed as prescribed in 364.154 and 364.155 may qualify for the Presorted First-Class rate. Trays of 3-digit packages must be separated from trays of 5-digit packages when the mailing is presented to the Postal Service.

364.152 Unique 3-Digit Trays. Prepare as prescribed in 364.133, except do not show "MXD 5-DG" on the second line of the tray label.

364.153 SCF Trays. Prepare as prescribed in 364.134, except do not show "MXD 5-DG" on the second line of the tray label.

364.154 ADC Trays. Prepare as prescribed in 364.135, except do not show "MXD 5-DG" on the second line of the tray label.

364.155 Mixed ADC Trays. Prepare as prescribed in 364.136, except do not show "MXD 5-DG" on the second line of the tray label.

364.16 Preparation Requirements for the Residual Portion. Text of existing 364.3. Revise the first sentence to read: "Pieces remaining after all 5-digit packages have been prepared and trayed in accordance with 364.12 and 364.13, and all 3-digit packages have been prepared and trayed in accordance with 364.14 and 364.15, are residual pieces subject to either the nonpresorted ZIP+4 Barcoded rate, the nonpresorted ZIP+4 rate, or the full single-piece First-Class rate as described in 325.123."

364.2 National Mailings - Documentation and Postage Payment Requirements

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364.23 Summary Listing Documentation Option Text of existing 364.43; renumber existing 364.431-364.437 as 364.231-364.237.

364.231 General. **Change the reference "364.41 and 364.42" to 364.21 and 364.22."**

364.232 Required Information

a. For each sortation level (5-digit, 3-digit, and residual), the summary listing must show:

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364.233 Authorization. **Change the reference "364.434" to "364.234."**

364.234 Applications. **Change the reference "364.41 or 364.42" to "364.21 or 364.22."**

364.235 Approval Process. **Change the reference "364.431" to "364.231."**

364.24 Documentation Based on a Mailing List or Cycle. As an alternative to the requirements of 364.21-364.23, mailers may submit documentation based on a mailing list or cycle as prescribed by 364.5.

364.3 Automated Site Mailings - Preparation Requirements

364.31 General

364.311 Optional Use. As an alternative to the preparation requirements described in 364.1 and 364.2 for national mailings, mailers may follow the requirements in 364.3 and 364.4 for mailings destinating at automated sites. ("Automated sites" refers to the 3-digit ZIP Code areas and postal facilities listed in Exhibits 122.63m-o.) Pieces for other destinations may be included in the residual portion of the mailing.

364.312 Rate Eligibility

a. Qualifying Portion. Pieces placed in a group of 50 or more pieces destined for one of the 3-digit areas listed in Exhibit 122.63m qualify for the 3-digit ZIP+4 Barcoded rate if they bear a correct ZIP+4 barcode and meet the requirements of 325, or the ZIP+4 Presort or Presorted First-Class rate (see 325.123).

b. Residual Portion. Pieces that are not placed in a group of 50 or more pieces (as required to be in the qualifying portion) are residual pieces and qualify for the nonpresorted ZIP+4 Barcoded rate if they meet the requirements of 325, or the nonpresorted ZIP+4 or single-piece First-Class rates (see 325.123).

364.32 Grouping Requirements. Whenever there are 50 or more addressed pieces for one of the 3-digit ZIP Code areas listed in Exhibit 122.63m, they must be placed together in a tray labeled to that destination, as required by 364.33. Groups of pieces for the same 3-digit area may be placed in more than one tray only if the groups in each tray contain a minimum of 50 pieces for the same 3-digit destination. (This will facilitate verification by postal employees.) Mail for each 3-digit destination within a tray must be separated by visible index tabs or separator cards.

364.33 Traying Requirements

364.331 Three-Digit Trays. When there are enough pieces to the same 3-digit ZIP Code prefix to fill at least 3/4 of a tray, a 3-digit tray must be prepared for that destination. Three-digit trays that are less than 3/4 full may be prepared only if there is no corresponding SCF tray listed in Exhibit 122.63n into which lesser quantities may be placed. Three-digit trays must be labeled in the following manner:

Line 1: City, two-letter state abbreviation, and 3-digit ZIP Code as shown in Exhibit 122.63m
Line 2: FCM Z + 4 BARCODED
Line 3: Mailer Name, Mailer Location

364.332 SCF Trays. After all possible 3-digit trays have been prepared, any remaining groups of 50 or more pieces each for the 3-digit areas served by one of the SCFs listed in Exhibit 122.63n must be placed in a tray labeled to that SCF. SCF trays must be labeled in the following manner:

Line 1: "SCF" followed by the name of the SCF, the two-letter state abbreviation of the SCF, and the 3-digit ZIP Code prefix for the SCF shown in Exhibit 122.63n
Line 2: FCM Z + 4 BARCODED
Line 3: Mailer Name, Mailer Location

364.34 Residual Trays

364.341 General Preparation. Residual mail must be presented with, but clearly separated from, the qualifying portion of the mailing to facilitate verification. Unless documentation is not required as described in 364.412, the pieces must either be:

a. separated into trays by rate category or, if postage is affixed to each piece at the correct rate, separated by pieces with and without a ZIP+4 barcode. If the pieces are not of identical weight, they must be further separated into groups of 100 pieces by separator tabs or rubber bands as described in 364.432a; or

b. placed in trays in 5-digit or 3-digit ZIP Code sequence and accompanied by the documentation described in 364.432b.

364.343 Tray Labeling. Trays of residual pieces must be labeled as required by 364.343a-b.

a. Trays Containing Pieces with a ZIP+4 Barcode

Line 1: ZIP+4 BARCODED RESIDUAL

b. Trays Containing Only Pieces without a ZIP+4 Barcode

Line 1: RESIDUAL

364.4 Automated Site Mailings – Documentation Requirements

364.41 General

364.411 When Documentation is Required. Documentation described in 364.42 or 364.43, as appropriate for the postage payment method used, must be submitted with each mailing except when documentation is not required as described in 364.412, or when mailers are authorized to submit documentation based on a list or cycle as described in 364.5. The documentation is designed to show that the mailing meets the 85% requirement in 325.3, and, if the entire mailing is metered at the 3-digit ZIP+4 Barcoded rate, or paid by permit imprint, to show the amount of postage owed to the Postal Service.

364.412 When Documentation is Not Required. Documentation is not required if all pieces in the mailing bear a correct ZIP+4 barcode and

a. each piece bears meter or precanceled stamps in the exact amount of postage at the rate for which it qualifies; or

b. all pieces are of identical size and weight, are paid by permit imprint, and, when presented to the post office, the trays in the mailing are physically separated by the mailer into two groups -- qualifying and residual -- to allow postage verification by weighing.

364.42 When Exact Postage is Affixed to Each Piece in the Mailing

364.421 Qualifying Trays

a. Required Listing. Documentation must be provided that lists by 3-digit ZIP Code area:

(1) the number of pieces that bear a ZIP+4 barcode,

(2) the total number of pieces for the 3-digit area, and

(3) a cumulative (running) total for each line (3-digit ZIP Code) entry in the qualifying portion of the listing; (this total must accumulate for each entry in the qualifying portion of the mailing).

b. Subtotals. Subtotals for the total number of pieces that bear a ZIP+4 barcode and the total number of pieces must be shown at the end of the qualifying portion of the mailing.

364.422 Residual Trays. Residual pieces must be presented as specified in 364.422a or documented as prescribed in 364.422b.

a. Physical Separation. Residual pieces that bear a ZIP+4 barcode must be trayed separately from those that do not. If the pieces are not of identical weight, they must be further separated

within each tray by tabs or rubber bands into groups of 100 pieces for postage verification. Trays must be labeled in accordance with 364.343a or 364.343b.

b. Listing. The pieces in the trays must be batched by 3-digit ZIP Code area and a listing prepared that shows, by 3-digit ZIP Code area, the number of pieces with a ZIP+4 barcode and the number of pieces without. A cumulative total must also be shown for each line (3-digit ZIP Code) entry in the residual portion. A summary of the total number of pieces in the residual portion with and without a ZIP+4 barcode must be shown.

364.43 When Postage is Paid by Permit Imprint, or When the 3-Digit Barcoded Rate is Affixed to Each Piece

364.431 Qualifying Trays

a. Required Listing. Documentation must be provided that lists by 3-digit ZIP Code area:

(1) the number of pieces that bear a ZIP+4 barcode and qualify for the 3-Digit ZIP+4 Barcoded rate,

(2) the number of pieces that do not bear a ZIP+4 barcode and qualify for the ZIP+4 Presort rate (see 325.122b),

(3) the number of pieces that do not bear a ZIP+4 barcode and qualify for the Presorted First-Class rate (see 325.122c),

(4) the number of pieces for the 3-digit area, and

(5) a cumulative (running) total for each line (3-digit ZIP Code) entry in the qualifying portion of the listing; this total must accumulate for each entry in the qualifying portion of the mailing.

b. Subtotals. Totals for the number of pieces qualifying for the 3-digit ZIP+4 Barcoded rate, the ZIP+4 presort rate, and the Presorted First-Class rate must be shown at the end of the qualifying portion of the mailing.

364.432 Residual Trays. Residual pieces must be presented as specified in 364.432a or documented as prescribed in 364.432b.

a. Physical Separation. Pieces qualifying for each of the three rate categories (nonpresorted ZIP+4 Barcoded, nonpresorted ZIP+4, and full single-piece rates as described in 325.122a-c) must be placed in separate trays. If the pieces are not of identical weight, they must be further separated in each tray by tabs into groups of 100 pieces for postage verification. Trays must be labeled as required by 364.343.

b. Listing. The pieces in the trays must be batched by 3-digit ZIP Code area and a listing prepared that shows, by 3-digit ZIP Code area, the number of pieces with a ZIP+4 barcode that qualify for the nonpresorted ZIP+4 Barcoded rate, the number of pieces without a ZIP+4 barcode that qualify for the nonpresorted ZIP+4 rate, and the number of pieces without a ZIP+4 barcode that qualify for the single-piece First-Class rate (see 325.123a-c). A cumulative total must also be shown for each line (3-digit ZIP Code) entry in the residual portion. A total must also be shown for the number of pieces qualifying for each rate category. Trays must be labeled as required by 364.343.

364.433 General Summary

a. Metered Mailings. A listing is required to show, for each rate category, the total number of pieces, the additional postage owed per piece, and the total additional postage due. For the entire mailing, the listing must also show the total additional postage due and the total number of pieces with and without a ZIP+4 barcode.

b. Permit Imprint Mailings. A listing is required to show, for each rate category, the total number of pieces, the postage rate per piece, and the total postage owed. For the entire mailing, the listing must also show the total postage owed and the total number of pieces with and without a ZIP+4 barcode.

364.5 Submission of Documentation Based on a Mailing List or Cycle. As an alternative to submitting documentation with each mailing as required by 364.2 and 364.4, mailers may submit documentation based on a mailing list or mailing cycle under the following conditions:

a. The mailing period for the list, or the duration of the mailing cycle, each as defined by the mailer, must be longer than 24 hours but not more than 1 week (7 consecutive days). The mailer must notify the post office where mailings are accepted of the first and last mailings, and the beginning and ending points of the time period, of the list or cycle.

b. More than one list or cycle may be active at one time, but mailings from each must be prepared and presented separately, clearly identified, and accompanied by mailing statements that clearly relate to specific mailings.

c. Compliance with the 85% requirement (see 325.3) may be based on the entire list or cycle.

d. The documentation must contain the information described in 364.21, 364.22, 364.42, and 364.43, as applicable.

e. Complete documentation for the entire mailing list or mailing cycle must be submitted with the first mailing from that list or cycle.

f. The appropriate mailing statements must be submitted with each mailing when presented for acceptance.

g. At the time the last mailing from a list or cycle is presented to the Postal Service, any discrepancies between the mail presented to and verified by the Postal Service, the mail described in the documentation, and the mail claimed on the corresponding mailing statements (in regard to quantity, rate eligibility, or postage) must be reconciled to the satisfaction of the Postal Service, and any additional postage that may be due must be paid by the mailer.

364.6 Mailing Statements. Text of existing 364.45.

365 ZIP+4 Presort First-Class Mail - National Mailings

365.1 General

365.11 Preparation. All pieces, whether or not they bear a ZIP+4 code, must be presorted together within the same packages and trays (or only to trays for residual pieces) as required by 367.1 and 367.2. The mailing must be documented as required in 365.3.

365.12 Rate Eligibility. See 324.12.

365.2 Packaging and Traying Requirements

365.21 Qualifying Portion

365.211 Definition. The qualifying portion of the mailing includes pieces prepared in packages and trays as required by 367.1 and 367.2.

365.212 Preparation. Pieces in the qualifying portion must be packaged and trayed as required in 367.1 and 367.2, except that Line 2 of tray labels must identify the contents as ZIP+4 Presort in the following manner:

a. For other than Mixed ADC trays

FCM ZIP+4 PRESORT

b. For Mixed ADC trays only

MIXED ADC ZIP+4 PRESORT

365.22 Residual Portion

365.221 Definition. The residual portion includes those pieces that cannot be sorted into a package as required by 367.1 and 367.21-367.23. Residual pieces must be presented together with but clearly separated from the qualifying portion of the mailing to facilitate verification.

365.222 Preparation. If documentation is not required (see 365.32), mailers must either:

a. separately tray ZIP+4 coded residual pieces qualifying for the nonpresorted ZIP+4 rate and 5-digit ZIP Coded residual pieces qualifying for single-piece First-Class rates, and, if the pieces are not of identical weight, further separate in each tray by rubber bands into groups of 100 each to facilitate verification of postage and the 85% requirement; or

b. sort the residual pieces in trays batched by 3-digit ZIP Code area and provide a listing that shows for each 3-digit ZIP Code area the number of pieces with and without a ZIP+4 code.

365.223 Tray Labels. Trays of residual pieces must be labeled as required by 365.223a-b.

a. Trays Containing ZIP+4 Coded Pieces

Line 1: ZIP+4 PRESORT RESIDUAL

b. Trays Containing Only 5-Digit Coded Pieces

Line 1: RESIDUAL

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366 ZIP+4 Presort First-Class Mail - Automated Site Mailings
Delete existing 366.1 and 366.11; renumber existing 366.12 as 366.22.

366.1 General

366.11 Optional Use. As an alternative to the preparation requirements described in 365 for national mailings, mailers may follow the requirements in 366 for mailings destinating at automated sites. ("Automated sites" refers to the 3-digit ZIP Code areas and postal facilities listed in Exhibits 122.63m-o.) Pieces for other destinations may be included in the residual portion of the mailing.

366.12 Rate Eligibility. See 324.12.

366.2 Grouping and Traying

366.21 Qualifying Portion

366.211 Definition. The qualifying portion of the mailing includes pieces that are grouped and trayed as required by 366.212 and 366.22.

366.212 Grouping Requirements. Whenever there are 50 or more addressed pieces for one of the 3-digit ZIP Code areas listed in Exhibit 122.63m, they must be placed together in a tray labeled to that destination. Groups of pieces for the same 3-digit area may be placed in more than one tray only if the groups in each tray contain a minimum of 50 pieces for the same 3-digit destination. (This will facilitate verification by postal employees.) Mail for each 3-digit destination within a tray must be separated by visible index tabs or separator cards.

366.22 Traying Requirements

366.221 Three-Digit Tray Preparation and Labeling. **Text of existing 366.2.**

366.222 SCF Tray Preparation and Labeling. **Text of existing 366.3.**

366.223 AADC Tray Preparation and Labeling. **Text of existing 366.4.**

366.23 Residual Portion

366.231 Definition. The residual portion includes those pieces that cannot be grouped and trayed as required by 366.21 and 366.22. Residual pieces must be presented together with but clearly separated from the qualifying portion of the mailing to facilitate verification.

366.232 Preparation. If documentation is not required (see 365.32), mailers must either:

a. separately tray ZIP+4 coded residual pieces qualifying for the nonpresorted ZIP+4 rate and 5-digit ZIP Coded residual pieces qualifying for single-piece First-Class rates, and, if the pieces are not of identical weight, further separate in each tray by rubber bands into groups of 100 each to facilitate verification of postage and the 85% requirement; or

b. sort the residual pieces in trays batched by 3-digit ZIP Code area and provide a listing that shows for each 3-digit ZIP Code area, the number of pieces with and without a ZIP+4 code.

366.233 Tray Labels. Trays of residual pieces must be labeled as follows:

a. Trays Containing ZIP+4 Coded Pieces

Line 1: ZIP+4 PRESORT RESIDUAL

b. Trays Containing Only 5-Digit Coded Pieces

Line 1: RESIDUAL

366.3 Documentation and Postage Payment. **Text of existing 366.5.**

366.4 Mailing Statements. **Text of existing 366.6.**

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367 Preparation of Presorted First-Class and Carrier Route First-Class Mailings

367.1 Presorted First-Class Mail

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367.12 Traying and Pouching

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367.123 Volume per Tray. Mailers should balance the volume in trays when more than one is prepared for the same destination to ensure that all are full (when their contents are reasonably compressed). If, after this step, the remaining pieces for that destination are not enough to generate an additional full tray, they may be placed in a tray that is less than full, provided the pieces in that tray are packaged to preserve their orientation, and only one such tray for that destination is prepared in the mailing. To allow accurate verification of the mailing by postal acceptance personnel, the mailer must provide a listing of all such trays prepared regardless of any documentation required for the rate claimed.

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367.4 Carrier Route First-Class Mail (Traying Requirements)

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367.43 Volume Per Tray. Mailers should balance the volume in trays when more than one is prepared for the same destination to ensure that all are full (when their contents are reasonably compressed). If, after this step, the remaining pieces for that destination are not enough to generate an additional full tray, they may be placed in a tray that is less than full, provided the pieces in that tray are packaged to preserve their orientation, and only one such tray for that destination is prepared in the mailing. To allow accurate verification of the mailing by postal acceptance personnel, the mailer must provide a listing of all such trays prepared regardless of any documentation required for the rate claimed.

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368 Preparation of Nonpresorted Bulk Rate First-Class Mail

368.1 Nonpresorted ZIP+4 Mail

368.11 Mailings Containing Only ZIP+4 Coded Pieces

368.111 Traying Requirements. Pieces must be faced and placed in trays. The trays must be labeled in the following manner:

Line 1: ZIP+4

368.112 Documentation Requirements. None.

368.12 Mailings Containing Both ZIP+4 and 5-Digit ZIP Coded Pieces

368.121 General. Mailers must prepare the mailing in accordance with either 368.122 or 368.123.

368.122 Traying Requirements -- Physical Separation Option. Separately tray ZIP+4 coded pieces and 5-digit ZIP Coded pieces and, if the pieces are not of identical weight, separate the pieces within each tray into groups of 100 pieces by tabs or rubber bands to facilitate verification of postage and the 85% requirement (see 327.2).

368.123 Traying Requirements -- Documentation Option. Pieces must be placed in trays in batches by 3-digit ZIP Code area, and each tray must be assigned a unique number. Documentation must be submitted which shows, for each tray, the tray number and, within each tray by 3-digit ZIP Code prefix, the number of pieces with a ZIP+4 code and the number of pieces with a 5-digit ZIP Code. For the entire mailing, the documentation must also show the total number of pieces with a ZIP+4 code and the total number of pieces with a 5-digit ZIP Code.

368.2 Nonpresorted ZIP+4 Barcoded Mail

368.21 Mailings Containing Only ZIP+4 Barcoded Pieces

368.211 Traying Requirements. Pieces must be faced and placed in trays. The trays must be labeled in the following manner:

Line 1: ZIP+4 BARCODED

368.212 Documentation Requirements. None.

368.22 Mailings Containing Pieces With and Without ZIP+4 Barcodes

368.221 General. Mailers must prepare the mailing in accordance with either 368.222 or 368.223.

368.222 Traying Requirements -- Physical Separation Option. Separately tray ZIP+4 barcoded pieces and pieces that do not bear a ZIP+4 barcode and, if the pieces are not of identical weight, separate the pieces within each tray into groups of 100 pieces by tabs or rubber bands to facilitate verification of postage and the 35% requirement (see 328.2).

368.223 Traying Requirements -- Documentation Option. Pieces must be placed in trays in batches by 3-digit ZIP Code area, and each tray must be assigned a unique number. Documentation must be submitted which shows, for each tray, the tray number and, within each tray by 3-digit ZIP Code prefix, the number of pieces with a ZIP+4 barcode and the number of pieces without. For the entire mailing, the documentation must also show the total number of pieces with a ZIP+4 barcode and the total number of pieces without.

369 Optional Endorsement Line in Address Block or Label

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369.3 Examples. **Add the following to the end of this section.**

SCF Packages
***** SCF 220

Note: This package label optional endorsement line is for use only with Presorted Priority Mail. The 3-digit ZIP Code used with this optional endorsement line must be the 3-digit code shown for the SCF in Exhibit 122.63d.

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380 Payment of Postage

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382 Carrier Route First-Class, Presorted First-Class, Nonpresorted ZIP+4, Nonpresorted ZIP+4 Barcoded, ZIP+4 Presort, 5-Digit ZIP+4 Barcoded, and 3-Digit ZIP+4 Barcoded Rates

382.1 Method of Payment. **Delete the reference to 137.274c(2).**

382.2 Exact Postage of Each Piece

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382.22 Carrier Route Rates. * * * * *

382.23 ZIP+4 Barcoded Presort Rates

382.231 National Mailings Prepared Under 364.1. When precanceled postage or meter stamps are used, pieces in national mailings prepared in accordance with 364.1 must have postage affixed at the 5-digit ZIP+4 Barcoded rate, the ZIP+4 Presort rate, or the Presorted First-Class rate, as appropriate, on pieces in the 5-digit presort portion; and postage affixed at the 3-digit ZIP+4 Barcoded rate, the ZIP+4 Presort rate, or the Presorted First-Class rate, as appropriate, on pieces in the 3-digit presort portion; and postage affixed at the nonpresorted ZIP+4 Barcoded rate, the nonpresorted ZIP+4 rate, or the single-piece rate, as appropriate, on pieces in the residual sortation portion.

382.232 National Mailings Prepared Under Chapter 5. When precanceled postage or meter stamps are used, pieces in national mailings prepared in accordance with Chapter 5 must have postage affixed at the 5-digit ZIP+4 Barcoded, ZIP+4 Presort, or Presorted First-Class rate if in a 5-digit tray; the 3-digit ZIP+4 Barcoded, ZIP+4 Presort, or Presorted First-Class rate if in a 3-digit or SCF tray; or at the nonpresorted ZIP+4 Barcoded, nonpresorted ZIP+4, or single-piece First-Class rate if in a residual tray.

382.233 Automated Site Mailings. When precanceled postage or meter stamps are used, pieces in automated site mailings prepared in packages and trays in accordance with 364.3 must have postage affixed at the 3-digit ZIP+4 Barcoded rate, the ZIP+4 Presort rate, or the Presorted First-Class rate, as appropriate, if in the qualifying portion of the mailing; and postage affixed at the nonpresorted ZIP+4 Barcoded rate, the nonpresorted ZIP+4 rate, or the single-piece rate on pieces in the residual portion of the mailing.

382.24 Nonpresorted ZIP+4 Rates. When precanceled postage or meter stamps are used, pieces in nonpresorted ZIP+4 rate mailings must have postage affixed at the nonpresorted ZIP+4 rates for qualifying pieces or at the single-piece First-Class rate for nonqualifying pieces.

382.25 Nonpresorted ZIP+4 Barcoded Rates. When precanceled postage or meter stamps are used, pieces in nonpresorted ZIP+4 Barcoded rate mailings must have postage affixed at the nonpresorted ZIP+4 Barcoded rates for qualifying pieces or the single-piece First-Class rate for nonqualifying pieces.

382.3 Postage at Lowest Rate in Mailing Affixed to All Pieces in the Mailing

382.31 Identical Pieces

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b. Carrier Route First-Class Mailing. When all pieces in a carrier route * * * * *

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d. ZIP+4 Barcoded Presort Rate Mailings

(1) National Mailings Prepared Under 364.1. When all pieces in a ZIP+4 Barcoded national mailing prepared in accordance with 364.1 are paid by meter stamps or precanceled postage are of identical size and weight, the entire mailing may have postage affixed at the 5-digit ZIP+4 Barcoded rate if the documentation requirements in 364.212 are met. Additional postage in the amount documented in accordance with 364.212e for pieces subject to the 3-digit ZIP+4 Barcoded, ZIP+4 Presort, Presorted First-Class, nonpresorted ZIP+4 Barcoded, nonpresorted ZIP+4, and single-piece First-Class rates must be paid by means of a meter strip affixed to the mailing statement that is required to accompany the mailing, or through an advance deposit account as provided for in Handbook F-1, *Post Office Accounting Procedures,* 524.

(2) National Mailings Prepared Under Chapter 5. When all pieces in a ZIP+4 Barcoded national mailing prepared in accordance with Chapter 5 are paid by meter stamps or precanceled postage are of identical size and weight, the entire mailing may have postage affixed at the 5-digit ZIP+4 Barcoded rate, provided the applicable documentation requirements in Chapter 5 are met. Additional postage in the amount documented in accordance with Chapter 5 for pieces subject to other rates must be paid by means of a meter strip affixed to the mailing statement that is required to accompany the mailing, or through an advance deposit account as provided for in Handbook F-1, 524.

(3) Automated Site Mailings. When all pieces in an automated site ZIP+4 Barcoded mailing prepared in accordance with 364.3 are paid by meter stamps or precanceled postage and are of identical size and weight, the entire mailing may have postage affixed at the 3-digit ZIP+4 Barcoded rate if the documentation requirements in 364.43 are met. Additional postage in the amount documented in accordance with 364.433a for pieces subject to the ZIP+4 Presort, Presorted First-Class, nonpresorted ZIP+4 Barcoded, nonpresorted ZIP+4, and single-piece First-Class rates, must be paid by means of a meter strip affixed to the back of the mailing statement that is required to accompany the mailing, or through an advance deposit account as provided for in Handbook F-1, 524.

e. Nonpresorted ZIP+4 Mailings. When all pieces in a nonpresorted ZIP+4 mailing prepared in accordance with 327 are paid by meter stamps or precanceled postage and are of identical size and weight, the entire mailing may have postage affixed at the nonpresorted ZIP+4 rates, provided the documentation requirements in 368.12 for mailings containing 5-digit ZIP Coded pieces are met. Additional postage in the amount documented in accordance with 368.12 for pieces subject to the single-piece First-Class rates must be paid by means of a meter strip affixed to the mailing statement that is required to accompany the mailing, or through an advance deposit account as provided for in Handbook F-1, 524.

f. Nonpresorted ZIP+4 Barcoded Mailings. When all pieces in a nonpresorted ZIP+4 Barcoded mailing prepared in accordance with 328 are paid by meter stamps or precanceled postage and are of identical size and weight, the entire mailing may have postage affixed at the nonpresorted ZIP+4 Barcoded rates, provided the documentation requirements in 368.22 for mailings containing pieces prepared without ZIP+4 barcodes are met. Additional postage in the amount documented in accordance with 368.22 for pieces subject to the nonpresorted ZIP+4 or single-piece First-Class rates must be paid by means of a meter strip affixed to the mailing statement that is required to accompany the mailing, or through an advance deposit account as provided for in Handbook F-1, 524.

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382.33 Nonidentical Pieces at All ZIP+4 Presort and ZIP+4 Barcoded Rates

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b. ZIP+4 Barcoded Presort Mailings

(1) National Mailings Prepared Under 364.1. ZIP+4 Barcoded mailings of nonidentical-weight pieces, prepared in accordance with 364.1, may have postage affixed to each piece at the 5-digit ZIP+4 Barcoded rate if the documentation requirements in 364.212 are met. Additional postage in the amount documented in accordance with 364.212e for pieces subject to the 3-digit ZIP+4 Barcoded, ZIP+4 Presort, Presorted First-Class, nonpresorted ZIP+4 Barcoded, nonpresorted ZIP+4, and single-piece First-Class rates must be paid by means of a meter strip affixed to the mailing statement that is required to accompany the mailing, or through an advance deposit account as provided for in Handbook F-1, 524.

(2) National Mailings Prepared Under Chapter 5. ZIP+4 Barcoded mailings of nonidentical-weight pieces, prepared in accordance with Chapter 5, may have postage affixed to each piece at the 5-digit ZIP+4 Barcoded rate if the applicable documentation requirements in Chapter 5 are met. Additional postage in the amount documented in accordance with Chapter 5 for pieces subject to other rates must be paid by means of a meter strip affixed to the mailing statement that is required to accompany the mailing, or through an advance deposit account as provided for in Handbook F-1, 524.

(3) Automated Site Mailings. ZIP+4 barcoded mailings of nonidentical-weight pieces, prepared in accordance with the automated site requirements in 364.3, may have postage affixed to each piece at the 3-digit ZIP+4 Barcoded rate if the documentation requirements in 364.43 are met. Additional postage in the amount documented in accordance with 364.433a for pieces subject to the ZIP+4 Presort, Presorted First-Class, nonpresorted ZIP+4 Barcoded, nonpresorted ZIP+4, and single-piece First-Class rates must be paid by means of a meter strip affixed to the mailing statement that is required to accompany the mailing, or through an advance deposit account as provided for in Handbook F-1, 524.

c. Nonpresorted ZIP+4 Mailings. Nonpresorted ZIP+4 mailings of nonidentical-weight pieces, prepared in accordance with 327, may have postage affixed to each piece at the nonpresorted ZIP+4 rate if the documentation requirements in 368.12 for mailings containing pieces prepared with 5-digit ZIP Codes are met. Additional postage in the amount documented in accordance with 368.12 for pieces subject to the single-piece First-Class rates must be paid by means of a meter strip affixed to the mailing statement that is required to accompany the mailing, or through an advance deposit account as provided for in Handbook F-1, 524.

d. Nonpresorted ZIP+4 Barcoded Mailings. Nonpresorted ZIP+4 barcoded mailings of nonidentical-weight pieces, prepared in accordance with 328, may have postage affixed to each piece at the nonpresorted ZIP+4 Barcoded rate if the documentation requirements in 368.22 for mailings containing pieces prepared without ZIP+4 barcodes are met. Additional postage in the

amount documented in accordance with 368.22 for pieces subject to the single-piece First-Class rates must be paid by means of a meter strip affixed to the mailing statement that is required to accompany the mailing, or through an advance deposit account as provided for in Handbook F-1, 524.

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383 Priority Mail Rates

383.1 Single-Piece Rates

383.11 Method of Payment. Single-piece rate Priority Mail postage may be paid by adhesive stamps (see 142 or 143), meter stamps (see 144), or permit imprint (see 145). If a permit imprint is used, the pieces must be of identical weight and, unless all the pieces are in a weight category for which the rates do not vary by zone, the pieces must be separated by zone when presented to the post office. Exceptions to the identical-weight requirement are in 145.7 through 145.9, and 137.274c(2).

383.12 Mailing Statement. A mailing statement is required only if postage is paid by permit imprint.

383.2 Presorted Priority Mail

383.21 Methods of Payment. Presorted Priority Mail must be paid by means of meter postage (see 144) or permit imprint (see 145).

383.22 Identical-Weight Mailings. Mailings consisting of identical-weight pieces may be paid by any of the methods listed in 383.21.

383.221 Metered Mailings. Within metered mailings, postage may be:

a. affixed in the exact amount on each piece, or

b. affixed to all the pieces in the mailing, both qualifying and residual, at the Presorted Priority Mail rates. If this is done, residual pieces must be separated from the qualifying pieces when the mailing is presented to the post office. The additional postage for the residual pieces must be paid by means of a meter strip affixed to the mailing statement that is required to accompany the mailing, or through an advance deposit account as provided for in Handbook F-1, 524.

383.222 Permit Imprint Mailings. Within permit imprint mailings of identical-weight pieces, the qualifying pieces must be separated from the residual pieces when the mailing is presented to the post office. Unless the pieces are in a weight category for which postage does not vary by zone, the sacks in the qualifying and residual portions must be further separated by zone.

383.23 Nonidentical-Weight Mailings

383.231 Postage Affixed Mailings. Each piece in a nonidentical-weight mailing must have the exact postage affixed at the rate for which it qualifies.

383.232 Permit Imprint Mailings. Nonidentical-weight pieces may be paid by permit imprint only if authorized under 145.7, 145.8, or 145.9.

383.24 Mailing Statement. Mailers at the Priority Mail Presort rates must submit the appropriate mailing statement with each mailing, signed by the mailer or an authorized agent.

390 Ancillary Services

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392 Return and Address Correction

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392.2 Address Correction Service Change reference "(see Exhibit 310i)" to "(see Exhibit 315.2)."

392.3 Address-Change Service

a. ACS is designed to centralize, automate, and improve the processing of address-correction requests for mailers. The ACS process involves the transmission of change-of-address information to a central point where the changes are consolidated onto a magnetic tape filed by unique identifier. These records are sequentially organized by USPS assigned codes and distributed to each participating mailer. Label formats are found in 441.232.

b. ACS is available to mailers who maintain their address records on computers. For further information, write to:

ADDRESS CHANGE SERVICE
ADDRESS INFORMATION CENTER
US POSTAL SERVICE
6060 PRIMACY PARKWAY SUITE 101
MEMPHIS TN 38188-0002

392.4 Text of current 392.3.

CHAPTER 4 - SECOND-CLASS MAIL

410 Rates and Fees

411 Rates

411.1 Characteristics Common to All Rates

411.11 Rate Elements

411.111 General. Postage for all second-class mail includes a pound-rate charge, a piece-rate charge, and any reductions for which the mail may qualify. Each piece also must meet the specific eligibility and preparation requirements that apply to the presort level, rate, or discount claimed.

411.112 Pound Rates. Pound rates are applied to the weight of the mailpieces as described in 411.131. Outside-the-county pound rates are based on the postal zone for the address on the piece as computed from the office of entry (see 122.7, 411.123, and 411.124) for the advertising portion. The outside-the county pound rate for the nonadvertising portion is unzoned. In-county pound rates consist of a delivery office zone rate and a uniform (unzoned) rate for all other eligible mailpieces delivered within the county of publication (see 411.32).

411.113 Piece Rates. Piece rates are applied to each addressed piece based on the sortation performed by the publisher (see 440). An "addressed piece" can be a single individually addressed copy of a publication, a package of more than one unaddressed copy, or a firm package prepared in accordance with 441.21 that contains unaddressed or individually addressed copies for the same address.

411.114 Reductions. Subject to the corresponding conditions and requirements, reductions (discounts) may be taken from the per-pound and/or per-piece charges as provided by 411.2 and 411.3.

411.12 Eligibility

411.121 Outside-the-County. Outside-the-county rates (including the SCF and delivery office zone rates described in 411.123 and 411.124) apply to pieces that do not qualify for any of the preferred rates in 411.3. Outside-the-county rates include a zone-based charge for the advertising portion of the publication and an unzoned (flat) charge for the nonadvertising portion. (Advertising is defined in 423.132.) A reduction in both the pound rate and piece rate charges (as described in 411.2 and 411.3) is available for the nonadvertising portion of the mailing.

411.122 In-County. In-county rates apply to pieces that meet the requirements in 411.321 through 411.324. In-county rates apply to both the advertising and nonadvertising portions of a publication.

411.123 SCF Zone. The SCF zone rate applies only to copies that are not eligible for in-county rates, and that are for delivery at an address in the same sectional center facility (SCF) service area as the post office of entry. See Exhibits 122.63c and 122.63d for a listing of the 3-digit ZIP Code prefixes assigned to each SCF. Pieces eligible for the SCF zone rate may also claim the SCF piece discount.

411.124 Delivery Office Zone. The delivery office zone rate applies only to copies deposited at the facility (post office, station, branch, etc.) where carrier casing is performed for the carrier route serving the address on the mailpiece. Copies claimed at the delivery office zone rate must be eligible for and claimed at either a level C, I, or K rate. See 424.4, 424.7, and 444 for additional requirements. Pieces eligible for the delivery office zone rate may also claim the delivery office piece discount.

411.125 ZIP+4 Rates. ZIP+4 rates include a discount applied to each addressed piece prepared in accordance with 424.5 and the applicable level A/G, B3/H3/J3, and B5/H5/J5 sortation requirements in 440. A ZIP+4 rate is not available for pieces claimed at level C, I, and K rates.

411.126 ZIP+4 Barcoded Rates. The ZIP+4 Barcoded rates include a discount applied to each addressed piece prepared in accordance with 424.6 and the applicable level A/G, B3/H3/J3, and B5/H5/J5 sortation requirements in 440. A ZIP+4 Barcoded rate (discount) is not available for pieces claimed at level C, I, and K rates.

411.127 Walk-Sequence Rates. The walk-sequence rates include a discount applied to each eligible walk-sequenced addressed piece in a level C, I, or K mailing, meeting the volume and preparation requirements in 424.7 and 440.

411.13 Computation of Postage

411.131 Pound Rates

a. Outside-the-County. To determine the pound-rate charges for outside-the-county copies:

(1) Multiply the number of copies to each zone by the per-copy weight; round off the total weight to the nearest whole pound (if necessary).

Exception: If the product is more than 0 but less than .5 pound, round to 1 pound.

(2) Multiply the total weight of the copies by the percent of advertising (see 463.22); round off the result to the nearest whole pound, if necessary, to yield the weight of the advertising portion for that zone.

Exception: If the product is more than 0 but less than .5 pound, round to 1 pound.

(3) Multiply the weight of the advertising portion by the corresponding rate.

(4) Subtract the total weight of the advertising portion from the total weight of all copies to determine the weight of the nonadvertising portion.

(5) Multiply the weight of the nonadvertising portion by the corresponding rate.

(6) Add the results of steps 3 and 5, and subtract any applicable discounts.

b. In-County. To determine the pound-rate charge for in-county copies, multiply the number of copies by the per-copy weight, round off the total weight to the nearest whole pound (if necessary), and multiply it by the corresponding rate. EXCEPTION: If the product is more than 0 but less than .5 pound, round to 1 pound.

411.132 Piece Rates

a. Outside-the-County. To determine the piece-rate postage for outside-the-county copies, multiply the number of *addressed pieces* (not copies) by the appropriate rate, based on the presort of the piece as mailed (see 440).

b. In-County. To determine the piece-rate postage for in-county copies, multiply the number of *addressed pieces* (not copies) by the appropriate rate, based on the presort of the piece as mailed (see 440).

411.133 Nonadvertising Adjustments. To determine the nonadvertising adjustments:

a. Subtract the advertising percentage (see 463.22) from 100.

b. Multiply the result by the number of addressed pieces; if necessary, round the number of pieces to a whole number.

c. Multiply the result by the applicable nonadvertising adjustment per piece (see 411.2 and 411.3).

411.134 Total Postage per Mailing. The total postage per mailing is determined by adding all pound and piece charges, subtracting the nonadvertising adjustment and any applicable discounts, and rounding the total to the nearest cent (if necessary).

411.14 Presort Level Rates

411.141 General. Presort level rates in second-class are identified by one- or two-character designations, as explained below. Although different letters are used for regular and special rates, the corresponding presort levels have similar preparation and eligibility requirements. Not all presort level rates may be claimed in combination with other automation or destination entry discounts.

411.142 Carrier Route Sortation (Level C Rates)

a. Level C1, I1, or K1 rates apply to pieces in carrier route packages of 6 or more addressed pieces each that are correctly sorted to carrier route or carrier routes sacks (see 444).

b. Level C2, I2, or K2 rates apply to pieces eligible for the level C1, I1, or K1 rates that have been further prepared in carrier delivery walk-sequence and in the density necessary to meet the 125-piece rate requirements in 424.7.

c. Level C3, I3, or K3 rates apply to pieces eligible for the level C1, I1, or K1 rates that have been further prepared in carrier delivery walk-sequence and in the density necessary to meet the saturation rate requirements in 424.7.

411.143 Three- and Five-Digit Sortation (Level B Rates)

a. Level B or H rates apply to pieces in 5-digit, optional city, and unique 3-digit packages of 6 or more addressed pieces each that are correctly sorted to 5-digit, optional city, or unique 3-digit sacks (see 443).

b. Level B5 or H5 rates apply to those pieces eligible for the level B and H rates that are both in 5-digit packages of 6 or more addressed pieces each that are correctly sorted to 5-digit, optional city, or unique 3-digit sacks.

c. Level B3 or H3 rates apply to those pieces eligible for the level B or H rates that are both in optional city or unique 3-digit packages of 6 or more addressed pieces each that are correctly sorted to optional city or unique 3-digit sacks.

411.144 Basic Sortation (Level A Rates). The level A and G rates apply to pieces not eligible for or claimed at the rates described in 411.142 and 411.143.

411.145 In-County Level J Rates

a. The level J rates apply to all pieces eligible for the in-county rates that are not also eligible for the level KR or KS rates.

b. The level J5 rates apply to those pieces eligible for the level J rates that are both in 5-digit packages of 6 or more addressed pieces each that are correctly sorted to 5-digit, optional city, or unique 3-digit sacks.

c. The level J3 rates apply to those pieces eligible for the level J rates that are both in optional city or unique 3-digit packages of 6 or more addressed pieces each that are correctly sorted to optional city or unique 3-digit sacks.

d. The level J1 rates apply to those pieces eligible for the level J rates but not eligible for or claimed at the level J3 or J5 rates.

411.2 Regular Rates

411.21 Eligibility. All copies of authorized second-class publications mailed by publishers or news agents are subject to the regular rates in 411.22 through 411.24, except for qualified copies of publications that have been authorized for one of the preferred rates in 411.3, and nonrequester and nonsubscriber copies as required by 411.422. Mailings must also meet the specific requirements that apply to the rates or discounts claimed.

411.22 Pound Rates

411.221 Nonadvertising Portion. The rate for the nonadvertising portion is $0.147 per pound or fraction.

411.222 Advertising Portion. Rates per pound or fraction:

Zone	Rate
Delivery Office	$ 0.168
SCF	0.178
1 & 2	0.196
3	0.204
4	0.224
5	0.258
6	0.292
7	0.332
8	0.367

411.23 Piece Rates. Each piece rate requires specific preparation as described in 411.113, 411.114, 411.12, and 440. Rates per addressed piece are:

Level	Rate	Rate (ZIP + 4)	Rate (ZIP + 4 Barcoded)
A	$ 0.201	$0.192	$ 0.182
B3	0.158	0.154	0.147
B5	0.158	0.154	0.139
C1	0.119	0.119	0.119
C2	0.114	0.114	0.114
C3	0.104	0.104	0.104

411.24 Nonadvertising Adjustment. The nonadvertising adjustment applies to outside-the-county piece-rate charges and is computed as shown in 411.133. For regular rate publications, the nonadvertising adjustment is $0.0005 per piece for each 1% of nonadvertising content.

411.25 Entry Discounts

411.251 Delivery Office Zone Pieces. The delivery office zone piece discount of $0.014 applies to each addressed piece claimed in the pound rate portion at the delivery office zone rate.

411.252 SCF Zone Pieces. The SCF zone piece discount of $0.009 applies to each addressed piece claimed in the pound rate portion at the SCF zone rate.

411.3 Preferred Rates

411.31 General. Requester publications are not eligible for the preferred rates. Copies of other authorized second-class publications mailed by publishers or news agents at any of the preferred rates (in-county, special nonprofit, classroom, and science of agriculture) must meet the corresponding eligibility requirements in 411.12, and 411.32 through 411.35. Nonsubscriber copies of second-class publications mailed at preferred rates are also subject to the limitations in 411.322, 411.413, and 411.414. Mailings must also meet the specific requirements that apply to the presort levels or other rates or discounts claimed.

411.32 In-County Rates

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411.325 Pound Rates. Rates per pound or fraction:

Zone	Rate
Delivery Office	$ 0.106
All Others	0.116

411.326 Piece Rates. Each piece rate requires specific preparation as described in 411.113, 411.114, 441.12, and 440. Rates per addressed piece are:

Level	Rate	Rate (ZIP + 4)	Rate (ZIP + 4 Barcoded)
J1	$ 0.077	$ 0.077	$ 0.077
J3	0.077	0.073	0.073
J5	0.077	0.073	0.060
K1	0.040	0.040	0.040
K2	0.035	0.035	0.035
K3	0.033	0.033	0.033

411.327 Delivery Office Zone Pieces. The delivery office zone piece discount of $0.003 applies to each addressed piece claimed in the pound rate portion at the delivery office zone rate.

411.33 Special Nonprofit Rates

411.331 Eligibility. Only second-class publications specifically authorized under 424.1 may be mailed at the special nonprofit rates subject to the restrictions in 411.413, 411.414, and 411.42. Mailings must also meet the specific requirements that apply to the presort levels or other rates or discounts claimed.

411.332 Pound Rates

a. Nonadvertising Portion. The rate for the nonadvertising portion is $0.106 per pound or fraction.

b. Advertising Portion. Rates per pound or fraction:

Zone	Rate
Delivery Office	$ 0.120
SCF	0.123
1 & 2	0.141
3	0.151
4	0.177
5	0.217
6	0.258
7	0.308
8	0.350

411.333 Piece Rates. Each piece rate requires specific preparation as described in 411.113, 411.114, 411.12, and 440. Rates per addressed piece are:

Level	Rate	Rate (ZIP + 4)	Rate (ZIP + 4 Barcoded)
G	$ 0.169	$0.162	$ 0.152
H3	0.126	0.122	0.116
H5	0.126	0.122	0.109
I1	0.088	0.088	0.088
I2	0.086	0.086	0.086
I3	0.081	0.081	0.081

411.334 Nonadvertising Adjustment. The nonadvertising adjustment applies to outside-the-county piece-rate charges and is computed as shown in 411.133. For special nonprofit rate publications, the nonadvertising adjustment is $0.00035 per piece for each 1% of nonadvertising content.

411.335 Publications With 10% or Less Advertising. Publications with an advertising percentage that is 10% or less are considered 100% nonadvertising and may use "0" as the "advertising percentage" when computing the nonadvertising adjustment.

411.336 Entry Discounts

a. Delivery Office Zone Pieces. The delivery office zone piece discount of $0.005 applies to each addressed piece claimed in the pound rate portion at the delivery office zone rate.

b. SCF Zone Pieces. The SCF zone piece discount of $0.003 applies to each addressed piece claimed in the pound rate portion at the SCF zone rate.

411.34 Classroom Rates

411.341 Eligibility. Only second-class publications specifically authorized under 424.2 may be mailed at the classroom rates, subject to the restrictions in 411.413, 411.414, and 411.42. Mailings must also meet the specific requirements that apply to the presort levels or other rates or discounts claimed.

411.342 Pound Rates

a. Nonadvertising Portion. The rate for the nonadvertising portion is $0.106 per pound or fraction.

b. Advertising Portion. Rates per pound or fraction:

Zone	Rate
Delivery Office	$ 0.120
SCF	0.123
1 & 2	0.141
3	0.151
4	0.177
5	0.217
6	0.258
7	0.308
8	0.350

411.343 Piece Rates. Each piece rate requires specific preparation as described in 411.113, 411.114, 411.12, and 440. Rates per addressed piece are:

Level	Rate	Rate (ZIP + 4)	Rate (ZIP + 4 Barcoded)
G	$ 0.169	$0.162	$ 0.152
H3	0.126	0.122	0.116
H5	0.126	0.122	0.109
I1	0.088	0.088	0.088
I2	0.086	0.086	0.086
I3	0.081	0.081	0.081

411.344 Nonadvertising Adjustment. The nonadvertising adjustment applies to outside-the-county piece-rate charges and is computed as shown in 411.133. For classroom rate publications, the nonadvertising adjustment is $0.00035 per piece for each 1% of nonadvertising content.

411.345 Entry Discounts

a. Delivery Office Zone Pieces. The delivery office zone piece discount of $0.005 applies to each addressed piece claimed in the pound rate portion at the delivery office zone rate.

b. SCF Zone Pieces. The SCF zone piece discount of $0.003 applies to each addressed piece claimed in the pound rate portion at the SCF zone rate.

411.35 Science of Agriculture Rates

411.351 Eligibility. Science of agriculture rates apply to outside-the-county copies of authorized second-class publications mailed by publishers or news agents when the total number of copies furnished during any 12-month period to subscribers residing in rural areas are at least 70% of the total number of copies distributed by any means for any purpose. Use of the science of agriculture rates is subject to the restrictions in 411.413, 411.414, and 411.422. Mailings must also meet the specific requirements that apply to the presort levels or other rates or discounts claimed.

411.352 Pound Rates

a. Nonadvertising Portion. The rate for the nonadvertising portion is $0.147 per pound or fraction.

b. Advertising Portion. Rates per pound or fraction:

Zone	Rate
Delivery Office	$ 0.120
SCF	0.123
1 & 2	0.141
3	0.204
4	0.224
5	0.258
6	0.292
7	0.332
8	0.367

411.353 Piece Rates. Each piece rate requires specific preparation as described in 411.113, 411.114, 411.12, and 440. Rates per addressed piece are:

Level	Rate	Rate (ZIP + 4)	Rate (ZIP + 4 Barcoded)
A	$ 0.201	$0.192	$ 0.182
B3	0.158	0.154	0.147
B5	0.158	0.154	0.139
C1	0.119	0.119	0.119
C2	0.114	0.114	0.114
C3	0.104	0.104	0.104

411.354 Nonadvertising Adjustment. The nonadvertising adjustment applies to outside-the-county piece-rate charges and is computed as shown in 411.133. For regular rate publication, the nonadvertising adjustment is $0.0005 per piece for each 1% of nonadvertising content.

411.355 Entry Discounts

a. Delivery Office Zone Pieces. The delivery office zone piece discount of $0.014 applies to each addressed piece claimed in the pound rate portion at the delivery office zone rate.

b. SCF Zone Pieces. The SCF zone piece discount of $0.009 applies to each addressed piece claimed in the pound rate portion at the SCF zone rate.

Delete 411.36.

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412 Fees

412.1 Application Fees

412.11 General

412.111 No Fee Applications. A fee is not charged for applications for reentry that only request authorization to use the preferred rates. The fee must be paid if the application includes any other request.

412.112 Refund of Fees. After an application has been filed with the Postal Service, no part of an accompanying fee is returned to the applicant, except as provided by 147.221b.

412.12 Original Entry. A fee of $275 must accompany an application for second-class mail privileges (original entry) (Form 3501, 3501A, 3502, or 3511).

412.13 News Agent Registry. A fee of $45 must accompany an application for news agent registry (Form 3501A).

412.14 Additional Entry. A fee of $75 must accompany an application for additional entry (Form 3510). One fee is chargeable for each additional entry established, modified, or canceled.

412.15 Reentry. A fee of $45 must accompany an application for reentry (Form 3510) to request a:

a. Change in title, frequency of issuance, or office of original entry (known office of publication) (see 427.1).

b. Change in qualification category (see 427.2).

c. Change in authorized rates from preferred to regular (see 427.2). (No fee is charged if reentry is only to change authorized rates from regular to preferred.)

d. Modification or cancellation of an additional entry (see 412.14, 426.46, and 426.47).

412.2 Address Correction Fee

412.21 Manual Correction. The fee for manual address correction service is $0.35 per notice issued.

412.22 Automated Correction. The fee for automated address correction service (see 472.3) is $0.20 per notice issued.

420 Classification

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423 Requirements for Specific Categories

423.1 General Publications

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423.12 Circulation Requirements

423.121 List of Subscribers. **Replace the third sentence, as follows:** Persons whose subscriptions are obtained at a nominal rate (see 423.124), and persons whose copies bear an alternative form of address (see 122.414, 122.422, and 122.433d), must not be included as a part of the legitimate list of subscribers.

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423.14 How to Apply for Second-Class Privileges

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423.142 Application Fee. The fee prescribed by 412.12 must accompany an application for second-class mail privileges (original entry).

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423.2 Publications of Eligible Institutions and Societies

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423.22 How to Apply for Second-Class Privileges

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423.222 Application Fee. The fee prescribed by 412.12 must accompany an application for second-class mail privileges (original entry).

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423.3 Publications of State Departments of Agriculture

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423.32 How to Apply for Second-Class Privileges

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423.322 Application Fee. The fee prescribed by 412.12 must accompany an application for second-class mail privileges (original entry).

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423.4 Requester Publications

423.41 Eligibility. **Change the reference from 411.21 to 411.2.**

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423.42 Circulation Requirements

423.421 List of Requesters. **Replace the last sentence, as follows:** Persons will not be deemed to have requested the publication if the copies of the publication sent to those persons bear an alternative form of address (see 122.414, 122.422, and 122.433d).

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423.43 How to Apply for Second-Class Privileges

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423.432 Application Fee. The fee prescribed by 412.12 must accompany an application for second-class mail privileges (original entry).

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423.5 Foreign Publications

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423.52 How to Apply for Second-Class Privileges

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423.522 Application Fee. The fee prescribed by 412.12 must accompany an application for second-class mail privileges (original entry).

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423.6 News Agent Registry

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423.62 How to Apply for News Agent Registry

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423.622 Application Fee. The fee prescribed by 412.13 must accompany an application for news agent registry.

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424 Additional Eligibility Requirements for Specific Rates

Retitle 424 as shown above; existing text in 424.1, 424.2, and 424.3 is unchanged.

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424.4 Delivery Office Rates

424.41 Eligibility

424.411 General. The delivery office rates apply only to publications that are available for entry at the facility (post office, station, branch, etc.) where the carrier cases mail for the carrier route serving the address on the mailpiece. (For purposes of this section, city carrier routes, rural routes, highway contract routes, and general delivery and post office box sections will be referred to collectively as "carrier routes.") The delivery office rates are the delivery office zone pound rate (which applies to the pound rate postage) and the delivery office zone piece discount (which is deducted from the piece rate postage based on the number of addressed pieces claimed at the delivery office zone pound rate).

424.412 Preparation. Copies claimed at the delivery office rates must be eligible for and claimed at a level C, I, or K rate (see 424.7 and 444 for additional requirements, as applicable). To be eligible for the delivery office rates, the copy must be part of a properly prepared and labeled carrier route package placed in a carrier route or 5-digit carrier routes sack, tray, or pallet that is correctly labeled to the corresponding destination (see 444 for additional requirements). Copies may be prepared in bundles instead of sacks, or in packages or pallets, if authorized under 445.1, 445.2, or 445.3.

424.413 Volume

a. Minimum Volume. Except for requirements for the carrier route or walk-sequence rate that applies to the mail, there is no additional volume requirement for a mailing claimed at the delivery office rates. Regardless of volume, the number of copies at the delivery office rates must represent more than half of the total number of copies of that publication presented to a delivery facility within any 24-hour period, except as provided by 424.413c. When a single mailer presents delivery office rate copies of more than one publication, the total number of delivery office rate copies must represent more than half the mail (by number of copies or by weight, whichever is greater) presented by the same mailer within any 24-hour period. The mailer is the party presenting the material to the Postal Service (or for whom a transportation company has presented the material to the Postal Service).

b. Maximum Volume. Except as provided by 424.413c, the same mailer may not present for verification and acceptance more than 4 destination rate mailings at the same destination postal facility (or another acting as its agent) in any 24-hour period. This limit may be waived if local conditions permit; mailers may ask for such a waiver when scheduling deposit of the mailings (see 424.442). There is no maximum for plant-verified drop shipments.

c. Exception. The requirements of 424.413a-b do not apply to mailings presented to either the publication's authorized original entry post office or an authorized additional entry serving the place where the copies were prepared for mailing, if that entry post office is the destination postal facility at which the destination rate copies must be deposited.

424.42 Authorized Entry. Publications must have an authorized entry at each post office where mail is deposited at the delivery office rates. For post offices with stations or branches, establishment of an entry at the main post office allows deposit of mail at any station or branch of that post office.

424.43 Distribution Plan. Entry of publications at the delivery office rates must be in accordance with the distribution plan associated with the authorized post office of entry. Post offices will not accept copies not authorized entry at that post office as described in the approved distribution plan. See 426 for more information about additional entry.

424.44 Mailing.

424.441 Place of Deposit. Publishers must deposit copies claimed at the delivery office rates at locations and times specified by the entry office postmaster, or designee, or by the division manager, logistics and distribution (see 424.442), as applicable. Copies are ineligible for the delivery office rates if not deposited by the mailer at the destination delivery unit (see 424.411), regardless of circumstance.

424.442 Scheduled Deposit. Mailers may schedule deposit of destination rate mailings at least 24 hours in advance by contacting the manager, logistics and distribution, or designee, at the field division office in whose service area the destination facility is located. Mailers must comply with the scheduled deposit time provided, which will be the earliest possible date. Standing appointments for renewable 6-month periods may be requested by written application to the manager, logistics and distribution, at the field division office in whose service area the destination facility is located.

424.443 Additional Information. Additional information about scheduling and unloading requirements may be obtained from the manager, logistics and distribution, or designee, at the field division office in whose service area the destination facility is located.

424.45 Copies for Other Destinations or at Other Rates

424.451 General. A mailing which contains copies claimed at the delivery office rates may include other copies claimed at other rates subject to the limitations in 424.413.

424.452 Authorization. Any copies for other destinations that are presented at a delivery office by the publisher may be included only as specified in the authorized distribution plan for that entry post office (see 426.41).

424.453 Separation. When presented to the Postal Service, the sacks containing the delivery office rate copies must be separated from others in the same mailing or in other mailings. Any effective method of separation may be used.

424.46 CPP Publications. Publications authorized to use Centralized Postage Payment (CPP) procedures must also meet the requirements of 464 and the terms of their CPP authorization.

424.47 Documentation. Publishers who prepare mailings claimed at the delivery office rates must substantiate compliance with the requirements in 424.41. If the carrier route rate (level C1/I1/K1) is claimed, the publisher must indicate the number of copies and the number of addressed pieces for each carrier route. This may be accomplished as provided by 424.84 or by submission of separate documentation. If a walk-sequence rate is claimed, the publisher must provide the documentation required by 424.77. See 465.24 for additional documentation requirements that apply to plant-verified drop shipments.

424.5 ZIP+4 Rates

424.51 General. The ZIP+4 rates, available only for letter-size second-class publications, include a discount applied to each addressed piece prepared in accordance with 424.52 through 424.54 and the applicable level A or B sortation requirements in 440. A ZIP+4 rate (discount) is not available for level C, I, and K rate pieces.

424.52 Automation Compatibility Requirements. Each piece for which a ZIP+4 rate is claimed must be prepared as required by 324.2, 324.3, and 324.5 through 324.7.

424.53 Minimum Quantity

424.531 Per Mailing. Although there is no specific minimum number of pieces required for a ZIP+4 rate second-class mailing, no less than 85% of the number of addressed pieces in such a mailing must be eligible for and claimed at a ZIP+4 rate. Each remaining piece must bear the correct 5-digit ZIP Code for the delivery address on the piece and must meet the applicable requirements in 324.2, 324.3, and 324.5 through 324.7.

424.532 Per Package, Sack, and Tray. Each package must contain a minimum of 6 addressed pieces. Each package must be placed in either a sack containing at least 4 packages or in a tray that is at least 3/4 full when the contents are reasonably compressed.

424.54 Preparation

424.541 Presort. All pieces in a ZIP+4 rate mailing must be presorted together as required by 441 or 443 for the presort level claimed.

424.542 Packaging, Sacking, and Traying. ZIP+4 rate mailings must be packaged, sacked, and trayed as required by 447.

424.543 Rate Eligibility

a. General Rule. Subject to the requirements of 424.532, pieces presorted under 441 are eligible for the level A/G/J1 or level A/G/J1 ZIP+4 rate, as applicable; those presorted under 443 are eligible for the level B/H/J3/J5 or level B/H/J3/J5 ZIP+4 rate, as applicable.

b. Optional Sortation to Automated Sites. Subject to the requirements of 424.532, publishers may prepare mailings at the level B3/H3/J3 ZIP+4 rate without making 5-digit packages or sacks when all pieces in the mailing are for destinations within the 3-digit ZIP Code ranges listed in Exhibit 122.63m, and pieces destinating in other ZIP Code areas are prepared as a separate mailing. Pieces prepared under this optional sortation must be presorted in unique 3-digit, SCF, AADC and Mixed AADC packages which are correctly sorted in unique 3-digit, SCF, AADC, and Mixed AADC sacks or trays to the destinations listed in Exhibits 122.63m-o. Mixed AADC packages and trays may have fewer pieces or packages than prescribed in 424.532. Pieces in AADC and Mixed AADC packages, sacks, and trays are not eligible for the level B3/H3/J3 rates and must be claimed at the level A/H/J rates.

424.6 ZIP+4 Barcoded Rates

424.61 General. The ZIP+4 Barcoded rates, available only for letter-size second-class publications, include a discount applied to each addressed piece prepared in accordance with 424.62 through 424.69 and the applicable level A/G/J or B/H sortation requirements in 440. A ZIP+4 Barcoded rate (discount) is not available for level C, I, and K rate pieces.

424.62 Automation Compatibility Requirements. Each piece for which a ZIP+4 Barcoded rate is claimed must meet the physical requirements in 324.3 and 324.5 and must bear a ZIP+4 barcode prepared as required in 324.72-324.77 and 325.51.

424.63 Minimum Quantity

424.631 Per Mailing. Although there is no specific minimum number of pieces required for a ZIP+4 Barcoded rate second-class mailing, no less than 85% of the number of addressed pieces in such a mailing must be eligible for and claimed at a ZIP+4 Barcoded rate. Each remaining piece must bear the correct ZIP+4 code or 5-digit ZIP Code for the delivery address on the piece and must meet the applicable requirements in 324.3-324.7.

424.632 Per Package, Sack, and Tray. Each package must contain a minimum of 6 addressed pieces. Each package must be placed in either a sack containing at least 4 packages or a tray that is at least 3/4 full when the contents are reasonably compressed.

424.64 Preparation

424.641 Presort. All pieces in a ZIP+4 Barcoded rate mailing must be presorted together as required by 441 or 443 for the presort level claimed.

424.642 Packaging, Sacking, and Traying. ZIP+4 Barcoded rate mailings must be packaged, sacked, and trayed as required by 447.

424.643 Rate Eligibility

a. Level A/G/J1. Subject to the requirements of 424.632, pieces presorted under 441 are eligible for either the level A/G/J1 or level A/G/J1 ZIP+4 Barcoded rate, as applicable.

b. Level B/H/J5. Subject to the requirements of 424.632, pieces presorted under 443 are eligible for either

(1) the level B3/H3/J3 or level B3/H3/J3 ZIP+4 Barcoded rate, as applicable, if in an optional city or unique 3-digit package that is correctly sorted to an optional city or unique 3-digit sack; or

(2) the level B5/H5/J5 or level B5/H5/J5 ZIP+4 Barcoded rate, as applicable, if in a 5-digit package that is correctly sorted to a 5-digit, optional city, or unique 3-digit sack.

c. Optional Sortation to Automated Sites. Subject to the requirements of 424.632 and 447, publishers may prepare mailings at the level B3/H3/J3 ZIP+4 Barcoded rate without making 5-digit packages or sacks when all pieces in the mailing are for destinations within the 3-digit ZIP Code ranges listed in Exhibit 122.63m, and pieces destinating in other ZIP Code areas are prepared as a separate mailing. Pieces prepared under this optional sortation must be presorted in unique 3-digit, SCF, AADC and Mixed AADC packages which are correctly sorted in unique 3-digit, SCF, AADC, and Mixed AADC sacks or trays to the destinations listed in Exhibits 122.63m-o. Mixed AADC packages and trays may have fewer pieces or packages than prescribed in 424.632. Pieces in AADC and Mixed AADC packages, sacks, and trays are not eligible for the level B3/H3/J3 rates and must be claimed at the level A/H/J rates.

424.7 Walk-Sequence Rates

424.71 General

424.711 Eligibility. The walk-sequence rates (125-piece and saturation) each include a discount applied to each eligible walk-sequenced addressed mailpiece in a carrier route mailing prepared as required by 424.71-424.78. See 444 for additional requirements. (For purposes of this section, city carrier routes, rural routes, highway contract routes, and general delivery and post office box sections will be referred to collectively as "carrier routes" unless specifically stated.) Pieces prepared using simplified address must meet the requirements in 122.41.

424.712 Authorized Entry. Publications must have an authorized entry at each post office where mail is deposited at a walk-sequence rate. For post offices with stations or branches, establishment of an entry at the main post office allows deposit of mail at any station or branch of that post office.

424.713 Distribution Plan. Entry of publications at a walk-sequence rate must be in accordance with the distribution plan associated with the authorized post office of entry. Post offices must not accept copies not authorized entry at that post office as described in an approved distribution plan. See 426 for more information about additional entry.

424.714 Mailing. Publishers must deposit copies claimed at a walk-sequence rate at locations and times specified by the entry office postmaster.

424.715 Copies for Other Destinations or at Other Rates

a. General. A mailing which includes copies claimed at a walk-sequence rate may include other copies claimed at other presort rates.

b. Separation. At the time when presented to the Postal Service, the sacks containing the walk-sequence rate copies must be separated from other sacks in the same mailing or other mailings. Any effective method of separation may be used.

c. Other Rates. In addition to those copies prepared in walk-sequence as required for the rate claim (see 424.75), publishers are encouraged to prepare all other copies in the mailing in walk-sequence.

424.716 CPP Publications. Publications authorized to use Centralized Postage Payment (CPP) procedures must also meet the requirements of 464 and the terms of their authorization for CPP.

424.72 Preparation. Mailpieces claimed at a walk-sequence rate must be prepared as carrier route mailings, i.e., an addressed piece must be part of a properly prepared and labeled carrier route package placed in a sack for the corresponding carrier route (see 444 for additional requirements) or must be in a package placed in

a carrier route pallet, or a 5-digit carrier routes pallet containing only copies for the same delivery unit. Pieces that are in other than carrier route packages, or in carrier route packages that are not placed in corresponding carrier route sacks, are not eligible for a walk-sequence rate. These pieces may be included in the mailing only as provided by 424.715. Pieces prepared using simplified address must meet the requirements in 122.41.

424.73 Addressing

424.731 Walk-Sequence Rates. Walk-sequence rate mail must be addressed as follows:

a. each piece addressed for delivery on a city carrier route must bear a complete delivery address or an alternative form of address as provided by 122.42 or 122.43.

b. each piece addressed for delivery through a general delivery or post office box unit must bear a complete delivery address or an alternative form of address as provided by 122.4.

c. each piece addressed for delivery on a rural or highway contract route must bear a simplified address (see 122.41).

424.732 Subscriber/Requester Copies. Copies bearing an alternative form of address (see 122.41) do not count as subscriber or requester copies (see 423.121 and 423.421).

424.74 Density

424.741 Per 5-Digit ZIP Code. Once the minimum volume per carrier route has been met, there is no further minimum volume for the 5-digit ZIP Code delivery area. Walk-sequence rate mail need not be sent to all carrier routes within a 5-digit delivery area.

424.742 Per Carrier Route - 125-Piece Walk-Sequence Rate. At least 125 walk-sequenced addressed pieces must be prepared for each carrier route receiving mail claimed at the 125-piece walk-sequence rate. Mail for carrier routes having 124 or fewer possible deliveries may qualify for the 125-piece walk-sequence rate if a piece is addressed to every possible delivery on the corresponding route, or for the saturation walk-sequence rate if the requirements in 424.743 are met.

424.743 Per Carrier Route - Saturation Walk-Sequence Rate

a. Pieces eligible for and claimed at the saturation walk-sequence rate must be addressed to either 90% or more of the residential addresses or 75% or more of the total number of addresses, whichever is less, on each city carrier route receiving saturation mail, and in each general delivery unit or post office box section receiving saturation walk-sequence rate mail not addressed in the simplified format.

b. Pieces eligible for and claimed at the saturation walk-sequence rate must be addressed to 75% or more of the total number of addresses on each rural or highway contract route receiving saturation walk-sequence mail, and in each general delivery unit or post office box section receiving saturation walk-sequence rate mail addressed in the simplified format.

424.744 Multiple Copies or Pieces per Address. Regardless of the number of copies, only one addressed piece per delivery address may be counted toward the required density prescribed in 424.742-424.743.

424.75 Walk-Sequencing

424.751 General. The pieces in a walk-sequence rate mailing must be organized in the sequence in which they will be delivered as determined by the Postal Service. Pieces prepared with a simplified address must meet the requirements in 122.413.

424.752 Packages. Walk-sequenced letter- and flat-size pieces must be prepared in packages. Letter-size pieces must be prepared in packages that are not more than 4 inches thick.

424.753 Package Labeling.

a. Facing Slip. Each package of walk-sequenced pieces must bear a facing slip placed over the front of the top piece in the package.

b. Content. The facing slip must contain the phrases "WALK-SEQUENCED MAIL;" "PACKAGE n OF nn" (where "n" is the sequential number of the package out of "nn," the total number of packages for the carrier route); "CARRIER ROUTE" (or "RURAL ROUTE," "HIGHWAY CONTRACT ROUTE," "POST OFFICE BOX SECTION," or "GENERAL DELIVERY SECTION," as appropriate), followed by the appropriate number; and the name and ZIP Code of the delivery post office. The ZIP Code may be that of the delivery unit (station or branch) where applicable. As an alternative, mailers who cannot anticipate the total number of packages that will be produced for a route may number each package consecutively and mark "LAST" on the last package for each route.

c. Format. The facing slip must present the required information in approximately the following format:

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WALK-SEQUENCED MAIL
PACKAGE 5 OF 10
CARRIER ROUTE 17
CENTREVILLE VA 22020
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424.76 Accuracy

424.761 Error Rate. For each carrier route receiving mail at a walk-sequence rate, no more than 5% of the total pieces for the route may be found out-of-sequence or sorted to the wrong carrier route. (The total number of pieces for the route is shown on the documentation required by 424.78.)

424.762 Errors not Counted. An error will not be counted when pieces are not in sequence or not sorted to the correct carrier route because of Postal Service scheme changes not yet incorporated in the scheme that the mailer is required to use in preparation of the mailing (see 424.77 and 424.78).

424.763 Pieces in Error. When a number of pieces is found that represents 5% or more of the total pieces for the route, the remaining pieces in the mailing for that route will be held and no further attempt made to distribute or deliver them. The delivery unit will notify the mailer or representative accordingly if the mailing was accompanied by the name and telephone number of the mailer or a local representative for the mailer. The mailer or representative may inform the delivery unit that it is abandoning the mailing, or within 24 hours, either call for the mailing to correct the walk-sequence errors or pay additional postage (the difference between the walk-sequence and carrier route presort rates) for all the pieces in the mailing for that route.

424.764 Refunds. No refund of postage will be available for postage paid for abandoned mailings.

424.77 Delivery Sequence Information

424.771 General. Mailings entered at walk-sequence rates must be based on delivery sequence information provided by the Postal Service using the methods in 424.772 or 424.773.

424.772 CDS File. The Computerized Delivery Sequence (CDS) file is updated quarterly. Walk-sequence rate mailings presented for acceptance 6 months or more after the release of a CDS file update must incorporate the changes contained in that update. Mailings based on out-of-date information will not be accepted at a walk-sequence rate.

424.773 Address Sequencing Service. Mailings entered at walk-sequence rates may be based on delivery sequence information provided by the Postal Service's address sequencing services (see 946). These services can be used to provide updated information as requested by the customer. Mailers who use address sequencing service must base walk-sequence rate mailings on address sequence information that was updated not more than 6 months prior to the date of mailing. Mailings based on older information will not be accepted at a walk-sequence rate.

424.78 Documentation

424.781 General. Mailers who prepare mailings claimed at a walk-sequence rate must substantiate compliance with the requirements in 424.7 through documentation, sequenced in numerical order by carrier route, that provides the information specified in 424.782-424.787.

424.782 Density - 125-Piece Walk-Sequence Rate. For each carrier route to which 125-piece walk-sequence rate mail is addressed, the mailer must provide documentation to indicate the total number of delivery stops to which mailpieces in the mailing are addressed.

424.783 Density - Saturation Walk-Sequence Rate

a. Unless simplified address is used, for each carrier route to which saturation walk-sequence rate mail is addressed, the mailer must provide documentation to indicate the total number of addressed pieces, the total number of possible residential deliveries, the number and percentage to which mailpieces in the mailing are addressed, the total number of possible delivery stops, and the number and percentage to which mailpieces in the mailing are addressed.

b. If simplified address is used, for each carrier route to which saturation walk-sequence rate mail is addressed, the mailer must provide documentation to indicate the total number of addressed pieces, the total number of possible delivery stops, and the number and percentage to which mailpieces in the mailing are addressed.

424.784 Combination Rate Mailings

a. Both Walk-Sequence Rates. If the same mailing contains pieces at both walk-sequence rates, the documentation required by 424.782 and 424.783 can be combined. Entries for pieces at the 125-piece walk-sequence rate must be so annotated. For the entire mailing, a summary of the total number of pieces at each rate must be provided.

b. Carrier Route Presort Rate. If the same mailing includes both walk-sequence and carrier route presort rate pieces, in addition to the information required by 424.782, 424.783, or 424.784a, as appropriate, the documentation must indicate, for each route receiving carrier route presort pieces in the mailing, the total number of delivery stops to which carrier route presort pieces are addressed. Entries at the carrier route rate must be so annotated. For the entire mailing, a summary by 5-digit ZIP Code of the total number of pieces at each rate must be provided. This documentation will also satisfy the requirements of 424.84 for the carrier route presort rate pieces included in the mailing.

424.785 Accuracy

a. For each carrier route receiving walk-sequence rate mail, the mailer who uses CDS must annotate the mailing statement to show the issue date of the CDS update used in preparation of the mail (see 424.77).

b. For each carrier route receiving walk-sequence rate mail, the mailer who uses address sequencing service must annotate the mailing statement to show the date of the last update for the address sequence information used in preparation of the mail (see 424.77). The mailer must provide evidence of this date by submitting a copy of the *Delivery Unit Summary* that served as the mailer's bill for the address sequencing service charges (see 946.71).

424.786 Documentation Required to Accompany the Mail - 125-Piece Walk-Sequence Rate. In addition to the facing slip required by 424.753, the first package of mail for each carrier route must contain a summary for that route which indicates the total number of addressed pieces prepared for the route. The total number of packages prepared must also be shown if the facing slips were numbered using the alternative method described in 424.753b.

424.787 Documentation Required to Accompany the Mail - Saturation Walk-Sequence Rate. In addition to the facing slip required by 424.753, the first package of mail for each carrier route must contain a summary for that route which indicates the total number of addressed pieces, the total number of possible residential deliveries, and the number and percentage to which mailpieces are addressed (if applicable), the total number of possible delivery stops, and the number and percentage to which mailpieces are addressed, and the issue date of the CDS scheme or the address sequence information used in preparation of the mail (as applicable).

424.8 Additional Requirements for Presort Rates

424.81 General

424.811 Available Rates. Although all second-class mail must be presorted, reduced rates (levels B, C, H, I, and K) are available if publishers prepare second-class mailings to a finer level of presort than required for the highest rates (levels A, G, and J).

424.812 Separate Requirements. Compliance with the corresponding preparation, documentation, and other eligibility requirements may entitle a publisher to claim an optional presort rate, but does not lessen the obligation to meet any separate eligibility requirements under 411, 421, 422, 423, or 424 that may also apply.

424.813 Preparation Under 445. Pieces that are presented in bundles or packages outside sacks, as provided by 445.1 and 445.2, remain eligible for the presort level or other rate claimed if the corresponding requirements are met. For purposes of compliance with the requirements of 424.82, 424.83, and 424.84, a bundle or package, prepared as required by 445.1 or 445.2, is the equivalent of a sack, and, if placed on a pallet, will allow the pieces it contains to qualify for the appropriate presort level rate regardless of the destination of the pallet. Eligibility for destination entry or other zone-based rates remains dependent on the point of entry.

424.82 Five-Digit Presort (Level B and H) Rates. **Text of existing 442.2a; redesignate (1) through (3) as (a) through (c).**

424.83 Carrier Route Presort (Level C, I, and K) Rates

424.831 General. **Text of existing 442.2b, except delete "The following provisions also apply:"**

424.832 Proper Makeup. **Text of existing 442.2b(1).**

424.833 Obtaining Schemes. See 624.362. **Delete existing 442.2c and 442.2d (replaced by new 424.9 and 424.813, respectively).**

424.84 Documentation

424.841 General. The publisher must be prepared to document or otherwise confirm the information entered on the mailing statements that accompany mailings of a second-class publication. As applicable, the publisher must be able to substantiate the number of pieces or weight of copies addressed or sorted to specific destinations or zones, prepared at specific levels of presort, or prepared to qualify for a particular rate or discount. The publisher must use one of the methods described in 424.842 through 424.844, subject to the limitations stated therein, unless another method is prescribed by regulation or otherwise approved by the Postal Service.

424.842 Separation of Sacks. A publisher may meet the general requirement in 424.841 at the time of mailing by separating the sacks into groups based on the presort level for which their contents qualify. Sacks whose contents qualify for the level A, G, or J rates must be in one group, those at level B or H rates in another, and those at level C, I, or K rates in a third. This method may not be used for mailings containing pieces claimed at an automation rate (ZIP+4 or ZIP+4 Barcoded), a destination entry rate, or a walk-sequence rate.

424.843 Documentation. A publisher may meet the general requirement in 424.841 by attaching documentation to the mailing statement accompanying the corresponding mailing. That documentation must describe, for each sack destination, the number of copies within each presort level qualifying for any applicable discounted rates, as detailed on the accompanying mailing statement. Further, for mailings at a ZIP+4 or ZIP+4 Barcoded rate, each entry must detail the number of pieces bearing a ZIP+4 code or ZIP+4 barcode, as appropriate, and a summary for the entire mailing must show a total number of pieces in the mailing and the number and percentage that bear a ZIP+4 code or ZIP+4 barcode, as applicable, for the rate claimed.

424.844 Maintaining Records

a. General. As an alternative to submitting documentation with the mailing, a publisher may meet the general requirement in 424.841 by maintaining records supporting the information on the mailing statement accompanying the corresponding mailing. Those records must provide the same detailed information required by 424.843.

b. Approval. This alternative may be approved by the postmaster of the original entry post office if the publisher has demonstrated (by repeated submission of accurate documentation under 424.843) that the necessary records can be maintained in lieu of their submission with the mailing. The postmaster must notify the serving rates and classification center and all additional entry offices of any publications for which this alternative has been approved. Bulk mail acceptance units must maintain a list of these publications.

c. Retention. Records maintained under this alternative must be retained for at least 2 months or until any pending action regarding the recalculation of postage has been resolved to the satisfaction of the Postal Service (see 424.832).

d. Termination. Authority to use this alternative may be terminated by the postmaster of the original entry post office or the general manager of the serving rates and classification center if it has been determined that records are not properly maintained, that they are incomplete, or that they otherwise do not accurately document the preparation or rate eligibility of the corresponding mailing.

424.85 Combining More than One Second-Class Publication or Edition

424.851 Definition. **Text of existing 442.41.**

424.852 Rate Qualification. **Text of existing 442.42.**

424.853 Presort Level Documentation. **Text of existing 442.43; change reference from 442.3 to 424.84.**

424.854 Mailing Statements. **Text of existing 442.44.**

424.86 Copalletizing More Than One Flat-Size Second-Class Publication or Edition of a Publication **Text of existing 442.5; renumber existing 442.51 through 442.56 as 424.861 through 424.866 respectively; in new 424.864, change "442.2d" and "442.2a or b" to "424.813" and "442.82 or 442.83;" in new 424.865c(1), change "442.3a and b" to "424.842 and 424.843;" in new 424.865c(2), change "442.3b" to "424.843."**

424.9 SCF Rates

424.91 Eligibility

424.911 General. The SCF rates apply only to publications not eligible for in-county rates that are available for delivery at an address that is in the same sectional center facility (SCF) service area as the post office at which the pieces were entered. See Exhibits 122.63c-d for a listing of the 3-digit ZIP Code prefixes assigned to each SCF. The SCF rates are the SCF zone pound rate (which applies to the pound rate postage) and the SCF zone piece discount (which is deducted from the piece rate postage based on the number of addressed pieces claimed at the SCF zone pound rate).

424.912 Preparation. Pieces claimed at the SCF rates must also be prepared as required by the presort rate claimed (see 441, 443, or 444, as applicable). Trayed ZIP+4 or ZIP+4 Barcoded rate pieces must also meet the requirements of 447. Pieces that are addressed and entered as required by 424.911 qualify for the SCF rates regardless of the type of package, sack, or tray in which they are placed (i.e., regardless of level of presort).

424.92 Authorized Entry. Publications must have an authorized entry at each post office where mail is deposited at the SCF rates. For post offices with stations or branches, establishment of an entry at the main post office allows deposit of mail at any station or branch of that post office. Post offices must not accept mail which is not authorized entry at that post office as described in an approved distribution plan see 426).

424.93 Mailing. Publishers must deposit mail claimed at the SCF rates at locations and times specified by the entry office postmaster. Mail claimed at the SCF rates for a particular entry post office is ineligible for that rate if it is deposited and accepted at a postal facility in another SCF area, regardless of circumstance.

424.94 Documentation. Publishers who prepare mailings that contain pieces claimed at the SCF rates must substantiate compliance with the requirements in 424.911. At a minimum, the publisher must indicate, by package, bundle, sack, tray, or pallet destination (as appropriate), the number of addressed pieces by presort level for each 5-digit ZIP Code destination eligible for the SCF rates. This may be accomplished as provided by 424.84 or by submission of separate documentation, subject to the approval of the entry office postmaster.

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426 How to Mail at More than One Post Office

426.1 Additional Entry

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426.14 Concurrent Filings of Applications

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426.142 Multiple Additional Entry Actions **Delete "and paying a single fee."**

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426.15 Application Fee. The fee prescribed by 412.14 must accompany an application for additional entry.

426.2 Restrictions

426.21 Same County. One or more additional entries may be authorized in the same county as the office of original entry. If the publication is eligible for the in-county rates in 411.32, the publisher must provide the original entry office postmaster with a duplicate copy of all mailing statements on which those rates are claimed so that compliance with the conditions in 411.32 may be assured.

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426.4 Use of Authorized Entries

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426.47 Cancellation or Restoration of Additional Entries

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426.471 Cancellation by Separate Action. Publishers must submit Form 3510 (see 426.131) and pay the fee prescribed in 412.14 to cancel an additional entry that will no longer be used.

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426.6 Exceptional Dispatch

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426.62 Application. In (c), delete "(Levels B, C, H, I, and K)."

426.63 Approval or Denial

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426.632 Notification. **In (d), delete "(Levels B, C, H, I, and K)."**

426.64 Verification. In the second sentence, delete "(Levels B, C, H, I, and K)."

426.65 Destination Entry Rates. Subject to the provisions of 424.9, copies of second-class publications deposited under exceptional dispatch may be eligible for and claimed at the SCF rates if eligible for those rates at both the entry office from which the zone rate postage for those copies is computed and the post office at which they are deposited by exceptional dispatch. Eligibility for the SCF rates must be incidental to the publisher's use of exceptional dispatch as a means to expedite a limited number of copies of a time-sensitive publication. Exceptional dispatch cannot be used to circumvent additional entry requirements.

426.7 Acceptance of Air-Freighted Second-Class Publications at Airport Mail Facilities (AMFs)

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426.75 Destination Entry Rates. Copies of second-class publications deposited at AMFs may be eligible for delivery unit, SCF, or walk-sequence rates if the applicable requirements are met (see 424.4, 424.7, and 424.9, respectively).

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427 Reentry

427.1 Changing Title, Frequency, of Known Office of Publication

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427.12 Application Procedure

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427.124 Application Fee. **Change the reference from "412.1c" to "412.15."**

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427.13 Requirements for Location of Known Office of Publication

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427.132 Same County. Reentry may be authorized at a new original entry post office in the same county as an existing additional entry post office. If the publication is eligible for the in-county rates in 411.32, the publisher must provide the original entry office postmaster with a duplicate copy of all mailing statements on which those rates are claimed so that compliance with the conditions in 411.32 may be assured.

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427.2 Changing Qualification Categories

427.21 General

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427.213 Application Fee. The fee prescribed by 412.15 must accompany an application for reentry.

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429 Publication Production - Mailpiece Characteristics

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429.3 Addressing

429.31 General

429.311 Preparation and Content. **Text of existing 429.31a and 429.31b.**

429.312 Method of Addressing. **Text of existing 429.31c.**

429.313 Address Strips. **Text of existing 429.31d. Renumber existing 429.32 as 429.7; add new 429.32 as follows:**

429.32 Address Placement

429.321 Placement on the Publication. **Text of existing 429.31e and 429.31f.**

429.322 Placement of the Address on Other than the Publication. Addresses or address labels may be placed on label carriers (see 429.323); on subscription order, renewal, gift, or request forms or receipts; on incidental First-Class attachments (see 429.324); and on supplements (see 429.325) if those items and the host second-class publication are enclosed within a plastic wrapper (polybag) and prepared as required by 429.323 through 429.325.

429.323 Use of Label Carriers for Addressing

a. Definition. A label carrier is a single, unfolded, uncreased sheet of card or paper stock.

b. Required Content. The label carrier must bear the:

(1) second-class imprint or "Second-Class" endorsement in the upper right corner of the address side, unless "Second-Class" is printed on the address side of the polybag;

(2) title of the second-class publication; and

(3) address to which the package can be returned if undeliverable as addressed and endorsed "Return Postage Guaranteed."

c. Optional Content. If the address is surrounded by a clear area on the label carrier containing no other information, the label carrier may show the following information in addition to that listed in 429.323:

(1) a subscription or request form;

(2) information about how to request or subscribe to the publication; and

(3) a request for address correction from the addressee.

d. Postage for Enclosures. In addition to the information permitted by 429.323b and 429.323c, the label carrier may bear the endorsement "First-Class Mail Enclosed" or "Third-Class Mail Enclosed," as appropriate, and the permit imprint used to pay postage for the First- or third-class enclosure, provided the imprint is below the second-class imprint or the endorsement "Second-Class."

e. Advertising. Advertising is permitted on the back of label carriers, if the appropriate postage is paid for the advertising. The bottom front of a label carrier may bear one line of text calling attention to printed material on the reverse of the label carrier. If the material on the reverse of the label carrier includes advertising, the line of text on the front is also considered and measured as advertising.

f. Placement of Address. The address may be positioned on the label carrier as shown in Exhibit 429.3.

g. Location of Label Carrier. The label carrier must be either securely affixed to the cover of the publication or, if not affixed, of sufficient size to prevent it from rotating inside the plastic wrapper or (if placed over the front cover) obscuring the publication's title

429.324 Use of Enclosures for Addressing. **Text of existing 429.31g(4).**

429.325 Use of Supplements for Addressing. **Text of existing 429.31g(5).**

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429.6 Identification Requirements

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429.62 Identification Statements Required in Copies

429.621 General. An identification statement must be included in all copies of publications authorized second-class mail privileges and all copies of publications mailed while approval of second-class mail privileges is pending.

429.622 Style of Type. The identification statement must appear in type which can be easily read. To assist postal personnel, publishers are urged to set change-of-address information (see 429.625i) in larger and bolder type than other elements of the identification statement.

429.622 Location - Unbound Publications. The identification statement must be shown conspicuously on one of the first five pages (preferably in the masthead) or in the masthead on the editorial page (if the location of the editorial page is shown on the front page of the publication in the table of contents).

429.623 Location - Bound Publications. For purposes of this section, a "bound publication" is one that is securely bound by two or more staples, spiral binding, glue, stitching, or other permanent fastening. In a bound publication, the identification statement must be shown conspicuously in one of the locations described in 429.622 or on one of the last three editorial pages inside the back cover page. If the publication is mailed with a nonincidental First- or third-class enclosure for which postage is paid by permit imprint under 429.186c, the identification statement must be located as specified in 429.622.

429.624 Change-of-Address Information. To assist postal personnel, publishers are urged to also show change-of-address information (required by 429.625i) on the label carrier or container of publications prepared in envelopes, closed wrappers, or polybags.

429.625 Contents. The identification statement must contain all of the following elements: **Text of existing 429.62a-j. Renumber existing 429.32 as 429.7, and reformat as follows:**

429.7 Detached Address Labels for Flats

429.71 General

429.711 Description. **Text of existing 429.32a.**

429.712 Prior Notification. **Text of existing 429.32b, with items (1) through (9) redesignated as (a) through (i).**

429.713 Rate. Walk-sequence mailings must meet the applicable eligibility, presort, and preparation requirements to qualify for the rate claimed.

429.72 Address Cards

429.721 Requirements. **Text of existing 429.331.**

429.722 Labels. **Text of existing 429.332.**

429.723 Letter. **Text of existing 429.333; change the reference to 429.712.**

429.724 Numbering Cartons. **Text of existing 429.334.**

429.73 Preparation of Flats. Text of existing 429.34.

429.74 Postage. Text of existing 429.35.

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440 Presorting

441 Preparation Requirements for the Basic (Level A, G, and J) Rates

441.1 General. All addressed pieces in a second-class mailing must be presorted, and that presort must, at a minimum, meet the requirements in 441.2 and 441.3. Publishers may perform additional preparation to meet the requirements for other presort rates or discounts.

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441.4 "Residual" Mail. All addressed pieces in a second-class mailing must be presorted, and that presort must, at a minimum, meet the requirements in 441.2 and 441.3. There is no provision for "residual" mail, or for payment of a single-piece rate for pieces not presorted as required by 441.2 and 441.3.

442 Reserved
Existing 442.2 is relocated to 424.8.

443 Preparation Requirements for the Five-Digit (Level B and H) Rates

443.1 General. All addressed pieces in a second-class mailing must be presorted, and that presort must, at a minimum, meet the requirements in 441.2 and 441.3. Publishers may perform additional preparation to meet the requirements for other presort rates or discounts. Publishers who mail at the 5-digit (level B and H) presort rates must meet the requirements in 443.2 through 443.4.

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443.4 "Residual" Mail. All addressed pieces in a second-class mailing must be presorted, and that presort must, at a minimum, meet the requirements in 441.2 and 441.3. There is no provision for "residual" mail or for payment of a second-class single-piece rate for nonpresorted pieces. Mail that cannot meet the requirements for a presort rate (level B, C, H, I, or K) or other discount must be presorted as required by 441.2 and 441.3.

444 Preparation Requirements for the Carrier Route (Level C, I, and K) Rates

444.1 General. All addressed pieces in a second-class mailing must be presorted, and that presort must, at a minimum, meet the requirements in 441.2 and 441.3. Publishers may perform additional preparation to meet the requirements for other presort rates or discounts. Publishers who mail at the carrier route rates (level C, I, and K) must meet the requirements in 444.2 through 444.4.

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444.4 "Residual" Mail. All addressed pieces in a second-class mailing must be presorted, and that presort must, at a minimum, meet the requirements in 441.2 and 441.3. There is no provision for "residual" mail or for payment of a second-class single-piece rate for nonpresorted pieces. Mail that cannot meet the requirements for a presort (level B, C, H, I, or K) rate or other discount must be presorted as required by 441.2 and 441.3.

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447 Special Preparation Requirements for ZIP+4 and ZIP+4 Barcoded Mailings

447.1 General. Except as provided by this section, publications mailed at the ZIP+4 and ZIP+4 Barcoded rates must be presorted, packaged, and sacked as prescribed by 441 and 443. Publishers may present mail in trays rather than in sacks under the conditions described below. As an alternative, publishers may follow the preparation requirements in Chapter 5.

447.2 Basic Preparation Requirements

447.21 Packaging. Pieces must be prepared in packages as specified in 441.21-441.24 (if claimed at level A, G, and J rates) or 443.21-443.25 (if claimed at level B and H rates) except that each package in a mailing at the ZIP+4 and ZIP+4 Barcoded rates must contain a minimum of 6 addressed pieces. The "last" mixed states package may contain fewer than 6 pieces.

447.22 Sacking. Packages must be sacked as specified in 441.31-441.33 (if claimed at level A, G, and J rates) or 443.31-443.34 (if claimed at level B and H rates) except that

a. the second (contents) line on labels for sacks must show the information specified in 441.32 and 443.3, followed by "ZIP+4" or "Z+4" (for ZIP+4 rate mailings) or "ZIP+4 BARCODED" or "Z+4 B/C" (for ZIP+4 Barcoded rate mailings); and

b. each sack in a mailing at the ZIP+4 and ZIP+4 Barcoded rates must contain a minimum of 4 packages, except for the "last" mixed states sack which may contain fewer than 4 packages.

447.3 Trays

447.31 Use. ZIP+4 and ZIP+4 Barcoded rate mailings of automation-compatible letter-size publications may be prepared in trays rather than in sacks. Trays are the preferred container for automation-compatible mail.

447.32 Packaging of Mail in Trays

447.321 General. Mailings prepared in trays must be packaged as required by 447.21, except as provided below.

447.322 Five-Digit Trays. Pieces need not be prepared in 5-digit packages when all the mail in those packages will be placed in the same tray for the same 5-digit ZIP Code destination. Five-digit packages *are* required when the corresponding pieces are being placed in other than 5-digit trays.

447.323 Unique 3-Digit Trays. Pieces need not be prepared in unique 3-digit packages when all the mail in those packages would be placed in the same tray for the same unique 3-digit ZIP Code destination. Five-digit packages *are* required when the corresponding pieces are being placed in other than 5-digit trays. Unique 3-digit packages *are* required when the corresponding pieces are being placed in other than unique 3-digit trays.

447.324 SCF Trays. Pieces need not be prepared in SCF packages when all the mail in those packages would be placed in the same tray for the same SCF destination. Five-digit and unique 3-digit packages *are* required when the corresponding pieces are being placed in other than 5-digit or unique 3-digit trays, respectively. SCF packages *are* required when the corresponding pieces are being placed in other than SCF trays.

447.325 Optional Sortation to Automated Sites. Subject to the requirements of 424.632 and 447, publishers may prepare mailings at the level B3/H3/J3 ZIP+4 Barcoded rate without making 5-digit packages or sacks when all pieces in the mailing are for destinations within the 3-digit ZIP Code ranges listed in Exhibit 122.63m, and pieces destinating in other ZIP Code areas are prepared as a separate mailing. Pieces prepared under this optional sortation must be presorted in unique 3-digit, SCF, AADC and Mixed AADC packages which are correctly sorted in unique 3-digit, SCF, AADC, and Mixed AADC sacks or trays to the destinations listed in Exhibits 122.63m-o. Mixed AADC packages and trays may have fewer pieces or packages than prescribed in 424.632. Pieces in AADC and Mixed AADC packages, sacks, and trays are not eligible for the level B3/H3/J3 rates and must be claimed at the level A/H/J rates.

447.33 Presort. Unless prepared under the optional method described in 447.325, mail must be presorted to trays in the same sequence as specified for mail prepared in sacks. See 441.31-441.33 (if claimed at level A, G, and J rates) or 443.31-443.34 (if claimed at level B and H rates). A tray must be prepared to a required sortation whenever the mail for that destination fills 3/4 of the tray when the contents are reasonably compressed. Trays with less mail may not be prepared to any required or optional sortation, except for the final tray in a mailing or as provided by 447.34.

447.34 Volume per Tray. Mailers should balance the volume in trays when more than one is prepared for the same destination to ensure that all are at least 3/4 full (when their contents are reasonably compressed). If, after this step, the remaining pieces for that destination are not enough to generate an additional full tray, they may be placed in a tray that is less than 3/4 full, provided the pieces in that tray are packaged to preserve their orientation, and only one such tray for that destination is prepared in the mailing. To allow accurate verification of the mailing by postal acceptance personnel, the mailer must provide a listing of all such trays prepared in addition to other documentation required for the rate claimed.

447.35 Sleeving and Banding. To ensure the integrity of the mail in transit, each tray must be enclosed in a sleeve and secured by a plastic strap placed tightly around the length of the tray. The postmaster of the office of entry may waive this requirement for local mail.

447.36 Tray Labels. A tray label must be securely affixed to the end of each tray. Tray labels are subject to the same requirements as specified for sack labels in 441.32 and 446, except that the second (contents) line on tray labels be followed by "ZIP+4" or "Z+4" (for ZIP+4 rate mailings) or "ZIP+4 BARCODED" or "Z+4 B/C" (for ZIP+4 Barcoded rate mailings).

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460 Postage Payment Procedures

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462 Payment of Postage

462.1 In Advance of Dispatch. Postage must be fully prepaid before second-class mailings are dispatched.

462.2 Method of Payment

462.21 Second-Class Matter. Payment for second-class mail must be through an advance deposit account established at the post office of mailing (i.e., at the original or additional entry post office where the copies are accepted), except as provided by 462.23 and 465. The post office will issue receipts for advance deposit account payments.

462.22 Third- or Fourth-Class Matter. Postage for third- or fourth-class matter must be paid as described in 136.23, 136.316, and 429.186.

462.23 Centralized Postage Payment. Publishers authorized to pay second-class postage under the Centralized Postage Payment (CPP) System (see 464) must pay postage through an advance deposit account at the designated post office (DPO) rather than at the post office of mailing.

462.3 Mailer Responsibility. The mailer is responsible for proper payment of postage. See 111.32.

463 Mailing Statement

463.1 General

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463.14 Verification of Advertising Percentage. Replace "Forms 3541 and 3541-A" and "Form 3541 or 3541-A" with "the applicable mailing statement" and mailing statement, respectively.

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463.16 Mailing While Application is Pending. Replace "Form 3541 or 3541-A" with "the applicable second-class mailing statement;" replace the last sentence with "The applicable third- or fourth-class mailing statement must be completed and attached."

463.17 Sequenced Statement Number. Mailers who submit more than one mailing statement per day must enter a sequenced statement number in the appropriate block on each mailing statement prepared that day. The content and length of the number, the cycle of the sequence (beyond one day), and the number of concurrently active cycles are at the mailer's discretion, provided the same series of numbers is not active in two cycles at the same time. If the same mailing of one edition of one issue includes copies reported on two mailing statements (such as when additional postage is paid for nonsubscriber/nonrequester copies in excess of the 10% limit) the sequenced statement number of the second form must be included with the other information required on the primary mailing statement (on which the total postage for the mailing is reported).

463.2 Computation Standards

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463.23 Weight

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463.233 Weight of Advertising/Nonadvertising

a. Advertising. To determine the weight of the advertising portion for each zone, multiply the total weight of copies for that zone (see 463.232) by the percentage of advertising (see 463.22) and, if necessary, round off any fraction in the result to the nearest whole pound. EXCEPTION: If the product is a figure that is more than 0 but less than .5 pound, round to 1 pound.

b. Nonadvertising. To determine the nonadvertising portion, total the weight of the advertising portion for all zones and, separately, the total weight of copies to all zones. Subtract the weight of the advertising portion from the total weight of copies.

463.24 Nonadvertising Adjustment. To determine the nonadvertising adjustment:

a. Subtract the advertising percentage (see 463.22) from 100.

b. Multiply the result by the number of addressed pieces; if necessary, round off the number of pieces to a whole number.

c. Multiply the result by the applicable nonadvertising adjustment per piece (see 411.2 and 411.3).

463.25 Postage

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463.253 Rate Application

a. General. Postage for all second-class mail includes a pound rate charge, a piece rate charge, and any reductions for which the mail may qualify. Eligibility for the various rates and reductions is described in 411, 423, and 424. Postage is computed as prescribed by 411.13 and 463.2.

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c. Pound Rate. The pound rate charge is based on the computed weight of the advertising portion of copies to each zone, plus an additional flat (unzoned) charge for the total weight of the nonadvertising portion of all copies to all zones. For publications containing advertising, the minimum pound rate charge for any zone is 1 unit (pound) of the advertising pound rate charge, except that authorized special nonprofit rate publications with an advertising percentage that is 10% or less are considered 100% nonadvertising and may use "0" as the "advertising percentage" when computing the pound rates and the nonadvertising adjustment. The minimum pound rate charge for the nonadvertising portion is that which applies to all weight not reported in the advertising (zoned) portion (see 463.233). Authorized special nonprofit rate publications claiming 0% advertising must pay the nonadvertising pound rate for the entire weight of all copies to all zones.

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463.3 Monthly Mailing Statements

463.31 Authorization to Use. Replace "Form 3541 and/or 3541-A" with "the applicable mailing statement."

463.32 When to File. Replace "Form 3541 and/or 3541-A" with "the applicable Postal Service form."

463.33 Completion of Mailing Statement by Mailer

463.331 Average Number of Copies. Replace "Form 3541 and/or 3541-A" with "the applicable mailing statement."

463.332 Percentage of Advertising. Replace "Form 3541 and/or 3541-A" with "the applicable mailing statement."

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463.334 Payment of Advertising Rates on Reading Portions. Replace "Form 3541" and "Form 3541-A" with "the applicable mailing statement."

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463.35 Verification by Postmasters of Weights and Number of Copies. Replace "Form 3541 and/or 3541-A" with "the applicable mailing statement;" replace "Form 3541" with "the mailing statement;" and replace "the applicable Form 3541 and/or 3541-A" with "the applicable mailing statement."

463.36 Computation of Postage by Post Office. Replace "Form 3541 and/or 3541-A" with "the applicable mailing statement."

463.4 Key Rate

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463.43 Statements of Distribution. In 463.431 and 463.432, replace "a Form 3541 and/or 3541-A" with "the applicable mailing statement." In 463.433, replace "Form 3541 and/or 3541-A" with "the applicable mailing statement."

463.44 Computation

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463.442 How to Compute. Enter the number of copies for each zone on the applicable lines of the mailing statement. Apply the appropriate pound rates to the number of copies for each zone and enter the postage. Add the postage for all zones; add the number of copies for all zones. Divide the total postage by the total copies to determine the key rate; express the result in decimal dollars rounded off, if necessary, to 6 decimal places. Round any intermediate postage figures as provided by 463.252. Apply the key rate to only the total weight of the advertising portion, and apply the nonadvertising rate to the total weight of the nonadvertising portion. Computation of the key rate will be verified by an employee or supervisor other than the person by whom it was originally computed.

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465 Plant-Verified Drop Shipment Postage Payment System

465.1 General

465.11 Definition. The plant-verified drop shipment postage payment system is designed to allow destination acceptance of mailings prepared for entry at SCF and delivery office rates (see 424.4), while taking advantage of the greater postal efficiency associated with origin verification and postage payment. Approval for use of a plant-verified drop shipment postage payment system will be granted under the conditions specified in 465.2.

465.12 System Elements. Under this system

(a) the mailer's product is verified for proper classification, rate eligibility, preparation, and presort by postal personnel located at a mailer's plant (e.g., at a detached mail unit (DMU));

(b) postage is prepaid at the post office serving the mailer's location (see 424.4);

(c) the shipment is released for dispatch under postal seal;

(d) the shipment is transported to destination postal facilities at the mailer's expense on the mailer's vehicle or on transportation procured by the mailer;

(e) the shipment is deposited at the destination postal facility by the mailer or the mailer's agent;

(f) the shipment is verified and accepted as mail by postal personnel at the destination postal facility and released for processing.

465.13 Participation. The plant-verified drop shipment postage payment system may be used only by mailers who have been authorized by the field division general manager/postmaster in whose service area the mailer is located (see 465.3).

465.14 Other Mailings. Other destination entry mailings that are not verified at the origin plant under a plant-verified drop shipment postage payment system must be verified, accepted, and paid for at the destination post office.

465.2 Program Participation Criteria for Mailers

465.21 Request for Participation. The mailer must submit an application for participation in the plant-verified drop shipment postage payment system as prescribed in 465.3.

465.22 Facilities for Postal Personnel. At each plant at which mail is inspected pursuant to a plant-verified drop shipment agreement (see 465.3), the mailer must provide an enclosed work area for the DMU that can be locked, has a telephone, is separate from the mailer's activities, and provides a safe working environment, as determined by the Postal Service.

465.23 Postage Payment. The mailer must obtain and maintain an additional entry at each post office where SCF or delivery office rate mail will be deposited and accepted (see 424.42 and 424.92). Original or additional entry is not required at the post office serving the mailer's plant unless copies are deposited and accepted at that post office. Unless authorized to pay postage under a CPP system, the mailer must pay postage for plant-verified drop shipments at the post office serving the mailer's plant. The mailer must ensure that sufficient funds are on deposit in the appropriate advance deposit accounts to pay for all plant-verified drop shipments prior to their release for dispatch. Mailers authorized to mail under a CPP system must pay postage for plant-verified drop shipments to the New York Rates and Classification Center.

465.24 Documentation

a. The mailer must produce an individual mailing statement for each edition of each issue of each publication prepared for deposit at each destination entry post office, and submit the statement at the time the corresponding copies are presented to the DMU.

b. When required by the Postal Service, the mailer must submit consolidated mailing statements and a register of mailing statements to the Postal Service.

c. The mailer must produce and submit to the Postal Service the prescribed clearance documents, in duplicate, that must accompany each plant-verified drop shipment to the destination post office where the shipment will be deposited. Those documents must be presented in triplicate if the mailer wishes to have a signed and dated copy returned to its driver when mailings are unloaded at the destination entry postal facility.

465.25 Transportation

465.251 Responsibility. The mailer is responsible for the transportation of plant-verified drop shipments from the origin plant to the destination postal facility.

465.252 Other Mailings. The mailer must not transport plant-verified drop shipment mailings on the same vehicle with other shipments that are not entered as plant-verified drop shipments.

465.253 Separation of Mailings. When a vehicle contains more than one plant-verified drop shipment for a single destination postal facility, the shipments must be separated, except that this requirement may be waived by the origin postmaster for copalletized or combined mailings provided the clearance document for that destination clearly identifies all of the mail for that facility. In addition, when a vehicle contains one or more shipments for more than one destination postal facility, the shipments must be separated by destination.

465.254 Hazardous Freight. Any material classified by the Postal Service as "hazardous" (see 124.3) may not be carried as freight on the same vehicle as a plant-verified drop shipment.

465.3 Authorization

465.31 Request

465.311 General. The mailer must submit a written request to the mailer's local postmaster seeking assignment of postal personnel to the mailer's plant (e.g., establishment of a DMU) to support plant-verified drop shipment of destination entry rate mailings. No form is provided for this purpose.

465.312 Date of Filing. The mailer must submit the request at least 30 days prior to the date proposed for submission of the first plant-verified drop shipment using the system.

465.313 Content. The request must fully describe the characteristics of the mailings that will be prepared as plant-verified drop shipments. At a minimum, the request must include the following information for each publication:

a. the schedule of mailing, i.e., the frequency and time of mailings (e.g., at noon daily, every other Monday at 4 p.m., etc.);

b. the number of pieces and mailing statements to be presented to postal personnel, both daily and in total;

c. the class of mail and processing category;

d. the level of sortation and rate(s) claimed;

e. either:

(1) the place and method of postage payment, or

(2) if postage is paid under Centralized Postage Payment (CPP) procedures, a copy of the authorization must accompany the request (separate authorization by the serving rates and classification center is required to mail under CPP);

f. the type and capacity of scales at the mailer's plant, if any;

g. the space available for postal personnel to use and the suitability of that space for verification of mail, recordkeeping, installation of computer equipment, and monitoring of vehicle loading;

h. the types of equipment used (trays, sacks, pallets, etc.) (authorizations must be obtained where required); and

i. the destination entry points to which shipments will be dispatched (e.g., a listing of the SCFs and DDUs).

465.314 Existing Plant Load Mailers. A request for authorization must also be submitted by existing plant load mailers to allow verification that the current mailer facilities and DMU resources remain adequate. Depending on the specific situation, the 30-day advance notice required by 465.312 may be waived by the approving official (see 465.32).

465.32 Approving or Denying Authorization

465.321 Local Post Office. The local postmaster will review the application for completeness and accuracy; evaluate the mailer's ability to meet the requirements in 465.2, the suitability of the mailer's plant to accommodate postal personnel (i.e., a DMU), and the capability of the local post office to support the requested activity; and prepare a written summary of the results. This report and a recommendation for approval or denial of the mailer's request will be forwarded through the MSC/division manager, mailing requirements, to the field division general manager/postmaster.

465.322 Field Division. The field division general manager/postmaster will consider the postmaster's report and recommendation, determine whether the local post office has sufficient employees who are trained and qualified in mail classification and verification to support the requested plant-verified drop shipment activity, and prepare a final written decision on the mailer's request.

465.323 Approval. If the mailer's request for participation in the plant-verified drop shipment postage payment system is approved, the field division general manager/postmaster will prepare a plant-verified drop shipment agreement that must be signed by the general manager/postmaster, the mailer, and the postmaster of the post office serving the mailer's plant before the approval can be made effective. The agreement will specify the terms and period of the authorization (not to exceed 2 years). Copies of the agreement will be provided to the local postmaster, the MSC/division manager, mailing requirements, and the rates and classification center.

465.324 Denial. If the mailer's request for participation in the plant-verified drop shipment postage payment system is denied, the field division general manager/postmaster will notify the mailer in writing, stating the reasons for the decision, and provide copies of the decision to the local postmaster, the MSC/division manager, mailing requirements, and the rates and classification center. The denial may be appealed as provided in 133.

465.33 Renewal, Termination, and Revocation

465.331 Renewal. The mailer must submit a new request for authorization at least 30 days prior to the expiration of a plant-verified drop shipment agreement. The content of the request, and the procedures for its review, approval, or denial are as prescribed in 465.31 and 465.32.

465.332 Termination. A mailer may elect to terminate participation in a plant-verified drop shipment agreement by 10 calendar days' written notice to the authorizing field division general manager/postmaster.

465.333 Revocation. A plant-verified drop shipment agreement may be revoked by the authorizing field division general manager/postmaster by 10 calendar days' written notice to the mailer. Revocation must be based on the mailer's failure to pay postage and fees or to meet the requirements that apply to plant-verified drop shipment or mailing at second-class rates. The revocation action may be appealed as provided by 133.

465.4 DMU Functions

465.41 General. Assignment of postal personnel to the mailer's plant to process plant-verified drop shipments may be in conjunction with the DMU staffing associated with a plant load authorization for that mailer's plant, but may be provided to a mailer's plant that is not authorized plant load, at the discretion of the division general manager/postmaster.

465.42 Inspection of Mailpieces. Postal personnel assigned to the mailer's plant must verify drop shipment mailings for classification, rate eligibility, preparation, presort, and postage in the same manner as plant load mailings.

465.43 Documents

465.431 Preparation. Before each plant-verified drop shipment is released for dispatch, postal personnel must ensure that all clearance documents are properly completed, signed, and dated, and that each includes the number of the postal seal to be used on the vehicle, if appropriate (see 465.5). The required documents must be provided for each mailing prepared for each destination entry postal facility. The DMU will retain one copy of each completed clearance document.

465.432 Enclosure. Postal personnel must ensure that all appropriate clearance documents are provided to the mailer who is responsible for placing them in each vehicle to accompany the corresponding plant-verified drop shipments. These documents must be placed on the left rear wall of the vehicle just inside the door of the vehicle. Affix the required Form 5111-R, *Revenue Protection Placard*, to the outside rear of the vehicle after the mailer has completed loading the vehicle.

465.44 Loading. Postal personnel must observe the loading of each vehicle used to transport plant-verified drop shipments to ensure the correct mailings are loaded into vehicles for the correct destinations and that shipments are not improperly commingled (see 465.254).

465.45 Security. Postal personnel must seal the vehicle containing the plant-verified drop shipments mailings with a postal revenue protection seal (i.e., a USPS ball seal, USPS lock, or other postal security device) that prevents access to the shipments by other than authorized postal employees. Vehicles that make en route stops must be resealed after the corresponding mail is removed (see 465.5).

465.5 Destination Postal Facility Functions

465.51 Verification of Documents. The postal seal number on the clearance document for that destination post office must match the number on an unbroken seal securing the vehicle. Container identification codes on the clearance document must match the containers deposited. If these items match, the destination facility will sign and date the clearance documents accompanying the mailings and process the mail. These documents will be retained for one year in a chronological file, and receipted copies will be returned to the mailer's employee, if appropriate (see 465.24c and 465.431).

465.52 Verification of Contents. Each destination postal facility where plant-verified drop shipments are deposited must ensure that only the appropriate shipments are unloaded and accepted.

465.53 Vehicles Containing Mail for More Than One Destination Facility. When a mailer's vehicle contains mail for more than one destination entry facility, each intermediate postal facility will record the number of a new USPS ball seal on the clearance document for the next scheduled destination post office, and affix that seal to secure the vehicle. (If USPS locks are used, they must be removed and retained at the final postal facility where the vehicle stops.)

465.54 Loading of Mail Prohibited. Postal Service mail for downstream postal facilities must not be loaded onto the mailer's vehicle by any intermediate postal facility at which the mailer has stopped to deposit a plant-verified drop shipment.

465.6 Liability. The mailer assumes all liability and responsibility for any loss or damage to plant-verified drop shipments before they are deposited and accepted as mail at destination entry postal facilities, regardless of whether a third party is used to transport those shipments. The Postal Service is not liable or responsible for any loss or damage to plant-verified drop shipments before they are deposited and accepted as mail at a destination postal facility.

465.7 Postage

465.71 Method of Payment. Postage for a plant-verified drop shipment must be paid as provided by 465.23.

465.72 Computation. Postage for destination rate mailings prepared as plant-verified drop shipments is calculated (zoned) from the destination postal facility where mailings are deposited and accepted into the mailstream.

465.73 Refunds. The Postal Service will not refund postage for any failure to provide service that is caused in whole or in part by any event that occurs before the shipment is deposited and accepted into the mailstream and becomes mail at a destination postal facility, except in accordance with the provisions of 147.2.

470 Ancillary Services

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472 Address-Correction Service

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Delete existing 472.3 and renumber existing 472.4 as 472.3.

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CHAPTER 5 - AUTOMATION-COMPATIBLE MAIL

510 General

511 Content
This chapter contains alternative preparation requirements for automation-compatible letter-size ZIP+4 and ZIP+4 barcoded First-, second-, and third-class mail.

512 Applicability
Mailers may use the instructions in 560 rather than the corresponding requirements in Chapters 3, 4, and 6.

513 Classification
Classification and rate eligibility for pieces prepared under this chapter are based on the requirements in chapters 3, 4, and 6, for First-, second-, and third-class mail respectively. Automation-compatible mailpieces prepared as described in this chapter and claimed at an automation-based rate must meet the eligibility requirements in 324, 325, 327, and 328 for First-Class Mail, 424.5 and 424.6 for second-class mail, and 628 for third-class mail.

514 Definitions

514.1 Automation-Based Rates

514.11 ZIP+4 Barcoded Rates. The ZIP+4 Barcoded rates include the 5-digit ZIP+4 Barcoded, 3-digit ZIP+4 Barcoded and, nonpresorted ZIP+4 Barcoded First-Class rates; the level A, B, G, H, and J ZIP+4 Barcoded second-class rates; and the 5-digit ZIP+4 Barcoded, 3-digit ZIP+4 Barcoded and Basic ZIP+4 Barcoded third-class rates.

514.12 ZIP+4 Rates. The ZIP+4 rates include the ZIP+4 Presort and nonpresorted ZIP+4 First-Class rates; the level A, B, G, H, and J ZIP+4 second-class rates; and the 3/5 ZIP+4 and Basic ZIP+4 third-class rates.

514.2 Presort Rates. The presort rates include the Presorted First-Class rate; the level A, B, G, H and J second-class rates; and the basic presort and 3/5 presort third-class rates.

520-550 Reserved

560 Preparation

561 General Preparation Requirements

561.1 Packaging. Packages are not allowed in ZIP+4 and ZIP+4 Barcoded rate mailings prepared under chapter 5. However, in SCF trays, all the pieces for the same 3-digit ZIP Code area must be grouped together.

561.2 Trays

561.21 General. All mailings prepared under chapter 5 must be prepared in trays.

561.22 Definition. For purposes of this section, a "full" tray is one that is at least 3/4 full of mail when its contents are reasonable compressed.

561.23 Volume per Tray. Mailers should balance the volume in trays when more than one is prepared for the same destination to ensure that all are at least 3/4 full (when their contents are reasonably compressed). If, after this step, the remaining pieces for that destination are not enough to generate an additional full tray, they may be placed in a tray that is less than 3/4 full, provided the pieces in that tray are packaged (to preserve their orientation), and only one such tray for that destination is prepared in the mailing. To allow accurate verification of the mailing by postal acceptance personnel, the mailer must provide a listing of all such trays prepared in addition to the documentation required by 562.6 or 563.6.

561.24 Sleeving and Banding. To ensure the integrity of the mail in transit, each tray must be enclosed in a sleeve and secured by a plastic strap placed tightly around the length of the tray. The postmaster of the office of entry may waive this requirement for local mail.

561.25 Tray Labels. A tray label must be securely affixed to the end of each tray. Tray labels are subject to the same requirements as specified for sack labels in 441.32 and 446, except that the second (contents) line on tray labels bears the information specified in 562.3 and 563.3.

562 ZIP+4 Mail

562.1 Eight-Five Percent Requirement. At least 85 percent of the total pieces in a ZIP+4 rate mailing must bear a ZIP+4 code. All remaining pieces must bear a 5-digit ZIP Code. If a ZIP+4 barcode is used to satisfy the requirement for a ZIP+4 code, a numeric ZIP+4 code or 5-digit ZIP Code must also appear in the address.

562.2 Rate Eligibility.

562.21 First-Class Mail. In 5-digit, 3-digit and SCF trays, ZIP+4 coded pieces may qualify for the ZIP+4 Presort rate, other pieces for the Presorted First-Class rate. (In SCF trays, there must be at least 50 pieces for each 3-digit ZIP Code area.) Residual pieces not sorted to these trays may be eligible for the nonpresorted ZIP+4 rate (if ZIP+4 coded) or the single-piece First-Class rate.

562.22 Second-Class Mail. In 5-digit and 3-digit trays, ZIP+4 coded pieces may qualify for the level B/H/J3 ZIP+4 rates, other pieces for the level B/H/J rates. Pieces in SCF trays may be eligible for the level A/G/J1 ZIP+4 rates (if ZIP+4 coded) or the level A/G/J rates. All pieces in ZIP+4 second-class mailings must be sorted to at least the SCF level.

562.23 Third-Class Mail. In 5-digit and 3-digit trays, ZIP+4 coded pieces may qualify for 3/5 ZIP+4 rates, other pieces for the 3/5 presort rate. In SCF trays, ZIP+4 coded pieces may be eligible for the Basic ZIP+4 rate, other pieces for the basic presort rate. Pieces not sorted to these trays must be prepared as a separate mailing.

562.3 Contents Line. The second (contents) line of tray labels must show the class of mail (FCM for First-Class, 2C or NEWS, as appropriate, for second-class, or 3C for third-class) followed by the type of mailing (ZIP+4 PRESORT).

562.4 Sortation Requirements for ZIP+4 Presort Rate Eligibility.

562.41 Traying

562.411 Five-Digit Trays. When there are enough pieces to the same 5-Digit destination to fill a tray, a 5-digit tray must be prepared for that destination. Trays that are not full are prohibited. Trays must be labeled as follows:

Line 1: City, State, 5-Digit ZIP Code
Line 2: Class, Contents
Line 3: Mailer, Mailer Location

Sample:

DETROIT, MI	48235
FCM ZIP+4 PRESORT	
FR NB COMPANY UNION SC	

562.412 Three-Digit Trays. After preparing all possible 5-digit trays, if there are sufficient pieces to fill a tray for one of the 3-digit ZIP Code areas listed in Exhibits 122.63c-d, a 3-digit tray must be prepared for that destination. Trays that are not full are prohibited. Trays must be labeled as follows:

Line 1: City, State, 3-Digit Destination
Line 2: Class, Contents
Line 3: Mailer, Mailer Location

Sample:

DETROIT MI	482
FCM ZIP+4 PRESORT	
FR NB COMPANY UNION SC	

562.413 SCF Trays. After preparing all possible 5-digit and 3-digit trays, if there are sufficient pieces to fill a tray for one of the SCF areas listed in Exhibit 122.63d, an SCF tray must be prepared for that destination. For First-Class Mail, there must be at least 50 pieces for each 3-digit ZIP Code area. For second-class pieces, all remaining mail must be sorted to SCF trays. For First- and third-class mail, trays that are not full are prohibited. Trays must be labeled as follows:

Line 1: SCF, Facility Name, State, Code
Line 2: Class, Contents
Line 3: Mailer, Mailer Location

Sample:

SCF DETROIT MI	481
FCM ZIP+4 PRESORT	
FR NB COMPANY UNION SC	

562.5 Residual Mail

562.51 General. Residual pieces are those that could not be trayed as required by 562.4.

562.52 First-Class Mail. Residual pieces must be placed in trays bearing the tray label "Residual Mail."

562.53 Second-Class Mail. Residual pieces are not allowed in ZIP+4 second-class mailings. All pieces must be sorted to SCF trays (see 562.413).

562.54 Third-Class Mail. Residual pieces are not allowed in ZIP+4 mailings and must be prepared as a separate mailing.

562.6 Documentation

562.61 When Not Required. Documentation is not required when every piece in the mailing bears the correct ZIP+4 code and the correct postage at the rate for which it qualifies. Separate documentation may be required under 561.23, if applicable.

562.62 Content

562.621 Tray Label Option

a. Sequence. The documentation must be sequenced by level of sortation (5-digit, 3-digit, and SCF) and must show, for each tray in each group, a unique tray number or the exact top line of the tray label. In the 5-digit portion, the contents of each tray must be detailed by 5-digit ZIP Code, and, in the 3-digit and SCF portion, by 3-digit ZIP Code prefix.

b. Information. Each ZIP Code entry must describe the number of pieces that qualifies for each rate category and the number of pieces prepared with a ZIP+4 code. For the tray, the documentation must show a subtotal for the number of pieces at each rate category, the number of pieces with a ZIP+4 code, and the total number of pieces in the tray.

c. Summary. For the entire mailing, the listing must be summarized to show the total number of pieces in each rate category, the number prepared with a ZIP+4 code, the total number of pieces in the mailing, and the total postage (or additional postage due) for the mailing. The summary may include the information required by 561.23, if applicable.

d. Tray Preparation. With this option, the trays do not have to be presented for acceptance in any particular order.

562.622 ZIP Code Option

a. Sequence. The documentation must be sequenced by level of sortation (5-digit, 3-digit, and SCF). In the 5-digit portion, the entries must be listed by 5-digit ZIP Code, and, in the 3-digit and SCF portion, by 3-digit ZIP Code prefix.

b. Information. Each entry must show the number of pieces in each rate category, the number of pieces prepared with a ZIP+4 code, and the total number of pieces.

c. Summary. For the entire mailing, the listing must be summarized to show the total number of pieces in each rate category, the number prepared with a ZIP+4 code, the total number of pieces in the mailing, and the total postage (or additional postage due) for the mailing. If all pieces in the mailing do not bear postage at the same rate, or if different amounts of additional postage are due, the summary must further detail the number of pieces at each postage amount or at each amount of additional postage due. The summary may include the information required by 561.23, if applicable.

d. Tray Preparation. With this option, the trays must be separated by level of sortation and, within each, grouped by destination, when presented for acceptance.

563 Presorted ZIP+4 Barcoded Mail

563.1 Eighty-Five Percent Requirement. At least 85% of the total number of pieces in a ZIP+4 Barcoded rate mailing must bear a ZIP+4 barcode prepared as required by 325. All pieces must bear a numeric ZIP+4 code or 5-digit ZIP Code in the address.

563.2 Rate Eligibility.

563.21 First-Class Mail

563.211 Five-Digit Trays. In 5-digit trays, pieces may qualify for the 5-digit ZIP+4 Barcoded rate if they bear a ZIP+4 barcode prepared as specified in 325.51, the ZIP+4 Presort rate if they bear a ZIP+4 code and meet the requirements of 324.5 and 324.6, or the Presorted First-Class rate.

563.212 Three-Digit and SCF Trays. In 3-digit and SCF trays, pieces may qualify for the 3-digit ZIP+4 Barcoded rate if they bear a ZIP+4 barcode prepared as specified in 325.51, the ZIP+4 Presort rate if they bear a ZIP+4 code and meet the requirements of 324.5 and 324.6, or the Presorted First-Class rate. In SCF trays, there must be at least 50 pieces for each 3-digit ZIP Code area.

563.213 Residual Trays. Residual pieces not sorted to these trays may be eligible for the nonpresorted ZIP+4 Barcoded rate if they bear a ZIP+4 barcode prepared as specified in 325.51, the nonpresorted ZIP+4 rate if they bear a ZIP+4 code and meet the requirements of 324.5 and 324.6, or the single-piece First-Class rate.

563.22 Second-Class Mail

563.221 Five-Digit Trays. In 5-digit trays, pieces may qualify for the level B5/H5/J5 ZIP+4 Barcoded rates if they bear a ZIP+4 barcode prepared as specified in 325.51, the level B5/H5/J5 ZIP+4 rates if they bear a ZIP+4 code and meet the requirements of 324.5 and 324.6, or the level B/H/J presort rates.

563.222 Three-Digit and SCF Trays. In 3-digit and SCF trays, pieces may qualify for the level B3/H3/J3 ZIP+4 Barcoded rates if they bear a ZIP+4 barcode prepared as specified in 325.51, the level B3/H3/J3 ZIP+4 rates if they bear a ZIP+4 code and meet the requirements of 324.5 and 324.6, or the level B/H/J presort rates.

563.223 Residual Trays. Residual pieces not sorted to these trays may be eligible for the level A/G/J1 ZIP+4 Barcoded rates if they bear a ZIP+4 barcode prepared as specified in 325.51, the level A/G/J1 ZIP+4 rates if they bear a ZIP+4 code and meet the requirements of 324.5 and 324.6, or the level A/G/J presort rates.

563.23 Third-Class Mail

563.231 Five-Digit Trays. In 5-digit trays, pieces may qualify for the 5-digit ZIP+4 Barcoded rate if they bear a ZIP+4 barcode prepared as specified in 325.51, the 3/5 ZIP+4 rate if they bear a ZIP+4 code and meet the requirements of 324.5 and 324.6, or the 3/5 Presort rate.

563.232 Three-Digit and SCF Trays. In 3-digit and SCF trays, pieces may qualify for the 3-digit ZIP+4 Barcoded rate if they bear a ZIP+4 barcode prepared as specified in 325.51, the 3/5 ZIP+4 rate if they bear a ZIP+4 code and meet the requirements of 324.5 and 324.6, or the 3/5 Presort rate.

563.233 Residual Trays. Residual pieces may be eligible for the Basic ZIP+4 Barcoded rate if they bear a ZIP+4 barcode prepared as specified in 325.51, the Basic ZIP+4 rate if they bear a ZIP+4 code and meet the requirements of 324.5 and 324.6, or the Basic Presort rate.

563.3 Contents Line. The second (contents) line of tray labels must show the class of mail (FCM for First-Class, 2C or NEWS, as appropriate, for second-class, or 3C for third-class) followed by the type of mailing (ZIP+4 BARCODED).

563.4 Sortation Requirements for ZIP+4 Barcoded Rate Eligibility.

563.41 Traying

563.411 Five-Digit Trays. When there are enough pieces to the same 5-digit destination to fill a tray, a 5-digit tray may be prepared for that destination. (5-digit trays are required only if the 5-digit ZIP+4 Barcoded or level B5/H5/J5 rates are being claimed.) Trays that are not full are prohibited. Trays must be labeled as follows:

Line 1: City, State, 5-digit ZIP Code
Line 2: Class, Contents
Line 3: Mailer, Mailer Location

Sample:

DETROIT MI	48235
FCM ZIP+4 BARCODED	
FR NB COMPANY UNION SC	

563.412 Three-Digit Trays. After preparing 5-digit trays, if there are sufficient pieces to fill a tray for one of the 3-digit ZIP Code areas listed in Exhibits 122.63c-d, a 3-digit tray must be prepared for that destination. Trays that are not full are prohibited. Trays must be labeled as follows:

Line 1: City, State, 3-Digit Destination
Line 2: Class, Contents
Line 3: Mailer, Mailer Location

Sample:

DETROIT MI	482
FCM ZIP+4 BARCODED	
FR NB COMPANY UNION SC	

563.413 SCF Trays. After preparing 5-digit trays and all possible 3-digit trays, if there are sufficient pieces to fill a tray for one of the SCF areas listed in Exhibit 122.63d, an SCF tray must be prepared for that destination. For First-Class Mail, there must be at least 50 pieces for each 3-digit ZIP Code area. For all classes of mail, trays that are not full are prohibited. Trays must be labeled as follows:

Line 1: SCF, Facility Name, State, Code
Line 2: Class, Contents
Line 3: Mailer, Mailer Location

Sample:

SCF DETROIT MI	481
FCM ZIP+4 BARCODED	
FR NB COMPANY UNION SC	

563.5 Residual Trays. Residual pieces are those that could not be trayed as required by 563.4. Residual pieces must be placed in trays bearing the tray label "Residual Mail."

563.6 Documentation

563.61 When Not Required. Documentation is not required when every piece in the mailing bears the correct ZIP+4 barcode and the correct postage at the rate for which it qualifies. Separate documentation may be required under 561.23, if applicable.

563.62 Content

563.621 Tray Label Option

a. Sequence. The documentation must be sequenced by level of sortation (5-digit, 3-digit, and SCF) and must show, for each tray in each group, a unique tray number or the exact top line of the tray label. In the 5-digit portion, the contents of each tray must be detailed by 5-digit ZIP Code, and, in the 3-digit and SCF portion, by 3-digit ZIP Code prefix.

b. Information. Each ZIP Code entry must describe the number of pieces that qualifies for each rate category and the number of pieces prepared with a ZIP+4 code. For the tray, the documentation must show a subtotal for the number of pieces at each rate category, the number of pieces with a ZIP+4 code, and the total number of pieces in the tray.

c. Summary. For the entire mailing, the listing must be summarized to show the total number of pieces in each rate category, the number prepared with a ZIP+4 code, the total number of pieces in the mailing, and the total postage (or additional postage due) for the mailing. The summary may include the information required by 561.23, if applicable.

d. Tray Preparation. With this option, the trays do not have to be presented for acceptance in any particular order.

563.622 ZIP Code Option

a. Sequence. The documentation must be sequenced by level of sortation (5-digit, 3-digit, and SCF). In the 5-digit portion, the entries must be listed by 5-digit ZIP Code, and, in the 3-digit and SCF portion, by 3-digit ZIP Code prefix.

b. Information. Each entry must show the number of pieces in each rate category, the number of pieces prepared with a ZIP+4 barcode, and the total number of pieces.

c. Summary. For the entire mailing, the listing must be summarized to show the total number of pieces in each rate category, the number prepared with a ZIP+4 barcode, the total number of pieces in the mailing, and the total postage (or additional postage due) for the mailing. If all pieces in the mailing do not bear postage at the same rate, or if different amounts of additional postage are due, the summary must further detail the number of pieces at each postage amount or at each amount of additional postage due. The summary may include the information required by 561.23, if applicable.

d. Tray Preparation. With this option, the trays must be separated by level of sortation when presented for acceptance.

570 Mailing

Automation-compatible mailings must be presented for acceptance by the Postal Service as provided for the specific class of mail by 370, 450, and 650.

580 Postage Payment

Postage for automated mail must be paid as provided for the specific class of mail by 380, 460, and 660.

590 Ancillary Services

Ancillary services are provided to automated mail as provided for the specific class of mail by 390, 470, and 690.

CHAPTER 6 - THIRD-CLASS MAIL

610 Rates and Fees

611 Rates

611.1 Single-Piece Rates

611.11 General. The single-piece rates in Exhibit 611.11 are applied to each addressed piece based on its weight.

Weight	Rate
Not exceeding 1 oz.	$0.29
Over 1 oz., but not exceeding 2 ozs.	0.52
Over 2 ozs., but not exceeding 3 ozs.	0.75
Over 3 ozs., but not exceeding 4 ozs.	0.98
Over 4 ozs., but not exceeding 6 ozs.	1.21
Over 6 ozs., but not exceeding 8 ozs.	1.33
Over 8 ozs., but not exceeding 10 ozs.	1.44
Over 10 ozs., but not exceeding 12 ozs.	1.56
Over 12 ozs., but not exceeding 14 ozs.	1.67
Over 14 ozs., but less than 16 ozs.	1.79

Exhibit 611.11

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611.13 Keys and Identification Devices

611.131 General. **Text of existing 611.31; delete the last sentence.**

611.132 Computation of Postage. **Text of existing 611.32; change the reference from "611.31" to "611.131."**

611.133 Rates. The rates applied to keys and identification devices are shown in Exhibit 611.13.

Weight	Rate
Not exceeding 2 ozs.	$0.92
Over 2 ozs., but not exceeding 4 ozs.	1.43
Over 4 ozs., but not exceeding 6 ozs.	1.94
Over 6 ozs., but not exceeding 8 ozs.	2.45
Over 8 ozs., but not exceeding 10 ozs.	2.96
Over 10 ozs., but not exceeding 12 ozs.	3.47
Over 12 ozs., but not exceeding 14 ozs.	3.98
Over 14 ozs., but less than 16 ozs.	4.49

Exhibit 611.13

611.2 Bulk Rates

611.21 General. The bulk rates summarized in Exhibit 611.2 apply to mailings meeting the conditions in 623 and 624. The special bulk rates may be used only by organizations that have been authorized by the Postal Service as provided by 625 and 626.

611.22 Rate Structure

611.221 Piece and Pound Rates.

a. Minimum Per-Piece Rates. The minimum per-piece rates (the minimum postage amount that must be paid for each addressed piece) apply to pieces that weigh .2067 pound (3.3067 ounces) or less (.2082 pound (3.3314 ounces) or less at special rates). This base postage rate (see Exhibit 611.2) applies to pieces meeting only the minimum preparation requirements (e.g., basic presort rate). Pieces may be eligible for a lower minimum rate per piece if additional requirements are met to render the mailpiece eligible for a postage discount or reduction (see 611.222).

b. Piece/Pound Rates. Pieces that weigh more than .2067 pound (3.3067 ounces) (.2082 pound (3.3314 ounces) for special rates) are subject to a two-part piece/pound rate that includes a flat charge per addressed piece and a pound charge based on weight. This base postage rate (see Exhibit 611.2) applies to pieces meeting only the minimum preparation requirements (e.g., basic presort rate). If additional requirements are met to render the mailpiece eligible for a postage discount or reduction (see 611.222), pieces may then be subject to a lower piece charge, pound charge, or both.

611.222 Postage Discounts and Reductions. The correct rate for an addressed piece may be reduced from the base rate (see 611.221) if the mailer prepares the piece (and/or the mailing of which it is a part) to comply with the requirements prescribed for a postage discount or reduction. The available postage discounts or reductions may be summarized as follows (see the cited sections for complete requirements):

a. Presort. The following presort rates are available for all bulk third-class mail provided the corresponding requirements are met:

(1) 3/5 presort (see 624.2), for mail prepared in 5- and 3-digit packages and sacks.

(2) Carrier route presort (see 624.3), for mail prepared to carrier routes.

(3) Walk sequencing (see 624.8), for mail prepared in prescribed quantity per carrier route and in delivery sequence.

b. Automation. The following automation-based rates are available only for letter-size mailpieces that meet specific physical and preparation requirements and that meet the requirements for basic presort or 3/5 presort:

(1) ZIP+4 (see 628.1, 628.2, and 628.3), for pieces bearing a ZIP+4 code.

(2) ZIP+4 Barcoded (see 628.1, 628.5, 628.6, and 628.7), for pieces bearing a ZIP+4 barcode.

c. Destination Entry. The following destination entry rates are available for bulk third-class mail that meets the applicable requirements and is deposited at the facility serving the delivery address on the mailpiece:

(1) Destination BMC (see 624.72), for mailings addressed for delivery within the area served by the BMC where the mailing is deposited.

(2) Destination SCF (see 624.73), for mailings addressed for delivery within the area served by the SCF where the mailing is deposited.

(3) Destination delivery unit (see 624.74), for carrier route and walk-sequence mailings addressed for delivery within the area served by the delivery unit where the mailing is deposited.

611.23 Net Postage. The net postage rate that must be paid is either the minimum per-piece rate, as reduced by any discounts or reductions for which the piece may be eligible, or the piece/pound rate, as reduced by any discounts or reductions for which the piece may be eligible. The net postage rate, which may include one or more forms of postage discount or reduction, may be described by a designation based on one of those discounts or reductions (e.g., carrier route rate, ZIP+4 Barcoded rate, DBMC rate, etc.)

611.24 Computation of Postage -- Bulk Rates

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611.242 Individually Metered Pieces -- Bulk Rate Postage.

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b. add any applicable per-piece charge, and

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611.3 Delete - replaced by new 611.13.

612 Fees

612.1 Annual Bulk Mailing Fee. The annual bulk mailing fee is $75, payable once each 12-month period.

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612.3 Permit Imprint Fee. In the first sentence, replace "$60" with "$75."

613 Nonstandard Surcharge
Replace "611.3" with "611.13."

620 Classification

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623 Bulk Rates -- Conditions Applicable to All Third-Class Bulk Mail

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623.6 Presort

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623.62 Merging Matter into Single Mailings

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623.622 Postage Payment Methods for Mailings of Nonidentical-Weight Pieces. **In 623.622a and 623.622g replace "basic level rate" and "5-digit level rate" with "basic presort rate" and "3/5 presort rate."**

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624 Conditions for Specific Bulk Rate Preparation Levels

624.1 Basic Presort Rate Eligibility

624.11 General. Each basic presort rate third-class bulk mailing must meet both the conditions in 623 and those in or referred to by this section.

Rate or Discount	Regular			Special		
	.2067 lb. (3.3067 oz.) or less (per piece)		More than .2067 lb. (3.3067 oz.) (per piece + per pound) All pieces	.2082 lb. (3.3314 oz.) or less (per piece)		More than .2082 lb. (3.3314 oz.) (per piece per pound) All pieces
	Letters	Other than Letters		Letters	Other than Letters	
BASE RATE (Basic Presort)	$0.198	$0.233	$0.109/pc. + 0.600/lb.	$0.111	$0.125	$0.054/pc. + 0.341/lb.
DISCOUNTS						
Presort:						
3/5	$0.033	$0.046	$0.046/pc.	$0.013	$0.014	$0.014/pc.
Carrier Route	0.067	0.091	0.091/pc.	0.037	0.045	0.045/pc.
Saturation W-S	0.074	0.106	0.106/pc.	0.040	0.052	0.052/pc.
Dest. Entry:						
BMC	$0.012	$0.012	$0.058/lb.	$0.012	$0.012	$0.058/lb.
SCF	0.017	0.017	0.081/lb.	0.017	0.017	0.081/lb.
Delivery Unit	0.022	0.022	0.104/lb.	0.022	0.022	0.104/lb.
Automation:	3 oz. max.	NOT AVAILABLE		3 oz. max.	NOT AVAILABLE	
ZIP + 4:						
(Basic Presort)	$0.009			$0.007		
(3/5 Presort)	0.004			0.004		
ZIP + 4 Barcoded						
(Basic Presort)	$0.019			$0.017		
(3-digit sort)	0.011			0.010		
(5-digit sort)	0.019			0.017		

NOTE: The discounts shown are subtracted from the base rate to yield the net postage that must be paid. Each automation discount is in addition to a specific presort discount. Some addressed pieces may be eligible for more than one discount. Some combinations of discounts may be required or prohibited. See 624 for the eligibility requirements that apply to each discount.

Exhibit 611.2, Summary of Third-Class Rates and Discounts

624.12 Minimum Quantity. Each mailing at the basic presort rate must contain at least 200 pieces or 50 pounds of pieces.

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624.2 3/5 Presort Rate Eligibility

624.21 General. Each 3/5 presort rate third-class bulk mailing must meet both the conditions in 623 and those in or referred to by this section.

624.22 Minimum Quantity Requirements

624.221 3/5 Presort Rate. Each mailing at the 3/5 presort rate must contain at least 200 pieces or 50 pounds of pieces.

624.222 Basic Presort Rate. A 3/5 presort rate mailing may include pieces claimed at the basic presort rate if the entire mailing contains at least 200 pieces or 50 pounds of pieces. The basic rate pieces must be prepared as required for that rate, but they do not have to meet a separate 200-piece/50-pound minimum. A 3/5 presort rate mailing may not include pieces claimed at the carrier route presort or walk-sequence rates.

624.223 3/5 Presort Rate Eligibility. To be eligible for the 3/5 Presort rate, pieces must be one of the following:

a. automation-compatible, letter-size, either prepared in 5- or 3-digit packages of 10 or more pieces, or sorted to 5- or 3-digit trays, or both, as prescribed in 628.19 and 647;

b. in 5- or 3-digit packages of 10 or more pieces that are correctly sorted to 5- or 3-digit sacks each containing at least 125 pieces or 15 pounds of pieces in 5- or 3-digit packages;

c. in 5- or 3-digit packages of 10 or more pieces that are correctly sorted to the appropriate level of pallet under 644.1;

d. machinable parcels, in a correctly prepared sack containing at least 10 pounds of machinable parcels for the same 5-digit or BMC destination; or

e. machinable parcels, on a 5-digit or BMC pallet prepared under 644.2.

624.23 Residual. Residual pieces in a 3/5 presort rate mailing are those not prepared in one of the ways described in 624.223a-e, and must be claimed and paid for at the basic presort rate (see 624.222) and prepared as required either by 641.12 and 641.13, or by 641.22, as appropriate.

624.24 Documentation

624.241 Requirement

a. When Required. Documentation must be provided for all mailings of nonidentical-weight pieces and for all mailings in which pieces eligible for and claimed at the 3/5 presort rate are commingled in the same mailing with residual (basic presort rate) pieces.

b. When Not Required. A listing is not required when, for a mailing of identical-weight pieces, the mailer has physically separated the sacks or pallets containing pieces eligible for and claimed at the 3/5 presort rate from those containing residual (basic presort rate) pieces.

624.242 Content -- Sack Label Option

a. Sequence. The documentation must be sequenced by level of sortation (5-digit, 3-digit, etc.) and must show, for each sack in each group, a unique number or the exact top line of the sack label. In the 5-digit portion, the contents of each sack must be detailed by 5-digit ZIP Code, and, in other portions, by 3-digit ZIP Code prefix.

b. Information. Each ZIP Code entry must describe the number of pieces that qualifies for each rate category. For the sack, the documentation must show a subtotal for the number of pieces at each rate category and the total number of pieces in the sack.

c. Summary. For the entire mailing, the listing must be summarized to show the total number of pieces in each rate category, the total number of pieces in the mailing, and the total postage (or additional postage due) for the mailing.

d. Sack Preparation. With this option, the sacks do not have to be presented for acceptance in any particular order.

624.243 Contents -- ZIP Code Option

a. Sequence. The documentation must be sequenced by level of sortation (5-digit, 3-digit, etc.). In the 5-digit portion, the entries must be listed by 5-digit ZIP Code, and, in the other portions, by 3-digit ZIP Code prefix.

b. Information. Each entry must show the number of pieces that qualify for each rate category.

c. Summary. For the entire mailing, the listing must be summarized to show the total number of pieces in each rate category, the total number of pieces in the mailing, and the total postage (or additional postage due) for the mailing. If different amounts of additional postage are due, the summary must further detail the number of pieces at each postage amount or at each amount of additional postage due.

d. Sack Preparation. With this option, the sacks must be separated by level of sortation when presented for acceptance.

624.25 Marking. Each piece in the mailing must bear the appropriate rate marking required by 629.62.

624.26 Presort. All pieces in the mailing, regardless of rate, must be presorted as required by 641.1, 641.2 (for machinable parcels), or 644 (for palletized mailings).

624.3 Carrier Route Presort Rate Eligibility

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624.33 Residual. In 624.33c, replace "third-class 'basic' level bulk rate" with "basic presort rate."

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624.36 Current Scheme

624.361 Proper Makeup. In the last sentence, replace "'basic' level third-class bulk rate" with "basic presort rate."

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624.4-624.6 Reserved

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624.7 Destination Rates

624.71 General

624.711 Eligibility. Bulk third-class regular and special rate mail may qualify for the destination rates described in 611.222c and Exhibit 611.2 if prepared in accordance with this section and the applicable provisions of 624.72 through 624.74 and deposited at the corresponding destination postal facility.

624.712 Eligibility for Other Rates and Reductions. Mailings must separately qualify for destination rates and any other rates or reductions claimed by the mailer. Only one destination reduction may be claimed for each mailpiece. See 624.743 for restrictions that apply to the destination delivery unit rate.

624.713 Documentation. Other than the mailing statement, no specific documentation is required in support of a destination rate, although documentation must be submitted if required by another rate or discount claimed for the same mailing. See 664.24 for additional documentation requirements that apply to plant-verified drop shipments.

624.714 Minimum Volume. The destination entry rate pieces prepared for deposit at each destination BMC, SCF or delivery unit must be presented as a separate mailing. Each such mailing must consist of at least 200 pieces or 50 pounds of pieces and must be accompanied by the appropriate mailing statement.

624.715 Payment of Postage and Fees

a. General. The correct postage for each mailing eligible for a destination rate must be affixed to each piece or paid through an advance deposit account having sufficient funds on deposit at the time of mailing. While funds intended to pay postage through an advance deposit account may be presented with the corresponding mailing, that mailing will neither be released for dispatch nor accepted if the resulting balance is not adequate to cover the applicable total postage as verified by the Postal Service. See 664 and 665 for additional information about plant-verified drop shipment.

b. Meter Postage. Except as provided by 144.8, pieces paid by meter postage must be accepted at the licensing post office (including its stations and branches), or at the destination bulk mail center (DBMC) (see 624.721) serving that post office (see 624.716d). Under the latter alternative, only the DBMC rate is available (see 624.72).

c. Precanceled Stamps. Pieces paid by precanceled stamps must be accepted at the post office (including its stations and branches) that issued the precanceled stamp permit, or at the destination bulk mail center (DBMC) (see 624.721) serving that post office (see 624.716d). Under the latter alternative, only the DBMC rate is available (see 624.72).

d. Permit Imprint. Postage for permit imprint pieces must be paid at the post office (including its stations and branches) where the permit is held and the annual fee is paid for the current 12-month period, or at the destination bulk mail center (DBMC) (see 624.721) serving that post office (see 624.716d). Under the latter alternative, only the DBMC rate is available (see 624.72).

e. Annual Fee. The applicable bulk mailing fees must be paid for the current 12-month period at the postal facility where postage is paid for the mailing.

624.716 Verification and Acceptance of Destination Rate Mailings

a. General. Destination entry rate mailings must be presented to postal personnel at the origin mailer's plant (e.g., the origin detached mail unit (DMU)) as provided by 664, at the destination post office or bulk mail acceptance unit, or at another postal facility authorized to act as agent for the destination facility, as provided below. Mailers must adhere to the scheduling requirements in 624.717 for destination rate mailings.

b. At Origin. Destination rate mailings may be verified and paid at the mailer's plant, transported at the mailer's expense, and deposited for acceptance as mail at the appropriate destination postal facility as a plant-verified drop shipment (see 664). Plant-loaded mailings transported on postal transportation are not eligible for destination rates.

c. At Destination. Destination rate mailings may be verified and paid at the destination bulk mail acceptance unit, transported at the mailer's expense, and deposited at the appropriate destination delivery unit (station or branch). Alternatively, as determined by the postmaster, verification, postage payment, and acceptance can be performed at the destination delivery unit. Verification and postage payment can occur at another facility as provided by 624.716d-e.

d. At a BMC. For a mailing to be verified and postage paid at a BMC, that BMC must be authorized to act as agent for the post office where the mailer's account or license is held by completion and approval of Form 4410, *Authorization for BMC Acceptance.* (Also see the restrictions in 624.715b-e.) If the mailer is claiming the destination SCF rate (see 624.73) or the destination delivery unit rate (see 624.74), the mailer must further transport the shipment for deposit and acceptance at the destination SCF or delivery unit, as appropriate. Form 4410 is completed and submitted by the post office where the mailer's account or license is held.

e. Acceptance by Another Facility. Another postal facility (other than a BMC under 624.716d) may act as agent for the destination post office if written authorization is provided by the destination post office and procedures (similar to those for BMC acceptance) are implemented and maintained to ensure that all postage for permit imprint mailings is collected. If the mailer is claiming the destination SCF rate (see 624.73) or the destination delivery unit rate (see 624.74), the mailer must further transport the shipment for deposit and acceptance at the destination SCF or delivery unit, as appropriate. Destination entry rates must not be allowed for mailings that are not transported by the mailer for deposit and acceptance at the destination BMC, SCF, or delivery unit, as applicable.

f. Security. If a destination rate mailing is not accepted as mail by the Postal Service at the same postal facility where verified, and will be transported to destination on the mailer's vehicle, the post office where the mail was verified must ensure that the shipment is secured in such a manner, and accompanied by appropriate documentation, as to allow confirmation that the shipment was not altered in any way before it was deposited for acceptance at the destination postal facility. Postal facilities will use USPS bail seals, USPS locks, or other postal security devices that prevent access to the mail by other than authorized postal employees. Vehicles that make en route stops at postal facilities must be resealed after the corresponding mail is removed.

624.717 Deposit of Mail

a. General Requirement. Each mailing for which a destination rate is claimed must be deposited at the time and location specified by the destination facility postmaster, or designee, or by the division manager, logistics and distribution (see 624.717b), as applicable.

b. Scheduled Deposit. Except as provided by 624.717d, mailers must schedule deposit of destination rate mailings at least 24 hours in advance by contacting the manager, logistics and distribution, or designee, at the field division office in whose service area the destination facility is located. Mailers must comply with the scheduled deposit time provided which will be the earliest possible date. Destination facilities may defer acceptance or deposit of unscheduled or untimely mailings. Standing appointments for renewable 6-month periods may be requested by written application to the manager, logistics and distribution, in whose service area the destination facility is located. Mailers who request standing appointments must present comparable mailings (in terms of product and revenue) on a consistent frequency of no less than once each month.

c. Additional Information. Additional information about scheduling and unloading requirements may be obtained from the manager at the field division office, logistics and distribution, or designee, at the field division office in whose service area the destination facility is located.

d. Exception. The scheduling requirements of 624.717b do not apply if the mailer is neither an authorized plant load nor a plant-verified drop shipment mailer, and if the destination facility is the post office serving the place where the mailpieces were prepared for mailing, and is the destination facility at which the destination rate mailings must be deposited.

624.718 Presentation

a. General Exclusion. A destination rate mailing can include pieces at other rates subject to the limitations in 624.718b and the restrictions that may apply to other rates or discounts claimed.

b. Minimum Volume. Each destination rate mailing must meet the volume requirements in 624.714 and those that may apply for other rates or discounts claimed. Regardless of volume, the mailpieces for which a destination rate is claimed must represent more than half the mail (by weight or pieces, whichever is greater) presented by the same mailer within any 24-hour period, except as provided by 624.718d. For purposes of this section, the mailer is the party presenting the material to the Postal Service

(or for whom a transportation company has presented the material to the Postal Service).

c. Maximum Volume. Except as provided by 624.718d, the same mailer may not present for verification and acceptance more than four destination rate mailings at the same destination postal facility (or another acting as its agent) in any 24-hour period. This limit may be waived if local conditions permit; mailers may ask for such a waiver when scheduling the deposit of the mailings (see 624.717b). There is no maximum for plant-verified drop shipments.

d. Exceptions. The restrictions of 624.718b-c do not apply if the mailer is neither an authorized plant-load nor a plant-verified drop shipment mailer, and if the destination facility is the post office serving the place where the mailpieces were prepared for mailing and is the destination facility at which the destination rate mailings must be deposited.

e. Other Mailings. Each destination rate mailing must be separated from other mailings when presented for verification or acceptance and, within the mailing, the sacks containing destination rate pieces must be separated from the sacks containing pieces not eligible for the destination rate. In transit, plant-verified drop shipment destination rate mail for one destination postal facility must be separated from mailings for other facilities and any freight on the same vehicle.

624.719 Plant-Loaded Mailings. Plant-loaded mailings (see 154) are not eligible for the destination rates in 624.72 through 624.74.

624.72 Destination Bulk Mail Center (DBMC) Rate

624.721 Definition. For purposes of this section, the term "destination bulk mail center (DBMC)" includes all bulk mail centers (BMCs) and auxiliary service facilities (ASFs). See Exhibit 624.721.

Facility	3-Digit ZIP Code Areas Served
Albuquerque ASF	865, 870-875, 877-884
Atlanta BMC	298, 300-312, 317-319, 350-368, 373-374, 377-379, 399
Billings ASF	590-599
Buffalo ASF	130-136, 140-149
Chicago BMC	463-464, 530-535, 537-539, 600-611, 613
Cincinnati BMC	250-253, 255-259, 400-418, 421-422, 425-427, 430-433, 437-438, 448-462, 469-474
Dallas BMC	706, 710-712, 718, 733, 747, 750-799, 885
Denver BMC	690-693, 800-816, 820-831
Des Moines BMC	500-516, 520-528, 612, 680-689
Detroit BMC	434-436, 465-468, 480-497
Fargo ASF	565, 567, 580-588
Greensboro BMC	240-243, 245-249, 270-297, 376
Jacksonville BMC	299, 313-316, 320-342, 346-347, 349
Kansas City BMC	640-653, 656-679, 739
Los Angeles BMC	889-892, 900-935
Memphis BMC	369-372, 375, 380-397, 700-705, 707-709, 713-714, 716-717, 719-729
Minneapolis BMC	498-499, 540-564, 566
New Jersey Int'l & BMC	004-005, 070-079, 088-119, 127
Oklahoma City ASF	730-732, 734-738, 740-746, 748-749
Philadelphia BMC	080-087, 137-139, 169-199
Phoenix ASF	850-860, 863-864
Pittsburgh BMC	150-168, 260-266, 439-447
St. Louis BMC	420, 423-424, 475-479, 614-620, 622-639, 654-655
Salt Lake City ASF	832-834, 836-837, 840-847, 893, 898, 979
San Francisco BMC	894-897, 936-966
Seattle BMC	835, 838, 970-978, 980-994
Sioux Falls ASF	570-577
Springfield BMC	010-069, 120-126, 128-129
Washington BMC	200-239, 244, 254, 267-268

Exhibit 624.721, BMC/ASF Service Areas for DBMC Rates

624.722 Eligibility. Pieces in a mailing that meet the requirements of 624.71 and 624.72 are eligible for the DBMC rate when deposited at a DBMC (as defined in 624.721), addressed for delivery within that facility's service area (ZIP Code range) as shown in Exhibit 624.721, and placed in a tray, sack, or pallet (as permitted by the presort requirement for the rate claimed) that is correctly labeled to that DBMC or to a postal facility within its service area. Separate SDC, state, and mixed states sacks must be prepared for pieces that are eligible for the DBMC rate if the mailer includes them in that portion of the mailing claimed at the DBMC rate, and the facility to which the sacks are labeled is within the DBMC service area.

624.723 Requirements Related to BMC Acceptance

a. General. Mailings deposited at a DBMC must be presented in vehicles that are compatible with BMC dock and yard operations (see 624.717c).

b. Authorization. Prior to mailing at the DBMC, authorization must be provided to the DBMC to act as acceptance agent for the entry post office (i.e., for the post office where the meter license, precanceled stamp permit, or permit imprint authorization is held) by completion and approval of Form 4410, *Authorization for BMC Acceptance.* (See Handbook DM-102, 725). Mailings cannot be entered at a DBMC (whether the DBMC rate is claimed or not) without this authorization. Form 4410 is not required for plant-verified drop shipments. Form 4410 is completed and submitted by the entry post office.

624.73 Destination Sectional Center Facility (DSCF) Rate

624.731 Definition. For purposes of this section, the term "destination sectional center facility (DSCF)" refers to the facilities listed in Exhibits 122.63b-d.

624.732 Eligibility. Pieces in a mailing that meet the requirements of 624.71 and 624.73 are eligible for the DSCF rate when deposited at a DSCF (as defined in 624.731), addressed for delivery within that facility's service area (ZIP Code range), and placed in other than an SDC, BMC, state, or mixed states tray, sack, or pallet (as permitted by the presort requirement for the rate claimed) that is correctly labeled to that DSCF or to a postal facility within its service area.

624.733 Requirements Related to SCF Acceptance

a. General. Mailings deposited at a DSCF must be presented in vehicles that are compatible with SCF dock and yard operations (see 624.717c).

b. Postage Payment. Postage must be paid as specified in 624.715. DSCFs may not accept mail otherwise paid except as provided by 144.8.

624.74 Destination Delivery Unit (DDU) Rate

624.741 Definition. For purposes of this section, the term "destination delivery unit (DDU)" refers to the facility (post office, branch, station, etc.) where the carrier cases mail for delivery to the addresses on pieces in the mailing, and the term "carrier routes" includes city carrier routes, rural routes, highway contract routes, and general delivery and post office box sections.

624.742 Eligibility. Pieces in a mailing that meet the requirements of 624.71 and 624.74 are eligible for the DDU rate when deposited at a DDU (as defined in 624.741), addressed for delivery within that facility's service area (carrier routes), and placed in properly-prepared and labeled carrier route packages sorted to carrier route or 5-digit carrier routes trays, sacks, or pallets (as permitted by the presort requirement for the rate claimed) that are correctly labeled to the corresponding destinations. Mailings for which the DDU rate is claimed must also be eligible for and claimed at either the carrier route or a walk-sequence rate (see 624.3 and 624.8, respectively, for additional requirements, as applicable). Under no circumstances will the DDU rate be allowed for mail that requires any postal transportation other than from the carrier's case to the customer's mail receptacle.

624.743 Other Rates and Reductions. Pieces eligible for the DDU reduction must be claimed at only the carrier route or walk-sequence rates. No other rates or reductions are available.

624.8 Walk-Sequence Reduction

624.81 General

624.811 Eligibility. The walk-sequence reduction is available to mail sorted to carrier routes (see 641.4), arranged within each route in delivery sequence, and prepared as required by 624.82-624.88. (For purposes of this section, city carrier routes, rural routes, highway contract routes, and general delivery and post office box sections will be referred to collectively as "carrier routes" unless specifically stated.) Mailings prepared under 629.4 may qualify for walk-sequence rates when the detached label cards are prepared to meet the requirements of this section. Pieces prepared using simplified address must meet the requirements in 122.41.

624.812 Destination Rates. Mailings claimed at walk-sequence rates must separately qualify for any destination rate claimed.

624.813 Copies for Other Destinations or at Other Rates

a. General. A walk-sequence rate mailing can include pieces claimed at the carrier route presort rate and at the basic presort rate. Pieces in the same mailing cannot be claimed at the 3/5 presort or any ZIP+4 or ZIP+4 Barcoded rate.

b. Separation. At the time when presented to the Postal Service, the sacks containing the walk-sequence rate pieces must be separated from other sacks in the same mailing or other mailings. Any effective method of separation may be used.

c. Walk-Sequencing. In addition to those pieces prepared in walk-sequence as required for the rate claimed (see 624.85), mailers are encouraged to prepare all other pieces in the mailing in walk-sequence.

624.82 Preparation. Pieces prepared using a simplified address must meet the requirements in 122.41 or must be in a package placed on a carrier route pallet, or a 5-digit carrier routes pallet containing only pieces for the same delivery unit. See 424.72.

624.83 Addressing. Walk-sequence rate mail must be addressed as follows:

a. each piece addressed for delivery on a city carrier route must bear a complete delivery address or an alternative form of address as provided by 122.42 or 122.43.

b. each piece addressed for delivery through a general delivery or post office box unit must bear a complete delivery address or an alternative form of address as provided by 122.4.

c. each piece addressed for delivery on a rural or highway contract route must bear a simplified address (see 122.41).

624.84 Density

624.841 General. Each walk-sequence rate mailing must contain at least 200 pieces or 50 pounds of pieces. Carrier route and basic presort rate pieces may be included in the same mailing. The carrier route rate pieces count toward the minimum quantity. The basic rate pieces do not count toward the minimum quantity, but are subject to the limitations in 624.33.

624.842 Per 5-Digit ZIP Code. There is no minimum volume per 5-digit ZIP Code delivery area. Walk-sequence rate mail need not be sent to all carrier routes within a 5-digit delivery area.

624.843 Per Carrier Route

a. Pieces eligible for and claimed at the walk-sequence rate must be addressed to either 90% or more of the residential addresses or 75% or more of the total number of addresses, whichever is less, on each city carrier route receiving walk-sequence rate mail, and in each general delivery unit or post office box section receiving walk-sequence rate mail not addressed in the simplified format.

b. Pieces eligible for and claimed at the walk-sequence rate must be addressed to 75% or more of the total number of addresses on each rural or highway contract route receiving walk-sequence rate mail, and in each general delivery unit or post office box section receiving walk-sequence rate mail addressed in the simplified format.

624.844 Multiple Copies or Pieces per Address. Only one addressed piece per delivery address may be counted toward the minimum density prescribed in 624.841 and 624.843.

624.845 Pieces per Sack. Sacks containing fewer than 125 pieces and less than 15 pounds of pieces may be prepared to a carrier route when the contents are claimed at a walk-sequence rate and meet the applicable density requirement in 624.843.

624.85 Walk-Sequencing

624.851 General. The pieces in a walk-sequence rate mailing must be organized in the sequence in which they will be delivered as determined by the Postal Service. Pieces prepared with a simplified address must meet the requirements of 122.413.

624.852 Packages. Walk-sequenced letter- and flat-size pieces must be prepared in packages. Letter-size pieces must be prepared in packages that are not more than 4 inches thick.

624.853 Package Labeling

a. Facing Slip. Each package of walk-sequenced pieces must bear a facing slip placed over the front of the top piece in the package.

b. Content. The facing slip must contain the phrases "WALK-SEQUENCED MAIL;" "PACKAGE n OF nn" (where "n" is the sequential number of the package out of "nn," the total number of packages for the carrier route); "CARRIER ROUTE" (or "RURAL ROUTE," "HIGHWAY CONTRACT ROUTE," "POST OFFICE BOX SECTION," or "GENERAL DELIVERY SECTION," as applicable), followed by the appropriate number; and the name and ZIP Code of the delivery post office. The ZIP Code may be that of the delivery unit (station or branch) where applicable. As an alternative, mailers who cannot anticipate the total number of packages that will be produced for a route may number each package consecutively and mark "LAST" on the last package for each route.

c. Format. The facing slip must present the required information in approximately the following format:

```
WALK-SEQUENCED MAIL
PACKAGE 5 OF 10
CARRIER ROUTE 17
CENTREVILLE VA 22020
```

624.86 Accuracy

624.861 Error Rate. For each carrier route receiving mail at a walk-sequence rate, no more than 5% of the total pieces for the route may be found out of sequence or sorted to the wrong carrier route. (The total number of pieces for the route is shown on the documentation required by 624.88.)

624.862 Errors not Counted. An error will not be counted when pieces are not in sequence or not sorted to the correct carrier route because of Postal Service scheme changes not yet incorporated in the scheme that the mailer is required to use in preparation of the mailing (see 624.87 and 624.88).

624.863 Pieces in Error. When a number of pieces is found that represents 5% or more of the total pieces for the route, the remaining pieces in the mailing for that route will be held and no further attempt made to distribute or deliver them. The delivery unit will notify the mailer or representative accordingly if the mailing was accompanied by the name and telephone number of the mailer or a local representative for the mailer. The mailer or representative may inform the delivery unit that it is abandoning the mailing, or, within 24 hours, either call for the mailing to correct the walk-sequence errors or pay additional postage (the difference between the walk-sequence rate and the carrier route presort rate) for all the pieces in the mailing for that route.

624.864 Refunds. No refund of postage will be available for postage paid for abandoned mailings.

624.87 Delivery Sequence Information

624.871 General. Mailings entered at a walk-sequence rate must be based on delivery sequence information provided by the Postal Service using one of the methods in 624.872 or 624.873.

624.872 CDS File. The Computerized Delivery Sequence (CDS) file is updated quarterly. Walk-sequence rate mailings presented for acceptance 6 months or more after the release of a CDS file update must incorporate the changes contained in that update. Mailings based on out-of-date information will not be accepted at the walk-sequence rates.

624.873 Address Sequencing Service. Mailings entered at the walk-sequence rates may be based on delivery sequence information provided by the Postal Service's address sequencing services (see 946). These services can be used to provide updated information as requested by the customer. Mailers who use address sequencing service must base walk-sequence rate mailings on address sequence information that was updated not more than 6 months prior to the date of mailing. Mailings based on older information will not be accepted at a walk-sequence rate.

624.88 Documentation

624.881 General. Mailers who prepare mailings claimed at a walk-sequence rate must substantiate compliance with the requirements in 624.8 through documentation, sequenced in numerical order by carrier route, that provides the information specified in 624.882-624.885.

624.882 Density

a. Unless a simplified address is used, for each carrier route to which walk-sequence rate mail is addressed, the mailer must provide documentation to indicate the total number of addressed pieces, the total number of possible residential deliveries, the number and percentage to which mailpieces in the mailing are addressed, the total number of possible delivery stops, and the number and percentage to which mailpieces in the mailing are addressed.

b. If a simplified address is used, for each carrier route to which walk-sequence rate mail is addressed, the mailer must provide documentation to indicate the total number of addressed pieces, the total number of possible delivery stops, and the number and percentage to which mailpieces in the mailing are addressed.

624.883 Combination Rate Mailings. If the same mailing includes both walk-sequence and carrier route presort rate pieces, in addition to the information required by 624.883, the documentation must indicate, for each route receiving carrier route presort pieces in the mailing, the total number of delivery stops to which carrier route presort pieces are addressed. Entries at the carrier route rate must be so annotated. For the entire mailing, a summary by 5-digit ZIP Code of the total number of pieces at each rate must be provided. This documentation will also satisfy the

requirements of 624.35 for the carrier route presort rate pieces included in the mailing.

624.884 Accuracy

a. For each carrier route receiving walk-sequence rate mail, the mailer who uses CDS must annotate the mailing statement to show the issue date of the CDS update used in preparation of the mail (see 624.87).

b. For each carrier route receiving walk-sequence rate mail, the mailer who uses address sequencing service must annotate the mailing statement to show the date of the last update for the address sequence information used in preparation of the mail (see 624.87). The mailer must provide evidence of this date by submitting a copy of the *Delivery Unit Summary* that served as the mailer's bill for the address sequencing service charges (see 946.71).

624.885 Documentation Required to Accompany the Mail. In addition to the facing slip required by 624.853, the first package of mail for each carrier route must contain a summary for that route which indicates the total number of addressed pieces, the total number of possible residential deliveries, and the number and percentage to which mailpieces are addressed (if applicable), the total number of possible delivery stops, and the number and percentage to which mailpieces are addressed, and the issue date of the CDS scheme or the address sequence information used in preparation of the mail (as applicable).

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628 Additional Conditions for Automated Bulk Third-Class Rates

628.1 Conditions Applicable to Automated Bulk Third-Class Rates

628.11 General

628.111 Definition. The automated bulk third-class rates (Basic ZIP+4, 3/5 ZIP+4, Basic ZIP+4 Barcoded, 3-Digit ZIP+4 Barcoded, and 5-Digit ZIP+4 Barcoded) apply only to letter-size mailpieces in mailings prepared as specified by this section.

628.112 Marking. The address side of each piece in the mailing must show the marking required by 629.6 that is appropriate for the rate claimed for the mailing.

628.113 Postage. The mailer must pay all applicable postage before the corresponding mailing can be accepted by the Postal Service (see 661.3).

628.114 Physical Characteristics. Each piece in the mailing must meet the following standards:

a. Its length must be not less than 5 inches nor more than 11-1/2 inches;

b. Its height must be not less than 3-1/2 inches nor more than 6-1/8 inches;

c. Its thickness must be not less than .007 inch nor more than 1/4 inch;

d. Its length divided by its height must be not less than 1.3 nor more than 2.5; and

e. Its weight must not exceed 2.5 ounces, *except that,* until September 15, 1991, the weight of each mailpiece in an automated third-class rate mailing must not exceed 3 ounces.

628.115 ZIP Codes

a. ZIP+4 Rates. The delivery address on pieces claimed at a ZIP+4 rate must contain either the correct ZIP+4 code or the correct 5-digit ZIP Code. If only a 5-digit ZIP Code is contained in the address, the correct ZIP+4 barcode, prepared in accordance with 628.15, must also appear on the piece. (The requirement for a ZIP+4 code may be satisfied either by the correct numeric ZIP+4 code in the delivery address or by the correct ZIP+4 barcode prepared as described in 628.15.)

b. ZIP+4 Barcoded Rates. The delivery address on pieces claimed at a ZIP+4 Barcoded rate must contain either the correct ZIP+4 code or the correct 5-digit ZIP Code.

628.116 Barcode Clear Zone

a. General Requirement. The address side of each piece in an automated rate mailing must have a barcode clear zone that can contain no printing or markings except for a barcode properly prepared in accordance with 628.15. See 628.156 and 628.162, respectively, for additional conditions that apply to pieces with 5-digit barcodes and pieces with barcode windows through which no barcode appears.

b. Dimensions. The barcode clear zone is an imaginary rectangle on the address side of the mailpiece formed by:

(1) the bottom edge;

(2) a line parallel to and 5/8 inch above the bottom edge;

(3) the right edge; and

(4) a line parallel to and 4-1/2 inches to the left of the right edge.

628.12 Minimums

628.121 Per Mailing

a. Quantity. Each mailing at an automated third-class rate must contain at least 200 pieces or 50 pounds of pieces.

b. 85% Requirement

(1) ZIP+4 Rate Mailings. Regardless of the number of pieces in the mailing, or the rates claimed, no less than 85% of the number of addressed pieces in each mailing must bear the correct ZIP+4 code in the delivery address (see 628.115b). Regardless of the rate for which they may qualify, all remaining pieces must meet the requirements in 628.114, 628.115, and, as applicable, 628.16.

(2) ZIP+4 Barcoded Rate Mailings. Regardless of the number of pieces in the mailing, or the rates claimed, no less than 85% of the number of addressed pieces in each mailing must bear the correct ZIP+4 barcode (see 628.15). Regardless of the rate for which they may qualify, all remaining pieces must meet the requirements in 628.114, 628.115, and, as applicable, 628.16.

628.122 Per Package, Tray, and Sack. Each package must contain a minimum of 10 addressed pieces, and must be placed in either a sack containing no less than 125 addressed pieces or 15 pounds of addressed pieces, or a tray that is at least 3/4 full when the contents are reasonably compressed.

628.13 OCR Readability (ZIP+4 Rates)

628.131 Requirements. **Text of existing 624.443a; redesignate 624.443a(1) and 624.443a(1)(a) through 624.443a(1)(d) as 628.131a and 628.131a(1) through 628.131a(4), respectively; redesignate existing 624.443a(2) through (4) as 628.131b through 628.131d, respectively.**

628.132 Nonmandatory Guidelines. **Text of existing 624.443b; redesignate existing 624.443b(1) through (11) as 628.132a through 628.132k, respectively.**

628.133 Exceptions. Pieces prepared with ZIP+4 barcodes (under 628.115b(2) and 628.15), are exempt from the OCR readability requirements of this section, but remain eligible for the automated third-class rates if other applicable requirements are met. Pieces prepared with both a 5-digit ZIP Code and 5-digit barcode (under 628.161), or with a barcode window through which no barcode appears (under 628.162) are also exempt from the OCR readability requirements of this section, but do not qualify for any automated third-class rate.

628.14 Reserved

628.15 Preparation of ZIP+4 Barcodes

628.151 Correct ZIP+4 Barcode. **Text of existing 624.65a.**

628.152 General Preparation. **Text of existing 624.65b; in the fourth and fifth sentences, replace "Exhibit 624.65b" with "Exhibit 628.152"; redesignate Exhibit 624.65b as Exhibit 628.152.**

628.153 Barcode Location. **Text of existing 624.65c; in the fourth and fifth sentences, replace "Exhibit 624.65c" with "Exhibit 628.153"; redesignate Exhibit 624.65c as Exhibit 628.153.**

628.154 Technical Specifications. **Renumber existing 624.65d-g as 628.154a-d, respectively.**

628.155 Inserts. **Text of existing 624.65h; redesignate 624.65h(1) and 624.65h(1)(a) through (d) as 628.155a and 628.155a(1) through (4), respectively; redesignate 624.65h(2) and 624.65h(2)(a) through (d) as 628.155b and 628.155b(1) through (4), respectively.**

628.16 Other Mailpieces

628.161 Pieces Bearing a 5-Digit Barcode

a. In Automated Rate Mailings. Mailers may place 5-digit barcodes on pieces in ZIP+4 and ZIP+4 Barcoded rate mailings provided those pieces are prepared as required by 628.161b.

b. Preparation. All 5-digit barcodes must meet the requirements of 628.154 and 628.155 and the following:

(1) Barcode Format. The 5-digit barcode must be prepared as described in 628.152, except that there must be a single field of 32 bars consisting of a frame bar, a series of bars that represents the correct 5-digit ZIP Code for the delivery address on the piece (see Exhibit 628.152), a correction digit, and a final frame bar. The correction digit is the single-digit value that must be added to the sum of the numbers in the 5-digit ZIP Code to make the total a multiple of 10 (i.e., end in a zero).

(2) Barcodes Printed Directly on Mailpieces. The 5-digit barcode printed on mailpieces that do not have a window for a barcode insert must be located in a barcode read area as required by 628.153, except that, within that area, the first (left-most) bar of the barcode must be located no less than 3-7/8 inches, nor more than 4 inches, from the right edge of the mailpiece. See Exhibit 628.161b(2). **Renumber existing Exhibit 624.66b(3) as Exhibit 628.161b(2).**

(3) Barcodes Printed on Inserts. 5-digit barcodes printed on inserts and that will appear through a barcode window may meet either the requirements described in 628.153 or those in 628.161b(2).

c. Rate Eligibility

(1) Pieces prepared with a 5-digit barcode appearing through a barcode window are not eligible for any automated rate and cannot be included among pieces counted toward the 85% requirement (see 628.121b).

(2) Pieces bearing a 5-digit barcode are not eligible for any ZIP+4 Barcoded rate and cannot be included among pieces counted toward the 85% requirement (see 628.121b).

(3) Pieces with a 5-digit barcode printed directly on them (as described in 628.161b(2)) may be eligible for a ZIP+4 rate and can be included among pieces counted toward the 85% requirement (see 628.121b) if each meets the other requirements for a 5-digit barcode (in 628.161b), the OCR readability requirements in 628.131, and bears a numeric ZIP+4 code in the delivery address.

628.162 Pieces Prepared With Barcode Windows Through Which No Barcode Appears. Any piece prepared with a barcode window through which a barcode (printed on an insert) will not appear is not eligible for any automated rate and cannot be included among pieces counted toward the 85% requirement (see 628.121b). If placed in an automated rate mailing, such a mailpiece must meet the requirements of 628.11.

628.17 Documentation

628.171 None Required. No documentation is required for automated rate mailings of identical-weight pieces when all pieces in the mailing are eligible for and claimed at the same rate and have the correct amount of postage affixed. Each piece must also bear either the correct ZIP+4 code corresponding to the delivery address on the piece (for mailings at the Basic or 3/5 ZIP+4 rates) or the correct 5-digit ZIP Code and the correctly prepared ZIP+4 barcode corresponding to the delivery address on the piece (for mailings at any ZIP+4 Barcoded rate).

628.172 Submission With Each Mailing. Mailings that do not meet the requirements of 628.171 must be accompanied by documentation that:

a. Details the number of pieces for each 5-digit ZIP Code (or other sortation) that qualify for each rate in the mailing.

b. Provides cumulative totals after each line entry, subtotals by sortation (where required), and grand totals for the entire mailing by rate.

c. Shows the number of pieces prepared with a ZIP+4 code or a ZIP+4 barcode, as applicable to the particular rate claimed.

d. Proves the mailing has met or exceeded the "85% requirement" (see 628.121).

e. Details the number of pieces at each rate and increment, the postage (or additional postage) due, and the total postage for the mailing.

f. Provides the additional detail required for the rate claimed (see 628.2 through 628.7 for the specific documentation requirements that apply to each rate).

628.173 Submission Based on a Mailing List or Cycle. As an alternative to submitting documentation with each mailing, mailers may submit documentation based on a mailing list or mailing cycle under the following conditions:

a. The mailing period for the list, or the duration of the mailing cycle, each as defined by the mailer, must be longer than 24 hours but not more than 1 week (7 consecutive days). The mailer must notify the post office where mailings are accepted of the first and last mailings, and the beginning and ending points of the time period, of the list or cycle.

b. More than one list or cycle may be active at one time, but mailings from each must be prepared and presented separately, clearly identified, and accompanied by mailing statements that clearly relate to specific mailings.

c. Compliance with the 85% requirement (see 628.121) may be based on the entire list or cycle.

d. The documentation must contain the information described in 628.172.

e. Complete documentation for the entire mailing list or mailing cycle must be submitted with the first mailing from that list or cycle.

f. The appropriate mailing statements must be submitted with each mailing when presented for acceptance.

g. At the time the last mailing from a list or cycle is presented to the Postal Service, any discrepancies between the mail presented to and verified by the Postal Service, the mail described in the documentation, and the mail claimed on the corresponding mailing statements (in regard to quantity, rate eligibility, or postage) must be reconciled to the satisfaction of the Postal Service, and any additional postage that may be due must be paid by the mailer.

628.174 Mailing Statements. When presented for acceptance, each mailing must be accompanied by the appropriate mailing statement, completed by the mailer. The statement must be attached or otherwise related by code or reference to specific supporting documentation. All mailing statements and supporting documents are subject to verification by the Postal Service.

628.18 Presort

628.181 General Requirement. All pieces in an automated rate bulk third-class mailing must be presorted together as required by 641.

628.182 Rate Eligibility

a. Basic ZIP+4 and Basic ZIP+4 Barcoded Rates. All pieces packaged and sacked under 641 are eligible for the Basic ZIP+4 and Basic ZIP+4 Barcoded rates if the other applicable requirements are met (see 628.2 and 628.5, respectively).

b. 3/5 ZIP+4 Rates. Pieces in 5-digit, optional city, and 3-digit packages that are correctly sorted to 5-digit, optional city, and 3-digit sacks are eligible for the 3/5 ZIP+4 rates if the other applicable requirements are met (see 628.3).

c. Three-Digit ZIP+4 Barcoded Rates. Pieces packaged in optional city and 3-digit packages that are correctly sorted to optional city and 3-digit sacks are eligible for the 3-digit ZIP+4 Barcoded rates if the other applicable requirements are met (see 628.6).

d. Five-Digit ZIP+4 Barcoded Rate. Only pieces in 5-digit packages correctly sorted to 5-digit, optional city, and 3-digit sacks are eligible for the 5-Digit ZIP+4 Barcoded rate if the other applicable requirements are met (see 628.7).

628.19 Optional Use of Trays. Automated rate bulk third-class mailings may be prepared in trays rather than in sacks as provided by 560 and 647.

628.2 ZIP+4 Rates

628.21 Minimum Quantity. As prescribed in 628.12, each ZIP+4 rate mailing must contain at least 200 pieces or 50 pounds of pieces and, regardless of the rate claimed for the pieces, no less than 85% of the number of addressed pieces in each ZIP+4 rate mailing must bear the correct ZIP+4 code in the delivery address (as provided by 628.115b). All remaining pieces must meet the requirements in 628.11.

628.22 Other Rates. ZIP+4 rate mailings may contain pieces claimed at the 3/5 and basic ZIP+4 and 3/5 and basic presort level rates. Other rates are not available.

628.23 OCR Readability. Pieces intended for eligibility for the ZIP+4 rates must meet the OCR readability requirements in 628.13, unless subject to the exception for ZIP+4 Barcoded pieces (see 628.115b, 628.133, and 628.15).

628.24 Documentation. In addition to the general requirements of 628.17, documentation must be prepared with separate columns, as applicable, to list the number of pieces at the 3/5 ZIP+4 rate, the Basic ZIP+4 rate, the 3/5 presort rate, the basic presort rate, and the cumulative total pieces in the mailing through each line entry. A separate line entry must be provided for each 5-digit ZIP Code for which pieces have been packaged in 5-digit or optional city packages, and for each 3-digit ZIP Code prefix for which pieces have been packaged otherwise.

628.25 Presort. See 628.18.

628.26 Optional Sortation to Automated Sites. Mailers may prepare 3/5 ZIP+4 rate mailings without making 5-digit packages or sacks if

a. All pieces in the mailing are for destinations within the 3-digit ZIP Code ranges listed in Exhibit 122.63m;

b. All pieces are prepared in optional city or 3-digit packages and optional city or 3-digit sacks; and

c. Pieces destinating in other ZIP Code areas are prepared as a separate mailing.

628.27 Additional Tray and Sack Labeling Requirements. The second (contents) line on labels for trays and sacks in ZIP+4 rate mailings must show the information specified in 641.133 and 641.135 followed by either "ZIP+4" or "Z+4."

628.3-628.6 Reserved

628.7 ZIP+4 Barcoded Rates

628.71 Minimum Quantity. As prescribed in 628.12, each ZIP+4 Barcoded rate mailing must contain at least 200 pieces or 50 pounds, and, regardless of the rate claimed for the pieces, no less than 85% of the number of addressed pieces in each ZIP+4 Barcoded rate mailing must bear a correctly prepared ZIP+4 Barcode (as provided by 628.15). All remaining pieces must meet the requirements in 628.11.

628.72 Other Rates. ZIP+4 Barcoded rate mailings may contain pieces claimed at the 5-digit, 3-digit, and Basic ZIP+4 Barcoded, 3/5 and Basic ZIP+4, and 3/5 and basic presort level rates. Other rates are not available.

628.73 ZIP+4 Barcode. Pieces intended for eligibility for a ZIP+4 Barcoded rate must bear a ZIP+4 barcode prepared as required by 628.15.

628.74 Documentation. In addition to the general requirements of 628.17, documentation must be prepared with separate columns, as applicable, to list the number of pieces at the 5-Digit ZIP+4 Barcoded rate, the 3-Digit ZIP+4 Barcoded rate, the Basic ZIP+4 Barcoded rate, the 3/5 ZIP+4 rate, the Basic ZIP+4 rate, the 3/5 presort rate, the basic presort rate, and the cumulative total pieces in the mailing through each line entry. A separate line entry must be provided for each 5-digit ZIP Code for which pieces have been packaged in 5-digit or optional city packages, and for each 3-digit ZIP Code prefix for which pieces have been packaged otherwise.

628.75 Presort. See 628.18.

628.76 Optional Sortation to Automated Sites. Mailers may prepare 3-digit ZIP+4 Barcoded rate mailings without making 5-digit packages or sacks if:

a. All pieces in the mailing are for destinations within the 3-digit ZIP Code ranges listed in Exhibit 122.63m;

b. All pieces are prepared in optional city or 3-digit packages and optional city or 3-digit sacks; and

c. Pieces destinating in other ZIP Code areas are prepared as a separate mailing.

628.77 Additional Tray and Sack Labeling Requirements. The second (contents) line on labels for trays and sacks in ZIP+4 Barcoded rate mailings must show the information specified in 641.133 and 641.135 followed by either "ZIP+4 BARCODED" or "Z+4 B/C."

628.8-628.9 Reserved

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629 Mailpiece Characteristics

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629.2 Physical Limitations

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629.22 Size, Shape, and Ratio (General Standards)

629.221 Maximum Size Standards

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b. Basic Presort and 3/5 Presort Rates. There is no maximum size for basic presort rate and 3/5 presort rate bulk third-class mail.

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629.4 Optional Use of Detached Address Labels for Flats

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629.46 Postage. Replace the second sentence as follows: The applicable nonletter postage (see Exhibit 611.2) is computed based on the combined weight of the flat and the address label.

629.47 Walk-Sequence Rates. Mailings prepared under 629.4 may qualify for the walk-sequence rates if the detached label cards are prepared to meet the requirements of 624.8.

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629.6 Marking

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629.62 Basic Presort and 3/5 Presort Rates. * * * * * *

629.63 Carrier Route Presort Rate. In the first sentence, delete the word "level."

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640 Bulk Mail Presort Requirements

641 Standard Packaging and Sacking Requirements

641.1 Letter-Size, Flat-Size, and Irregular Parcel Mailings

641.11 General. All basic presort and 3/5 presort rate bulk third-class mailings must be prepared as specified in 641.1, subject to the exceptions contained in 641.124 and 641.136 for loose-packing, 643 for irregular parcels, 644 for palletization, and 647 for traying. All pieces presented in a single mailing must be presorted together as required by this section. The level of sortation (i.e., packaging and traying or sacking) determines eligibility for the 3/5 presort rate; pieces not claimed at or not eligible for the 3/5 presort rate must be claimed at the basic presort rate (see 624.1 and 624.2).

641.12 Packaging Requirements

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641.124 Loose Packing. **Add as the fourth sentence:** Pieces prepared in loose-packed 5-digit sacks may qualify for the 3/5 presort rate subject to the applicable requirements in 624.2.

641.125 Rate Eligibility. Packages prepared under 641.121b (5-digit), and 641.121d (3-digit) may be eligible for the 3/5 presort rate if correctly sacked or trayed to qualifying destinations as required by 624.2 and 641.13. Packages prepared under 641.121a and 641.121e-h are not eligible for the 3/5 presort rate and must be claimed at the basic presort rate.

641.13 Sacking Requirements

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641.136 Loose-Pack Sack. **Add as the fifth sentence: Pieces prepared in loose-packed 5-digit sacks may qualify for the 3/5 presort rate subject to the applicable requirements in 624.2.**

641.137 Rate Eligibility. Pieces correctly packaged under 641.121b (5-digit), 641.121c (optional city), and 641.121d (3-digit), and correctly sacked under 641.135a-c (5-digit, optional city, or 3-digit) may be eligible for the 3/5 presort rate if otherwise qualified under 624.2. Pieces in other packages, or packaged under 641.121b-d but not sacked under 641.135a-c, are not eligible for the 3/5 presort rate and must be claimed at the basic presort rate.

641.2 Machinable Parcel Preparation Requirements

641.21 General

641.211 Preparation. **Text of existing 641.21.**

641.212 Rate Eligibility. Subject to the provisions of 624.2, pieces may be eligible for the 3/5 presort rate when prepared under 641.221 and 641.222. Mailers wishing to claim the 3/5 presort rate *must* presort to 5-digit destinations (as required by 641.221) before presorting to destinating BMCs under 641.222. Pieces correctly presorted and labeled under 641.222 to the origin BMC will be eligible for the 3/5 presort rate.

641.22 Sacking Requirements

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641.222 Bulk Mail Center (BMC) Sacks

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641.223 Mixed BMC Sacks

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Delete existing 641.23 and 641.3.

641.4 Additional Presort Requirements for Carrier Route Presort Rate Mailings

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641.42 Sacking

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641.425 Optional Carrier Route Sacks. **Add to the end of the section below the sample label:** EXCEPTION: Carrier route sacks are NOT optional and MUST be prepared if the mailing is claimed at a walk-sequence rate.

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644 Palletization Requirements

644.1 Packages and Bundles Presented on Pallets

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644.17 Commingling Mixed Rate Level Mailings on Pallets

644.171 General. **Replace "basic, 5-digit, or carrier route" with "basic presort, 3/5 presort, or carrier route presort."**

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644.175 Preparation Requirements

a. Summary Listing. * * * * *

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(2) The number of pieces that qualify for the basic presort rate and for the 3/5 presort rate for each 5-digit ZIP Code.

(3) The number of pieces that qualify for the basic presort rate and for the 3/5 presort rate for each 3-digit ZIP Code prefix.

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644.18 Copalletizing Multiple Bulk Third-Class Flat-Size Mailings

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644.186 Preparation Requirements for Copalletized Flat-Size Mail

a. Summary List. * * * * *

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(2) If the 3/5 presort rate is claimed, the number of pieces that qualify for the 3/5 presort rate for each 5-digit ZIP Code, listed by individual mailing and a total for the pallet.

(3) If the basic presort rate is claimed, a detailed list by ZIP Code describing the number of pieces that qualify for the basic presort rate, by individual mailing, and a total for each pallet.

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644.2 Palletizing Machinable Third-Class Parcels

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644.22 Machinable Parcel Pallet Preparation

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644.225 Rate Eligibility. Subject to 624.2, pieces may be eligible for the 3/5 presort rate when prepared under 644.222. Pieces correctly presorted under 644.222b to the service area of the origin BMC will be eligible for the 3/5 presort rate.

644.23 Presentation of Mailings. Replace "third-class carrier route presort level rate and the third-class 5-digit presort level rate" with "3/5 presort and carrier route presort bulk third-class rates."

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645 Bundling Instead of Sacking (Bedloaded Bundles)

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645.3 Bundle Preparation

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645.33 Labels. * * * * * In the NOTE, replace "Five-digit presort level rate packages and bundles and third-class carrier route packages and bundles" with "3/5 presort rate packages and bundles and carrier route presort rate packages and bundles."

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647 Trays

647.1 General

647.11 Automation-Compatible Mailpieces. ZIP+4 and ZIP+4 Barcoded rate mailings of automation-compatible letter-size mailpieces may be prepared in trays rather than in sacks subject to the requirements of this section. Trays are the preferred container for automation-compatible mail. Mailers may also follow the preparation requirements in 560.

647.12 Other Mailpieces. The use of trays for other third-class mail is prescribed in 641.33 and 641.43.

647.2 Preparation of Mail in Trays

647.21 Packaging

647.211 General. Mailings prepared in trays must be packaged as required by 641.12, except as provided below.

647.212 Carrier Route Trays. Pieces being claimed at the carrier route presort rate need not be prepared in packages only when all the mail in those packages would be placed in the same tray for the same carrier route. Carrier route packages are required when the corresponding pieces are being placed in 5-digit or 3-digit carrier routes trays.

647.213 Five-Digit Trays. Pieces need not be prepared in 5-digit packages only when all the mail in those packages will be placed in the same tray for the same 5-digit ZIP Code destination. Five-digit packages are required when the corresponding pieces are being placed in other than 5-digit trays.

647.214 Three-Digit Trays. Pieces need not be prepared in 3-digit packages only when all the mail in those packages would be placed in the same tray for the same 3-digit ZIP Code destination. Five-digit packages are required when there are 10 or more pieces to the same 5-digit destination and when those packages are being placed in other than 5-digit trays. Three-digit packages are required when the corresponding pieces are being placed in other than 3-digit trays.

647.22 Traying

647.221 General. Trays must be prepared in the same sequence as required for sacks under 641.135.

647.222 Minimum Volume per Tray. A tray must be prepared for a required presort destination when the corresponding pieces (or packages of pieces), when reasonably compressed, fill 3/4 or more of the tray. Trays that contain less may not be prepared unless a sack containing less than 125 pieces and 15 pounds of pieces to the same destination is permitted under 641.135, 641.421b, 641.426, or 641.427, or as provided by 647.223.

647.223 Volume per Tray. Mailers should balance the volume in trays when more than one is prepared for the same destination to ensure that all are at least 3/4 full (when their contents are reasonably compressed). If, after this step, the remaining pieces for that destination are not enough to generate an additional full tray, they may be placed in a tray that is less than 3/4 full, provided the pieces in that tray are packaged (to preserve their orientation), and only one such tray for that destination is prepared in the mailing. To allow accurate verification of the mailing by postal acceptance personnel, the mailer must provide a listing of all such trays prepared regardless of whether documentation is required for the rate claimed.

647.224 Sleeving and Banding. To ensure the integrity of the mail in transit, each tray must be enclosed in a sleeve and secured by a plastic strap placed tightly around the length of the tray. The postmaster of the office where the mail is accepted may waive this requirement for local mail.

647.225 Tray Labels. A tray label must be securely affixed to the end of each tray. Tray labels are subject to the same requirements as specified for sack labels in 641.133, 641.135, 641.423, 641.425, and 646, except that additional information must be added to the second (contents) line as specified in 628.25, 628.36, 628.55, 628.66, and 628.75.

647.23 Optional Sortation to Automated Sites. Mailers may prepare 3/5 ZIP+4 rate and 3-digit ZIP+4 Barcoded rate mailings without making 5-digit packages or trays if

a. All pieces in the mailing are for destinations within the 3-digit ZIP Code ranges listed in Exhibit 122.63m;

b. All pieces are prepared in optional city or 3-digit packages and optional city or 3-digit trays; and

c. Pieces destinating in other ZIP Code areas are prepared as a separate mailing.

647.3 Rate Eligibility

647.31 Presort. Mailings prepared in trays remain eligible for the basic presort, 3/5 presort, carrier route presort, and walk-sequence rates if the applicable requirements in 624.1, 624.2, 624.3, or 624.8 are met, and sufficient volume of mail per tray (see 647.222) is generated for the applicable required destinations.

647.32 Automated Rates. Mailings prepared in trays remain eligible for the ZIP+4 and ZIP+4 Barcoded rates if the applicable requirements in 628 are met.

647.33 Destination Entry. Mailings prepared in trays remain eligible for the destination entry rates if the applicable requirements in 624.7 are met.

650 Mailing

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652 Bulk Rates

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652.2 Separation of Mailings. Replace "third-class carrier route presort level rate" and "5-digit presort level rate" with "carrier route presort rate" and "3/5 presort rate" respectively.

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660 Payment of Postage

661 Method of Payment

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661.2 Bulk Mailings at the Basic Presort, 3/5 Presort, and Carrier Route Presort Rates

661.21 Identical-Weight Pieces. * * * * *

a. Meter Stamps. See 144.

(1) Bulk rate mailings may be mailed with the correct metered postage affixed to each piece (i.e., pieces eligible for the carrier route presort rate are metered at that rate, while pieces eligible for the 3/5 presort rate are metered at the 3/5 presort rate, and pieces subject to the basic presort rate are metered at the basic presort rate).

(2) In the first sentence, delete "level." In the second sentence replace "basic" with "basic presort;" in the NOTE, replace "basic-rate" with "basic presort rate."

(3) In the first sentence, replace both "Five-digit presort rate" and "5-digit presort level rate" with "3/5 presort rate." In the second sentence, replace "basic rate" with "basic presort rate."

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661.22 Nonidentical-Weight Pieces

661.221 Pound Rates

a. Permit Imprint. In both the first and second sentences, replace "basic or 5-digit rate" with "basic presort or 3/5 presort rate."

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c. Precanceled Stamps. In the fourth sentence, replace "basic or 5-digit rate" with "basic presort or 3/5 presort rate."

d. Alternative Option. In the first sentence, replace "5-digit or basic" with "basic presort or 3/5 presort."

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661.3 Bulk Mailings at Basic ZIP+4, 3/5 ZIP+4, and ZIP+4 Barcoded Rates

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661.32 Meter Stamps

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661.322 Correct Postage Affixed to Each Piece

a. Basic ZIP+4 Mailings. **Replace "basic presort level rate" with "basic presort rate."**

b. 5-Digit ZIP+4 Mailings. **Replace "5-digit presort level rate" with "3/5 presort rate" and replace "basic presort level rate" with "basic presort rate."**

c. ZIP+4 Barcoded Mailings. **Replace "5-digit presort level rate" with "3/5 presort rate" and replace "basic presort level rate" with "basic presort rate."**

661.323 Lowest Rate In the Mailing Affixed to Each Piece

a. Basic ZIP+4 Mailings. **Replace "basic presort level rate" with "basic presort rate."**

b. 5-Digit ZIP+4 Mailings. **Replace "5-digit presort level rate" with "3/5 presort rate" and replace "basic presort level rate" with "basic presort rate."**

c. ZIP+4 Barcoded Mailings. **Replace "5-digit presort level rate" with "3/5 presort rate" and replace "basic presort level rate" with "basic presort rate."**

661.324 Neither Lowest Rate Nor Correct Postage Affixed to Each Piece

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b. Adding Postage. **Replace "5-digit presort" with "3/5 presort rate."**

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662 Mailing Statements

662.1 General. The mailer must complete, sign, and present a mailing statement with each third-class mailing for which postage is paid using a permit imprint or claimed at any bulk rate. The mailer must use the appropriate Postal Service form or a facsimile approved by the postmaster of the office of mailing.

662.2 Mailer Responsibility. The mailer is responsible for proper payment of postage. See 111.32.

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664 Plant-Verified Drop Shipment Postage Payment System

664.1 General

664.11 Definition. The plant-verified drop shipment postage payment system is designed to allow destination acceptance of mailings prepared for entry at destination rates (see 624.7), while taking advantage of the greater postal efficiency associated with origin postage payment. Approval for use of a plant-verified drop shipment postage payment system will be granted under the conditions specified in 664.2.

664.12 System Elements. Under this system

(a) the mailer's product is verified for proper classification, rate eligibility, preparation, and presort by postal personnel located at a mailer's plant (e.g., at a detached mail unit (DMU));

(b) postage is prepaid at the post office serving the mailer's location (see 624.7);

(c) the shipment is released for dispatch under postal seal;

(d) the shipment is transported to destination postal facilities at the mailer's expense on the mailer's vehicle or on transportation procured by the mailer;

(e) the shipment is deposited at the destination postal facility by the mailer or the mailer's agent;

(f) the shipment is verified and accepted as mail by postal personnel at the destination postal facility and released for processing.

664.13 Participation. The plant-verified drop shipment postage payment system may be used only by mailers who have been authorized by the field division general manager/postmaster in whose service area the mailer is located (see 664.3).

664.14 Other Mailings. Other destination entry mailings that are not verified at the origin plant under a plant-verified drop shipment postage payment system must be verified, accepted, and paid for at the destination post office in accordance with 624.716c-e.

664.2 Program Participation Criteria for Mailers

664.21 Request for Participation. The mailer must submit an application for participation in the plant-verified drop shipment postage payment system as prescribed in 664.3.

664.22 Facilities for Postal Personnel. At each plant at which mail is inspected pursuant to a plant-verified drop shipment agreement (see 664.3), the mailer must provide an enclosed work area for the DMU that can be locked, has a telephone, is separate from the mailer's activities, and provides a safe working environment, as determined by the Postal Service.

664.23 Postage Payment. The mailer must pay all applicable fees, and must obtain and maintain all applicable permits or authorizations at the local post office serving the mailer's plant. Unless authorized to pay postage under a CPP system, the mailer must pay postage for plant-verified drop shipments at the post office serving the mailer's plant. If permit imprints are used, the mailer must ensure that sufficient funds are on deposit in the appropriate advance deposit accounts to pay for all plant-verified drop shipments prior to their release for dispatch.

664.24 Documentation

a. The mailer must produce and submit an individual mailing statement for each mailing destined for each destination entry post office, at the time the mail is presented for verification and postage payment.

b. When required by the local postmaster, the mailer must submit consolidated mailing statements and a register of mailing statements to the Postal Service.

c. The mailer must produce and submit to the Postal Service the prescribed clearance documents, in duplicate, that must accompany each plant-verified drop shipment to the destination post office where the shipment will be deposited. Those documents must be presented in triplicate if the mailer wishes to have a signed and dated copy returned to its driver when mailings are unloaded at the destination entry postal facility.

664.25 Transportation

664.251 Responsibility. The mailer is responsible for the transportation of plant-verified drop shipments from the origin plant to the destination postal facility.

664.252 Other Mailings. The mailer must not transport plant-verified drop shipment mailings on the same vehicle with other shipments that are not entered as plant-verified drop shipments.

664.253 Scheduling. The mailer must meet the requirements in 624.717 in regard to the deposit of mail at destination entry postal facilities.

664.254 Separation of Mailings. When a vehicle contains more than one plant-verified drop shipment for a single-destination postal facility, the shipments must be separated, except that this requirement may be waived by the origin postmaster for copalletized or combined mailings provided the clearance document for that destination clearly identifies all of the mail for that facility. In addition, when a vehicle contains one or more shipments for more than one destination postal facility, the shipments must be separated by destination.

664.255 Hazardous Freight. Any material classified by the Postal Service as "hazardous" (see 124.3) may not be carried as freight on the same vehicle as a plant-verified drop shipment.

664.3 Authorization

664.31 Request

664.311 General. The mailer must submit a written request to the mailer's local postmaster seeking assignment of postal personnel to the mailer's plant (e.g., establishment of a DMU) to support plant-verified drop shipment of destination entry rate mailings. No form is provided for this purpose.

664.312 Date of Filing. The mailer must submit the request at least 30 days prior to the date proposed for submission of the first plant-verified drop shipment using the system.

664.313 Content. The request must fully describe the characteristics of the mailings that will be prepared as plant-verified drop shipments. At a minimum, the request must include the following information for each mailing or series of mailings of the same product, publication, or job:

a. the schedule of mailing, i.e., the number, frequency and time of mailings (e.g., at noon daily for two weeks, every other Monday at 4 pm, etc.);

b. the number of pieces and mailing statements to be presented to postal personnel, both daily and in total;

c. the class of mail and processing category,

d. the level of sortation and rate(s) claimed;

e. either:

(1) postage is paid locally

(a) the method of postage payment and a listing of the precanceled stamp permits, postage meter numbers and licenses, and permit imprint (or company permit imprint) to be used; and

(b) the alternative mailing system used by the mailer, if any (see 145.7, 145.8, and 145.9);

(2) postage is paid under Centralized Postage Payment (CPP) procedures, a copy of the authorization must accompany the request (separate authorization by the serving rates and classification center is required to mail under CPP);

f. the type and capacity of scales at the mailer's plant, if any;

g. the space available for postal personnel to use and the suitability of that space for verification of mail, record keeping, installation of computer equipment, and monitoring of vehicle loading;

h. the types of equipment used (trays, sacks, pallets, etc.) (authorizations must be obtained where required); and

i. the destination entry points to which shipments will be dispatched (e.g., a listing of the BMCs, SCFs, DDUs).

664.314 Existing Plant Load Mailers. A request for authorization must also be submitted by existing plant load mailers to allow verification that the current mailer facilities and DMU resources remain adequate. Depending on the specific situation, the 30-day advance notice required by 664.312 may be waived by the approving official (see 664.32).

664.32 Approving or Denying Authorization

664.321 Local Post Office. The local postmaster will review the application for completeness and accuracy, evaluate the mailer's ability to meet the requirements in 664.2, the suitability of the mailer's plant to accommodate postal personnel (i.e., a DMU), and the capability of the local post office to support the requested activity, and prepare a written summary of the results. This report and a recommendation for approval or denial of the mailer's request will be forwarded through the MSC/division manager, mailing requirements, to the field division general manager/postmaster.

664.322 Field Division. The field division general manager/postmaster will consider the postmaster's report and recommendation, determine whether the local post office has sufficient employees who are trained and qualified in mail classification and verification to support the requested plant-verified drop shipment activity, and prepare a final written decision on the mailer's request.

664.323 Approval. If the mailer's request for participation in the plant-verified drop shipment postage payment system is approved, the field division general manager/postmaster will prepare a plant-verified drop shipment agreement that must be signed by the general manager/postmaster, the mailer, and the postmaster of the post office serving the mailer's plant before the approval can be made effective. The agreement will specify the terms and period of the authorization (not to exceed 2 years). Copies of the agreement will be provided to the local postmaster, the MSC/division manager, mailing requirements, and the rates and classification center.

664.324 Denial. If the mailer's request for participation in the plant-verified drop shipment postage payment system is denied, the field division general manager/postmaster will notify the mailer in writing, stating the reasons for the decision, and provide copies of the decision to the local postmaster, the MSC/division manager, mailing requirements, and the rates and classification center. The denial may be appealed as provided in 133.

664.33 Renewal, Termination, and Revocation

664.331 Renewal. The mailer must submit a new request for authorization at least 30 days prior to the expiration of a plant-verified drop shipment agreement. The content of the request, and the procedures for its review, approval, or denial are as prescribed in 664.31 and 664.32.

664.332 Termination. A mailer may elect to terminate participation in a plant-verified drop shipment agreement by 10 calendar days' written notice to the authorizing field division general manager/postmaster.

664.333 Revocation. A plant-verified drop shipment agreement may be revoked by the authorizing field division general manager/postmaster by 10 calendar days' written notice to the mailer. Revocation must be based on the mailer's failure to pay postage and fees or to meet the requirements that apply to plant-verified drop shipment or mailing at third-class rates. The revocation action may be appealed as provided by 133.

664.4 DMU Functions

664.41 General. Assignment of postal personnel to the mailer's plant to process plant-verified drop shipments may be in conjunction with the DMU staffing associated with a plant-load authorization for that mailer's plant, but may be provided to a mailer's plant that is not authorized plant load, at the discretion of the division general manager/postmaster.

664.42 Inspection of Mailpieces. Postal personnel assigned to the mailer's plant must verify drop shipment mailings for classification, rate eligibility, preparation, presort, and postage in the same manner as plant load mailings.

664.43 Documents

664.431 Preparation. Before each plant-verified drop shipment is released for dispatch, postal personnel must ensure that all clearance documents are properly completed, signed, and dated, and that each includes the number of the postal seal to be used on the vehicle, if appropriate (see 664.5). The required documents must be provided for each mailing prepared for each destination entry postal facility. The DMU will retain one copy of each completed clearance document.

664.432 Enclosure. Postal personnel must ensure that all appropriate clearance documents are provided to the mailer who is responsible for placing them in each vehicle to accompany the corresponding plant-verified drop shipments. These documents must be placed on the left rear wall of the vehicle just inside the door of the vehicle. Affix the required Form 5111-R, *Revenue Protection Placard*, to the outside rear of the vehicle after the mailer has completed loading the vehicle.

664.44 Loading. Postal personnel must observe the loading of each vehicle used to transport plant-verified drop shipments to ensure the correct mailings are loaded into vehicles for the correct destinations and that shipments are not improperly commingled (see 664.254).

664.45 Security. Postal personnel must seal the vehicle containing the plant-verified drop shipments mailings with a postal revenue protection seal (i.e., a USPS ball seal, USPS lock, or other postal security device) that prevents access to the shipments by other than authorized postal employees. Vehicles that make en route stops must be resealed after the corresponding mail is removed (see 664.5).

664.5 Destination Postal Facility Functions

664.51 Verification of Documents. The postal seal number on the clearance document for that destination post office must match the number on an unbroken seal securing the vehicle. Container identification codes on the clearance document must match the containers deposited. If these items match, the destination facility will sign and date the clearance documents accompanying the mailings and process the mail. These documents will be retained for one year in a chronological file, and receipted copies will be returned to the mailer's employee, if appropriate (see 664.24c and 664.431).

664.52 Verification of Contents. Each destination postal facility where plant-verified drop shipments are deposited must ensure that only the appropriate shipments are unloaded and accepted.

664.53 Vehicles Containing Mail for More Than One Destination Facility. When a mailer's vehicle contains mail for more than one destination entry facility, each intermediate postal facility will record the number of a new USPS ball seal on the clearance document for the next scheduled destination post office, and affix that seal to secure the vehicle. (If USPS locks are used, they must be removed and retained at the final postal facility where the vehicle stops.)

664.54 Loading of Mail Prohibited. Postal Service mail for downstream postal facilities must not be loaded onto the mailer's vehicle by any intermediate postal facility at which the mailer has stopped to deposit a plant-verified drop shipment.

664.6 Liability. The mailer assumes all liability and responsibility for any loss or damage to plant-verified drop shipments before they are deposited and accepted as mail at destination entry postal facilities, regardless of whether a third party is used to transport those shipments. The Postal Service is not liable or responsible for any loss or damage to plant-verified drop shipments before they are deposited and accepted as mail at a destination postal facility.

664.7 Postage

664.71 Method of Payment. Postage for a plant-verified drop shipment must be paid by precanceled or meter stamps or by permit imprint using a precanceled stamp permit, meter license, or permit imprint advance deposit account, as applicable, maintained by the mailer at the post office serving the mailer's location.

664.72 Computation. Postage for destination rate mailings prepared as plant-verified drop shipments is calculated from the destination postal facility where mailings are deposited and accepted into the mailstream.

664.73 Refunds. The Postal Service will not refund postage for any failure to provide service that is caused in whole or in part by any event that occurs before the shipment is deposited and accepted into the mailstream and becomes mail at a destination postal facility, except in accordance with the provisions of 147.2.

665 Postage Payment for Plant-Verified Drop Shipment Permit Imprint Mailings at Origin Post Office Serving Mailer's Plant

665.1 General. Postage is normally debited from a mailer's advance deposit account using the information presented by the mailer on hard-copy individual mailing statements. Under this payment option, in addition to the individual mailing statements required for each third-class mailing (see 662), mailers may be required to submit registers of mailing statements and consolidated mailing statements for bulk rate permit imprint mailings that are verified under a plant-verified drop shipment postage payment system (see 664). A single, unique USPS mailing number (key) must appear on all related individual mailing statement, the register of mailing statements listing these individual statements and the associated consolidated mailing statement. This unique key number will identify the relationship between the individual statements, the register, and the consolidated statement. When a mailer is required to submit consolidated mailing statements, the information on these statements will be used to debit the mailer's account instead of using the information on each individual mailing statement.

665.2 Participation

665.21 Required by Local Post Office. The local post office serving the mailing plant where the advance deposit account is maintained will require a plant-verified drop-shipment mailer to submit registers of mailing statements (see 665.32) and consolidated mailing statements (665.33) whenever individual jobs or mailing cycles presented by the mailer to the DMU for verification and acceptance for postage payment on any given day are segmented for deposit and entry at five or more destination postal facilities requiring five or more individual mailing statements for each job or mailing cycle.

665.22 Request by Mailer. An authorized plant-verified drop shipment postage payment system mailer may request authorization to submit registers of mailing statements and consolidated mailing statements for all mailings that will be drop shipped into more than one entry post office.

665.23 Approval of Registers of Mailing Statements and Consolidated Mailing Statements. The MSC manager, mailing requirements, must review and approve the format and method of generation of individual mailing statements, registers of mailing statements, and consolidated mailing statements to be presented by the mailer to ensure that they comply with the requirements prescribed in 665.3 before the local post office serving the mailing plant can use the consolidated statements for debiting the mailer's account.

665.3 Required Mailer Documentation

665.31 Individual Mailing Statements. The mailer must produce and submit a signed individual mailing statement in hard-copy for each mailing destined for each destination entry post office, at the time the mailing is presented for verification and postage payment. In addition to the information required on all individual mailing statements, when the mailer is required to submit consolidated mailing statements (for 5 or more entry post offices) for debiting of the advance deposit account, each individual mailing statement must include a uniquely assigned mailing statement sequence number that must not exceed nine digits. The numbers must be sequential within a job or mailing cycle for mailings verified, paid for, and cleared for dispatch on the same day. The statements must also include a unique USPS mailing number (key) corresponding to the number on the related register of mailing statements and consolidated mailing statement.

665.32 Register of Mailing Statements

665.321 General. A register of mailing statements is a computer-generated line item listing of all individual mailing statements for plant-verified drop shipment permit imprint mailings verified and released for dispatch on a single day from a job or mailing cycle. All individual mailing statements represented on a register of mailing statements will be represented by a corresponding consolidated mailing statement, and the total postage charge on the register must be identical to the total postage charge on the corresponding consolidated statement. The information on a register of mailing statements is reconciled against individual mailing statements and the consolidated mailing statement to ensure proper payment of postage.

665.322 Content. The information identified in 665.323 through 665.325 is required to appear on each register of mailing statements. Additional information may be shown.

665.323 First Page. The following information must appear at the top of the first page of each register of mailing statements:

a. the endorsement "Register of Mailing Statements;"

b. the name and location of the mailing agent;

c. the date mailings represented are verified and cleared for dispatch;

d. the permit imprint advance deposit account to be debited;

e. the unique USPS mailing number (key) corresponding to the number on related individual mailing statements and the related consolidated statement.

665.324 Line Items. Each line item listing on a register must include the following data elements from the individual mailing statement represented on that line:

a. The unique individual mailing statement sequence number;

b. the destination post office of mailing;

c. the total number of pieces in the mailing;

d. the total weight of the mailing;

e. the total postage charge.

665.325 Totals. The register must also include a total postage charge representing the sum of the total postage charges from each individual mailing statement listed, as well as the total number of pieces and the total weight for all individual mailing statements listed. The total postage charge on the register must match the total postage charge on the related consolidated statement.

665.326 Corrections. Where necessary, due to changes made to individual mailing statements, manual corrections may be made to the register of mailing statements listing the data from the individual statements. These corrections must be documented by the DMU and the corrected register of mailing statement must be signed and dated by both the mailer and the postal service representative that approved the changes. The changes on the register must be reflected on the associated consolidated mailing statement.

665.327 Submission by Mailer. The mailer must submit the register of mailing statements to the DMU at or before the time that the first individual mailing included on the register is presented to the DMU for verification and release for dispatch.

665.328 Retention. The normal retention period for financial documents also applies to registers of mailing statements.

665.33 Consolidated Mailing Statement

665.331 General. This statement consolidates all mailing statement data from individual mailing statements representing permit imprint mailings verified, paid for, and released for dispatch on a single day from a job or mailing cycle. The consolidated mailing statements are used to debit the mailer's advance deposit account by the post office where the mailer's account is maintained. The following information must be identical for each of the individual mailing statements that will be rolled up to a single consolidated mailing statement:

a. the mailing statement date representing the date mailings are verified and cleared for dispatch by the DMU serving the mailer's plant;

b. the name and location of the mailing agent;

c. the processing category for individual mailings;

d. the rate of postage (all regular rates are all special nonprofit rates);

e. the permit imprint advance deposit account to be debited;

f. the job or mailing cycle description;

g. the unique USPS mailing number (key) corresponding to the number on related individual mailing statements.

665.332 Format. The consolidated mailing statement must be a computer-generated facsimile that has essentially the same format at the individual Postal Service mailing statements that it represents. It must be signed and dated by the mailer. Certain data elements including the range of unique individual mailing statement sequence numbers, the number of individual mailing statements represented, and the endorsement "Consolidated Mailing Statement," that are not shown on individual statements must be shown on the consolidated statement. Other data elements included on individual statements, such as each post office of deposit for drop shipment mailings, will not be shown on the consolidated statement because this statement is consolidating information from multiple individual mailing statements. In addition, each individual mailing statement must contain a USPS mailing number (a key) that corresponds to the USPS mailing number on the related consolidated mailing statement.

665.333 Calculation of Data. Each field on the consolidated mailing statement represents the sum total of the numbers in that field from all of the individual mailing statements represented by the consolidated statement. The number in each field on the consolidated mailing statement must be held to the same number of decimal places required to be held on an individual mailing statement. All fields containing data on the individual mailing statements must be rolled up to the consolidated mailing statement. The total postage charge on the consolidated mailing statement must be the sum of the total postage charges for all subordinate individual mailing statements and will be used to debit the mailer's advance deposit account.

Note: When each of the line item totals that have been calculated using standard procedures for computing, rounding and expressing weight and postage figures on all of the individual mailing statements are rolled up to a consolidated statement, the sum of those line item totals on the consolidated statement will not result in the exact sum of the total postage charges from all of the individual mailing statements.

665.334 Submission by Mailer. The mailer must submit the consolidated mailing statement to the DMU at or before the time the last individual mailing statement it represents is submitted to the DMU for the day's mailing.

665.335 Corrections. Changes made to individual mailing statements may require the mailer to correct the consolidated mailing statement to reflect the changes. Such corrections must be documented by the DMU and a corrected consolidated mailing statement, signed and dated by the mailer, must be submitted to the DMU for proper debiting of the mailer's account.

665.336 Retention. The normal retention period for financial documents applies to consolidated mailing statements.

665.4 Post Office Responsibilities

665.41 General. Postal personnel assigned to the detached mail unit (DMU) in the mailer's plant must perform all duties described in 664 pertaining to the verification, clearance, and release for dispatch of plant-verified drop shipment mailings.

665.42 Reconciliation of Individual Mailing Statements Against Register. The DMU must reconcile the information reported on the individual statements for each mailing from a job or mailing cycle that has been verified and cleared for dispatch each day against the line item entries on the register of mailing statements representing those individual statements. The DMU must ensure that all mailings that were verified and cleared for dispatch are represented on the register and any corrections made to the individual statements are reflected on the register.

665.43 Reconciliation of Register of Mailing Statement and Consolidated Mailing Statement. The DMU must ensure that the total postage charge shown on the register of mailing statements matches the total postage charge on the corresponding consolidated mailing statement.

665.44 Approval of Documents. When the DMU determines that the data on the individual mailing statements, the register of mailing statements and the consolidated mailing statement are correct and all in agreement, the postal employee must sign and date (round stamp) each statement. A correct consolidated mailing statement, signed and dated by the mailer and the DMU, will be used by the post office to debit the mailer's account.

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690 Ancillary Services

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694 Address Correction

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694.3 Address-Change Service (ACS)

a. ACS is designed to centralize, automate, and improve the processing of address-correction requests for mailers. The ACS process involves the transmission of change-of-address information to a central point where the changes are consolidated onto a magnetic tape filed by unique identifier. These records are sequentially organized by USPS assigned codes and distributed to each participating mailer. Label formats are found in 441.232.

b. ACS is available to mailers who maintain their address records on computers. For further information, write to:

ADDRESS CHANGE SERVICE
ADDRESS INFORMATION CENTER
US POSTAL SERVICE
6060 PRIMACY PARKWAY SUITE 101
MEMPHIS TN 38188-0002

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CHAPTER 7 - FOURTH-CLASS MAIL

710 Rates and Fees

711 Rates

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711.12 Inter-BMC Rates - Nonmachinable Parcels.

711.13 Intra-BMC Rates - All Parcels. Replace $0.20" with "$0.27" and add the following at the end of the section: Parcel post mail that is deposited and accepted at the post office serving the delivery address may be eligible for the destination BMC rate (see 711.14 and 722.45).

711.14 Destination BMC Rate. (See Exhibit 711.14.) These rates apply to all parcel post mail that meets the eligibility and preparation requirements of 722.4, that is deposited at a BMC, ASF, or other designated facility (see 722.411), and that is addressed for delivery within the service area of that facility.

711.15 Bulk Parcel Post Rates. The rate applicable to each piece in a bulk parcel post rate mailing is the single-piece rate (see Exhibits 711.11-711.13) or destination BMC rate (see Exhibit 711.14) for that zone for an item equal to the average weight per piece for all parcels in the mailing to that zone, rounded up to the next whole pound.

711.2 Bound Printed Matter Rates

711.23 Bulk Bound Printed Matter Rates. The bulk bound printed matter rates apply to all bound printed matter and include both a per-piece and per-pound charge.

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711.6 Zoned Rates

711.61 General. Zone-rated fourth-class mail (e.g., parcel post and bound printed matter) must be mailed at the post office from which the zone rate postage was computed, except as provided by 711.62 and 711.63.

711.62 Redirected Mailings

711.621 General Conditions. Mailers who present large volumes of zone-rated fourth-class mail may be allowed or directed to deposit such mailings at another postal facility when processing or logistic reasons make such an alternative desirable for the Postal Service, provided both the original post office of mailing and the alternative facility to which the mailing is redirected use the same zone chart for computing zone-rated postage, based on the 3-digit prefix of their ZIP Codes.

711.622 Recomputation of Postage. Postage must be recomputed on pieces in mailings redirected to a postal facility that uses a different zone chart for computing zone-rated postage.

711.623 Local Zone. Eligibility for the local zone rate is described in 122.71a. Postage for pieces in redirected mailings that were claimed at the local zone rates must be recomputed at the applicable zone rate for the post office to which the mailing was redirected. Postage may also be recomputed for other pieces which were ineligible for the local zone rates but which may become eligible at the post office to which the mailing was redirected.

711.624 Postage Payment. Use of postage meters or permit imprint advance deposit accounts for redirected mailings must be as provided by 144 and 145, respectively.

711.63 Use of BMC Acceptance. Mailers may present zone-rated fourth-class mail (parcel post and bound printed matter) at a BMC for acceptance subject to the following conditions:

a. Metered postage is paid by a postage meter licensed at the BMC parent post office (see Exhibit 722.44), except as provided by 144.8 and 711.62.

b. Postage paid by permit imprint is through an advance deposit account at the BMC parent post office (see Exhibit 722.44) or another post office in the BMC service area as provided by 711.62.

c. The BMC accepts the mailing based on an approved Form 4410, *Authorization for BMC Acceptance*. Form 4410 is completed and submitted by the entry post office.

d. Postage for the mail is computed (zoned) from the BMC parent post office 3-digit ZIP Code prefix.

e. Mailings not presented in accordance with 144.8, 711.62, and 711.63a-d cannot be presented for BMC acceptance.

712 Fees

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712.3 Destination BMC Rate Mailing Fee. The fee for mailing at the destination BMC parcel post rates is $75 and must be paid once each 12-month period at each facility where destination BMC rate mail will be deposited.

712.4 Pickup Service Fee. A fee of $4.50 must be paid by the mailer every time pickup service is provided, regardless of the quantity picked up.

720 Classification

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722 Parcel Post Rates

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722.2 Bulk Parcel Post

722.21 General Requirements.

722.211 Volume. Bulk parcel post rates apply to mailings of at least 300 pieces or 2,000 pounds of pieces.

722.212 Eligibility. Each piece in a bulk parcel post rate mailing must be of identical weight but need not be of identical size or content. Mailing of nonidentical-weight pieces at the bulk parcel post rates must be authorized by the rates and classification center serving the post office of mailing in accordance with 145.7, 145.8, or 145.9.

722.213 Exclusion. The bulk fourth-class parcel post rates are not available for pieces that weigh less than 15 pounds and measure more than 84 inches in length and girth combined. Such pieces do not count toward the 300-piece or 2,000-pound minimum volume.

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722.4 Destination Bulk Mail Center (DBMC) Entry Rate

722.41 General

722.411 Definition. For purposes of this section, the term "destination bulk mail center (DBMC)" includes all bulk mail centers (BMCs); auxiliary service facilities (ASFs) (see Exhibit 722.411); and 5-digit post offices, subject to the conditions in 722.45.

722.412 Eligibility. A mailpiece that meets the applicable requirements of 722.41 through 722.45 is eligible for the DBMC rate when

a. it is part of a single mailing of 50 or more pieces all of which are eligible for and claimed at one of the parcel post rate in Exhibits 711.11-711.14;

b. the mailing is deposited at a DBMC as defined in 722.411;

c. it is addressed for delivery within the entry facility's service area (ZIP Code range) as described in Exhibit 722.411; and

d. all pieces are sorted to 5-digit or destination BMC sacks, pallets, or other authorized containers in compliance with the volume or other preparation requirements that may apply. Pieces eligible for the DBMC rate under 722.411d must be prepared in 5-digit containers that meet the applicable requirements. See 722.42.

722.413 Payment of Postage and Fees

a. Methods. The correct postage for mail eligible for the DBMC rate must be affixed to each piece by meter stamps or paid through an advance deposit account having sufficient funds on deposit at the time of mailing. An authorized mailing system as described in 145.7, 145.8, or 145.9 must be used for permit imprint mailings of nonidentical weight pieces or of bedloaded parcels presented under 722.421. While funds intended to pay postage through an advance deposit account may be presented with the corresponding mailing, that mailing will not be accepted if the resulting balance is not adequate to cover the applicable total postage as verified by the Postal Service.

b. Place of Payment. The mailer must have a meter license or permit imprint permit at the DBMC parent post office (see Exhibit 722.44) for mailings deposited at the DBMC, or at the 5-digit post office for mailings deposited under 722.411d. Metered mail may be deposited at other than the licensing post office only as provided by 144.8.

c. Agency. For acceptance of DBMC entry rate mailings, the BMC may not act as agent for any post office other than its parent post office (see Exhibit 722.44). In addition, for each mailer depositing DBMC entry rate mail, the BMC must be authorized to act as agent for that post office by completion and approval of Form 4410, *Authorization for BMC Acceptance*. Form 4410 is completed and submitted by the parent post office.

d. Annual Fee. The applicable bulk mailing fees must be paid for the current 12-month period at the parent post office (or post office of mailing for mailings presented under 722.411d).

e. Centralized Postage Payment (CPP) System. Mailings paid under CPP procedures must also meet the applicable CPP requirements.

Parcel Post Rates--Inter-BMC/ASF ZIP Codes Only, Machinable Parcels, No Discount, No Surcharge								
Weight	Zones							
Not Exceeding (pounds)	Local	1 & 2	3	4	5	6	7	8
2	2.12	2.19	2.32	2.46	2.74	2.85	2.85	2.85
3	2.19	2.29	2.49	2.70	3.12	3.54	4.00	4.05
4	2.25	2.39	2.65	2.94	3.50	4.06	4.35	4.60
5	2.31	2.49	2.81	3.17	3.88	4.58	5.20	5.40
6	2.38	2.59	2.98	3.41	4.26	5.10	6.33	8.55
7	2.44	2.68	3.14	3.65	4.64	5.62	7.06	9.60
8	2.50	2.78	3.31	3.89	5.02	6.14	7.78	10.65
9	2.57	2.88	3.47	4.12	5.40	6.67	8.51	11.70
10	2.63	2.98	3.63	4.36	5.78	7.19	9.24	12.75
11	2.69	3.08	3.80	4.60	6.16	7.71	9.97	13.75
12	2.76	3.18	3.96	4.83	6.54	8.23	10.69	14.80
13	2.80	3.25	4.08	4.99	6.79	8.57	11.17	15.85
14	2.85	3.32	4.19	5.16	7.04	8.92	11.65	16.90
15	2.89	3.38	4.28	5.27	7.23	9.17	11.99	17.95
16	2.93	3.43	4.36	5.39	7.40	9.40	12.31	19.00
17	2.97	3.48	4.44	5.49	7.56	9.62	12.61	19.91
18	3.01	3.53	4.51	5.60	7.72	9.83	12.90	20.38
19	3.05	3.58	4.59	5.69	7.87	10.03	13.17	20.83
20	3.08	3.63	4.65	5.79	8.01	10.22	13.43	21.26
21	3.12	3.68	4.72	5.88	8.15	10.40	13.68	21.66
22	3.15	3.72	4.79	5.97	8.28	10.57	13.91	22.05
23	3.18	3.77	4.85	6.05	8.40	10.74	14.14	22.43
24	3.22	3.81	4.91	6.13	8.52	10.90	14.36	22.78
25	3.25	3.85	4.97	6.21	8.64	11.05	14.57	23.13
26	3.28	3.89	5.03	6.29	8.76	11.20	14.77	23.46
27	3.32	3.93	5.09	6.36	8.87	11.35	14.97	23.78
28	3.35	3.97	5.14	6.44	8.97	11.49	15.16	24.09
29	3.38	4.01	5.20	6.51	9.08	11.63	15.34	24.39
30	3.41	4.05	5.25	6.58	9.18	11.76	15.52	24.68
31	3.44	4.09	5.30	6.65	9.28	11.89	15.69	24.96
32	3.47	4.13	5.36	6.71	9.37	12.01	15.86	25.23
33	3.50	4.17	5.41	6.78	9.47	12.14	16.02	25.50
34	3.53	4.20	5.46	6.84	9.56	12.26	16.18	25.75
35	3.56	4.24	5.51	6.91	9.65	12.37	16.34	26.01
For pieces weighing over 35 pounds, see Exhibit 711.12.								

Exhibit 711.11, Inter-BMC/ASF Single-Piece Machinable Parcel Post Rates

f. Plant-Verified Drop Shipment. See 784 and 785 for additional information about plant-verified drop shipment.

722.414 Volume

a. Minimum DBMC Volume. Each mailing at the DBMC rate must contain at least 50 addressed pieces that are eligible for and claimed at one of the parcel post rates in Exhibits 711.11-711.14.

b. Maximum Volume. Except as provided by 722.414c, the same mailer may not present for verification and acceptance more than 4 DBMC rate mailings at the same destination postal facility (or another acting as its agent) in any 24-hour period. This limit may be waived if local conditions permit; mailers may ask for such a waiver when scheduling deposit of the mailings (see 722.432b). There is no maximum for plant-verified drop shipments.

c. Exception. The requirements of 722.414b do not apply if the mailer is not an authorized plant load or plant-verified drop shipment mailer and if the destination facility is the post office serving the place where the mailpieces were prepared for mailing, and at which the DBMC mailing must be deposited.

722.415 Plant-Loaded Mailings. Plant-loaded mailings (see 154) are not eligible for the DBMC rate.

722.42 Preparation

722.421 Bedloaded Parcels. Mailers may present bedloaded parcels if the quantity for the same DBMC facility as part of the same mailing represents 1/4 or more of a single 40-foot or equivalent vehicle(s) and, if applicable, mail for different destinations is separated by a barrier that prevents mixing of the mailings' contents. The mailer is responsible for vehicle unloading, although postal personnel may assist in removing palletized parcels (where necessary) if equipment is available. Postage for bedloaded mailings must be paid as described in 722.413. Documentation must be presented as required by 722.433.

722.422 Containers

a. General. Mailers whose shipments do not meet the requirements for bedloading in 722.421 must prepare the parcels in one of the methods described in 722.422b-d.

b. Machinable Parcels. Machinable parcels for which the DBMC rate is claimed must be placed in sacks unless use of pallets or other containers has been authorized in advance. Sacks must be prepared as required by 767.3; pallets and equivalent containers must be prepared as required by 767.62.

c. Nonmachinable Parcels. Nonmachinable parcels weighing less than 35 pounds each for which the DBMC rate is claimed must be placed in sacks prepared as required by 767.22. Nonmachinable parcels weighing 35 pounds or more must be transported as outside pieces (i.e., not sacked) unless the use of pallets has been authorized in advance.

d. BMC Containers. Mailers may use BMC over-the-road containers instead of sacks for DBMC entry rate mailings if authorized by the BMC manager, and only for transportation of machinable parcels.

722.423 Separation

a. By Zone. Separation by zone is required only for permit imprint mailings of identical-weight pieces that are not mailed using a postage payment system established under 145.7, 145.8, or 145.9.

b. From Other Mailings. Each DBMC rate mailing must be separated from other mailings when presented for acceptance. The DBMC rate mail for one destination postal facility must be separated from mailings for other facilities and any freight on the same vehicle.

722.43 Mailing

722.431 Verification and Acceptance of DBMC Rate Mailings

a. General. DBMC rate mailings must be presented to postal personnel at the origin mailer's plant (e.g., the origin detached mail unit (DMU)) as provided by 784 or at the DBMC bulk mail acceptance unit, as provided below. Mailers must adhere to the scheduling requirements in 722.432 for DBMC rate mailings.

b. At Origin DMU. Destination rate mailings may be verified and paid at the mailer's plant, transported at the mailer's expense, and deposited for acceptance as mail by the Postal Service at the DBMC facility as a plant-verified drop shipment (see 784). Plant-loaded mailings transported on postal transportation are not eligible for destination rates.

c. At Destination BMAU. Destination rate mailings may be accepted at the DBMC bulk mail acceptance unit (BMAU) if the BMC is authorized to act as agent for the parent post office (see Exhibit 722.44) where the mailer's account or license is held.

Parcel Post Rates--Inter-BMC/ASF ZIP Codes Only, Nonmachinable Parcels, Surcharge Included								
Weight	Zones							
Not Exceeding (pounds)	Local	1 & 2	3	4	5	6	7	8
2	3.62	3.69	3.82	3.96	4.24	4.35	4.35	4.35
3	3.69	3.79	3.99	4.20	4.62	5.04	5.50	5.55
4	3.75	3.89	4.15	4.44	5.00	5.56	5.85	6.10
5	3.81	3.99	4.31	4.67	5.38	6.08	6.70	6.90
6	3.88	4.09	4.48	4.91	5.76	6.60	7.83	10.05
7	3.94	4.18	4.64	5.15	6.14	7.12	8.56	11.10
8	4.00	4.28	4.81	5.39	6.52	7.64	9.28	12.15
9	4.07	4.38	4.97	5.62	6.90	8.17	10.01	13.20
10	4.13	4.48	5.13	5.86	7.28	8.69	10.74	14.25
11	4.19	4.58	5.30	6.10	7.66	9.21	11.47	15.25
12	4.26	4.68	5.46	6.33	8.04	9.73	12.19	16.30
13	4.30	4.75	5.58	6.49	8.29	10.07	12.67	17.35
14	4.35	4.82	5.69	6.66	8.54	10.42	13.15	18.40
15	4.39	4.88	5.78	6.77	8.73	10.67	13.49	19.45
16	4.43	4.93	5.86	6.89	8.90	10.90	13.81	20.50
17	4.47	4.98	5.94	6.99	9.06	11.12	14.11	21.41
18	4.51	5.03	6.01	7.10	9.22	11.33	14.40	21.88
19	4.55	5.08	6.09	7.19	9.37	11.53	14.67	22.33
20	4.58	5.13	6.15	7.29	9.51	11.72	14.93	22.76
21	4.62	5.18	6.22	7.38	9.65	11.90	15.18	23.16
22	4.65	5.22	6.29	7.47	9.78	12.07	15.41	23.55
23	4.68	5.27	6.35	7.55	9.90	12.24	15.64	23.93
24	4.72	5.31	6.41	7.63	10.02	12.40	15.86	24.28
25	4.75	5.35	6.47	7.71	10.14	12.55	16.07	24.63
26	4.78	5.39	6.53	7.79	10.26	12.70	16.27	24.96
27	4.82	5.43	6.59	7.86	10.37	12.85	16.47	25.28
28	4.85	5.47	6.64	7.94	10.47	12.99	16.66	25.59
29	4.88	5.51	6.70	8.01	10.58	13.13	16.84	25.89
30	4.91	5.55	6.75	8.08	10.68	13.26	17.02	26.18
31	4.94	5.59	6.80	8.15	10.78	13.39	17.19	26.46
32	4.97	5.63	6.86	8.21	10.87	13.51	17.36	26.73
33	5.00	5.67	6.91	8.28	10.97	13.64	17.52	27.00
34	5.03	5.70	6.96	8.34	11.06	13.76	17.68	27.25
35	5.06	5.74	7.01	8.41	11.15	13.87	17.84	27.51
36	5.09	5.78	7.05	8.47	11.24	13.99	17.99	27.75
37	5.12	5.81	7.10	8.53	11.32	14.10	18.14	27.99
38	5.15	5.85	7.15	8.59	11.41	14.21	18.29	28.22
39	5.18	5.88	7.19	8.65	11.49	14.31	18.43	28.45
40	5.21	5.92	7.24	8.70	11.57	14.42	18.57	28.67
41	5.24	5.95	7.28	8.76	11.65	14.52	18.70	28.89
42	5.27	5.98	7.33	8.82	11.73	14.62	18.83	29.10
43	5.29	6.02	7.37	8.87	11.81	14.72	18.97	29.31
44	5.32	6.05	7.42	8.93	11.88	14.82	19.09	29.51
45	5.35	6.08	7.46	8.98	11.96	14.91	19.22	29.71
46	5.38	6.12	7.50	9.03	12.03	15.01	19.34	29.91
47	5.41	6.15	7.54	9.08	12.10	15.10	19.46	30.10
48	5.43	6.18	7.59	9.14	12.17	15.19	19.58	30.29
49	5.46	6.22	7.63	9.19	12.24	15.28	19.70	30.47
50	5.49	6.25	7.67	9.24	12.31	15.37	19.82	30.65
51	5.52	6.28	7.71	9.29	12.38	15.45	19.93	30.83
52	5.54	6.31	7.75	9.34	12.45	15.54	20.04	31.01
53	5.57	6.34	7.79	9.39	12.51	15.62	20.15	31.18
54	5.60	6.37	7.83	9.43	12.58	15.71	20.26	31.35
55	5.62	6.41	7.87	9.48	12.65	15.79	20.36	31.52
56	5.65	6.44	7.91	9.53	12.71	15.87	20.47	31.68
57	5.68	6.47	7.94	9.58	12.77	15.95	20.57	31.84
58	5.70	6.50	7.98	9.62	12.84	16.03	20.68	32.00
59	5.73	6.53	8.02	9.67	12.90	16.11	20.78	32.16
60	5.76	6.56	8.06	9.71	12.96	16.18	20.88	32.31
61	5.78	6.59	8.09	9.76	13.02	16.26	20.97	32.47
62	5.81	6.62	8.13	9.80	13.08	16.33	21.07	32.62
63	5.84	6.65	8.17	9.85	13.14	16.41	21.17	32.77
64	5.86	6.68	8.21	9.89	13.20	16.48	21.26	32.91
65	5.89	6.71	8.24	9.94	13.26	16.55	21.36	33.06
66	5.92	6.74	8.28	9.98	13.31	16.63	21.45	33.20
67	5.94	6.77	8.31	10.02	13.37	16.70	21.54	33.34
68	5.97	6.80	8.35	10.07	13.43	16.77	21.63	33.48
69	5.99	6.83	8.39	10.11	13.48	16.84	21.72	33.62
70	6.02	6.86	8.42	10.15	13.54	16.91	21.81	33.75

Exhibit 711.12, Inter-BMC/ASF Single-Piece Nonmachinable Parcel Post Rates

Mailings presented under 722.411d may be accepted at the destination 5-digit facility.

d. Acceptance by Another Facility. Another postal facility may act as agent for the destination 5-digit facility for mailings presented under 722.411d if written authorization is provided by the destination post office and procedures (similar to those for BMC acceptance) are implemented and maintained to ensure that all postage for permit imprint mailings is collected. The mailer must further transport the shipment for deposit and acceptance at the destination 5-digit facility. The DBMC rate must not be allowed for mailings that are not transported by the mailer for deposit and acceptance at a DBMC as defined in 722.411.

e. Security. If a DBMC rate mailing is not accepted as mail by the Postal Service at the time of verification, but instead will be transported to destination on the mailer's vehicle, the accepting post office must ensure that the mail is secured in such a manner, and accompanied by appropriate documentation, as to allow confirmation that the mailing as verified, accepted, and paid for has not been altered in any way when deposited at the destination postal facility. Postal facilities will use USPS ball seals, USPS locks, or other postal security devices that prevent access to the

Parcel Post Rates--Local and Intra-BMC/ASF ZIP Codes Only, All Parcels, Discount Already Included					
Weight	Zones				
Not Exceeding (pounds)	Local	1 & 2	3	4	5
2	1.85	1.92	2.05	2.19	2.47
3	1.92	2.02	2.22	2.43	2.85
4	1.98	2.12	2.38	2.67	3.23
5	2.04	2.22	2.54	2.90	3.61
6	2.11	2.32	2.71	3.14	3.99
7	2.17	2.41	2.87	3.38	4.37
8	2.23	2.51	3.04	3.62	4.75
9	2.30	2.61	3.20	3.85	5.13
10	2.36	2.71	3.36	4.09	5.51
11	2.42	2.81	3.53	4.33	5.89
12	2.49	2.91	3.69	4.56	6.27
13	2.53	2.98	3.81	4.72	6.52
14	2.58	3.05	3.92	4.89	6.77
15	2.62	3.11	4.01	5.00	6.96
16	2.66	3.16	4.09	5.12	7.13
17	2.70	3.21	4.17	5.22	7.29
18	2.74	3.26	4.24	5.33	7.45
19	2.78	3.31	4.32	5.42	7.60
20	2.81	3.36	4.38	5.52	7.74
21	2.85	3.41	4.45	5.61	7.88
22	2.88	3.45	4.52	5.70	8.01
23	2.91	3.50	4.58	5.78	8.13
24	2.95	3.54	4.64	5.86	8.25
25	2.98	3.58	4.70	5.94	8.37
26	3.01	3.62	4.76	6.02	8.49
27	3.05	3.66	4.82	6.09	8.60
28	3.08	3.70	4.87	6.17	8.70
29	3.11	3.74	4.93	6.24	8.81
30	3.14	3.78	4.98	6.31	8.91
31	3.17	3.82	5.03	6.38	9.01
32	3.20	3.86	5.09	6.44	9.10
33	3.23	3.90	5.14	6.51	9.20
34	3.26	3.93	5.19	6.57	9.29
35	3.29	3.97	5.24	6.64	9.38
36	3.32	4.01	5.28	6.70	9.47
37	3.35	4.04	5.33	6.76	9.55
38	3.38	4.08	5.38	6.82	9.64
39	3.41	4.11	5.42	6.88	9.72
40	3.44	4.15	5.47	6.93	9.80
41	3.47	4.18	5.51	6.99	9.88
42	3.50	4.21	5.56	7.05	9.96
43	3.52	4.25	5.60	7.10	10.04
44	3.55	4.28	5.65	7.16	10.11
45	3.58	4.31	5.69	7.21	10.19
46	3.61	4.35	5.73	7.26	10.26
47	3.64	4.38	5.77	7.31	10.33
48	3.66	4.41	5.82	7.37	10.40
49	3.69	4.45	5.86	7.42	10.47
50	3.72	4.48	5.90	7.47	10.54
51	3.75	4.51	5.94	7.52	10.61
52	3.77	4.54	5.98	7.57	10.68
53	3.80	4.57	6.02	7.62	10.74
54	3.83	4.60	6.06	7.66	10.81
55	3.85	4.64	6.10	7.71	10.88
56	3.88	4.67	6.14	7.76	10.94
57	3.91	4.70	6.17	7.81	11.00
58	3.93	4.73	6.21	7.85	11.07
59	3.96	4.76	6.25	7.90	11.13
60	3.99	4.79	6.29	7.94	11.19
61	4.01	4.82	6.32	7.99	11.25
62	4.04	4.85	6.36	8.03	11.31
63	4.07	4.88	6.40	8.08	11.37
64	4.09	4.91	6.44	8.12	11.43
65	4.12	4.94	6.47	8.17	11.49
66	4.15	4.97	6.51	8.21	11.54
67	4.17	5.00	6.54	8.25	11.60
68	4.20	5.03	6.58	8.30	11.66
69	4.22	5.06	6.62	8.34	11.71
70	4.25	5.09	6.65	8.38	11.77

Exhibit 711.13, Intra-BMC/ASF Single-Piece Parcel Post Rates

mail by other than authorized postal employees. Vehicles that make en route stops at postal facilities must be resealed after the corresponding mail is removed.

722.432 Deposit of Mail

a. General Requirement. Each DBMC rate mailing must be deposited at the time and location specified by the destination facility postmaster or designee, or by the division manager, logistics and distribution (see 722.432b), as applicable.

b. Scheduled Deposit. Except as provided by 722.432d, mailers must schedule deposit of destination rate mailings at least 24 hours in advance by contacting the manager, logistics and distribution, or designee, at the field division office in whose service area the destination facility is located. Mailers must comply with the scheduled deposit time, which will be the earliest possible date. Destination facilities may defer acceptance or deposit of unscheduled or untimely mailings. Standing appointments for renewable 6-month periods may be requested by written application to the manager, logistics and distribution, at the field division office in whose service area the destination

Destination Facility Zip Codes Only All Parcels, Discount Already Included									
Weight Not Exceeding (pounds)	Zones				Weight Not Exceeding (pounds)	Zones			
	1 & 2	3	4	5		1 & 2	3	4	5
2	1.74	1.86	1.97	2.22	36	3.72	4.80	6.00	8.45
3	1.84	2.01	2.18	2.56	37	3.74	4.85	6.05	8.53
4	1.93	2.15	2.40	2.89	38	3.78	4.90	6.11	8.61
5	2.02	2.30	2.60	3.23	39	3.81	4.93	6.16	8.68
6	2.12	2.45	2.81	3.57	40	3.85	4.98	6.21	8.75
7	2.20	2.59	3.02	3.90	41	3.88	5.02	6.26	8.83
8	2.29	2.75	3.24	4.24	42	3.91	5.07	6.32	8.90
9	2.39	2.89	3.44	4.57	43	3.95	5.10	6.36	8.97
10	2.48	3.04	3.65	4.91	44	3.98	5.15	6.42	9.04
11	2.57	3.19	3.86	5.25	45	4.01	5.19	6.46	9.11
12	2.67	3.33	4.06	5.58	46	4.04	5.23	6.51	9.17
13	2.73	3.44	4.21	5.80	47	4.07	5.26	6.56	9.24
14	2.80	3.54	4.36	6.03	48	4.10	5.31	6.61	9.30
15	2.85	3.62	4.46	6.20	49	4.14	5.35	6.66	9.37
16	2.90	3.70	4.56	6.35	50	4.17	5.39	6.71	9.43
17	2.95	3.77	4.65	6.49	51	4.20	5.42	6.75	9.49
18	3.00	3.84	4.75	6.63	52	4.23	5.46	6.80	9.56
19	3.04	3.91	4.83	6.77	53	4.26	5.50	6.85	9.61
20	3.09	3.96	4.92	6.89	54	4.29	5.54	6.88	9.68
21	3.14	4.03	5.00	7.02	55	4.33	5.58	6.93	9.74
22	3.18	4.09	5.09	7.14	56	4.36	5.61	6.98	9.80
23	3.23	4.15	5.16	7.24	57	4.39	5.64	7.02	9.85
24	3.26	4.20	5.23	7.35	58	4.41	5.68	7.06	9.92
25	3.30	4.26	5.30	7.46	59	4.44	5.72	7.11	9.97
26	3.34	4.32	5.37	7.57	60	4.47	5.76	7.14	10.03
27	3.38	4.37	5.44	7.67	61	4.50	5.79	7.19	10.08
28	3.42	4.42	5.51	7.76	62	4.53	5.82	7.23	10.14
29	3.45	4.47	5.57	7.86	63	4.56	5.86	7.27	10.19
30	3.49	4.52	5.64	7.95	64	4.59	5.90	7.31	10.25
31	3.53	4.57	5.70	8.04	65	4.62	5.93	7.36	10.31
32	3.57	4.62	5.76	8.12	66	4.65	5.97	7.40	10.35
33	3.61	4.67	5.82	8.21	67	4.68	6.00	7.43	10.41
34	3.64	4.72	5.88	8.29	68	4.71	6.03	7.48	10.46
35	3.68	4.77	5.94	8.37	69	4.74	6.07	7.52	10.51
					70	4.77	6.10	7.55	10.56

Exhibit 711.14, Destination BMC/ASF Bulk Parcel Post Rates

facility is located. Mailers who request standing appointments must present comparable mailings (in terms of product and volume) on a consistent frequency of no less than once each month.

c. Additional Information. Additional information about scheduling and unloading requirements may be obtained from the manager, logistics and distribution, or designee, at the field division office in whose service area the destination facility is located.

d. Perishable Commodities. Mailings of perishable commodities are exempt from the scheduling requirements of 722.432b.

e. Exception. The requirements of 722.432 do not apply if the mailer is neither an authorized plant-load nor plant-verified drop shipment mailer, and if the destination postal facility is the 5-digit facility (see 722.45) serving the place where the mailpieces were produced and is the destination facility at which the DBMC mailing must be deposited under 722.45.

722.433 Documentation.

a. Postage Affixed. No documentation other than a mailing statement is required when the correct postage is affixed to each piece.

b. Permit Imprint. Documentation required by a postage payment system established under 145.7, 145.8, or 145.9 will satisfy the requirements of 722.433, and no additional documentation, other than a mailing statement, is required. Mailings of identical weight pieces do not require documentation (other than the mailing statement) if the pieces are separated by zone.

c. Plant-Verified Drop Shipments. See 465.24 for additional documentation requirements that apply to plant-verified drop shipments.

722.44 Requirements Related to BMC Acceptance

722.441 General. Mailings at any zoned fourth-class rate (including DBMC entry rate) may be accepted by the DBMC only as provided by 711.62 and 711.63.

722.442 Authorization. Prior to mailing at the DBMC, authorization must be provided to the DBMC to act as acceptance agent for the entry post office (i.e., for the post office where the meter license, precanceled stamp permit, or permit imprint authorization is held) by completion and approval of Form 4410, *Authorization for BMC Acceptance.* Form 4410 is completed and submitted by the entry post office. Mailings cannot be entered at a DBMC (whether the DBMC rate is claimed or not) without this authorization. Form 4410 is not required for plant-verified drop shipments.

722.45 Acceptance at Five-Digit Facilities. A mailing that is otherwise eligible for the DBMC rate may be deposited and accepted at a 5-digit facility rather than at the serving DBMC provided all pieces in the mailing are for that facility's service area, and are presented in 5-digit sacks, pallets, or other authorized containers. For purposes of this section, a "5-digit facility" means the postal facility to which the serving BMC distributes parcels for that 5-digit destination. For additional information concerning a specific 5-digit facility, mailers must contact the manager, logistics and distribution, for the field division in which the facility is located.

722.5 Pickup Service

722.51 General. Pickup service for parcel post is available at designated postal facilities, subject to the conditions in this section.

722.52 Fee

722.521 General Terms. The fee prescribed in 712.4 must be paid by the mailer every time pickup service is provided, regardless of the number of pieces picked up. Only one fee will be charged if Express Mail or Priority Mail is also picked up at the same time. No fee will be charged when Express Mail, Priority Mail, or parcel post is picked up during a delivery stop or during a scheduled stop made to collect other mail not subject to a pickup fee.

722.522 Method of Payment. The fee must be paid by meter, precanceled, or adhesive stamps affixed to Form 5541, or by check payable to the postmaster of the serving post office.

722.53 Postage. The mailer must affix the full required postage to each piece mailed using pickup service. Use of precanceled and meter stamps must be as provided by 143 and 144, respectively. Pieces paid by permit imprint, claimed at a bulk or presorted rate, or claimed at the DBMC rate cannot be mailed using pickup service.

722.54 Other Mail. As a service to the mailer, the Postal Service will concurrently collect incidental amounts of other fully prepaid, postage affixed, full-rate mail when picking up mail for which pickup service is provided (Express Mail, Priority Mail, and parcel post). Presorted, bulk, or reduced rate mail, any other fourth-class mail, and any mail paid by permit imprint must be deposited at the serving postal facility.

Rate	Zones							
	Local	1 & 2	3	4	5	6	7	8
Per Piece Rate (Dollars)	0.88	1.18	1.18	1.18	1.18	1.18	1.18	1.18
Per Pound Rate (Dollars)	0.020	0.042	0.064	0.103	0.162	0.223	0.298	0.361

A. Bound Printed Matter Single-Piece Rate (Dollars)

Weight Not Exceeding (Pounds)	Zones							
	Local	1 & 2	3	4	5	6	7	8
1.5	0.93	1.27	1.30	1.36	1.45	1.54	1.65	1.75
2.0	0.94	1.30	1.34	1.42	1.53	1.66	1.81	1.93
2.5	0.96	1.33	1.38	1.48	1.62	1.78	1.97	2.12
3.0	0.98	1.35	1.42	1.54	1.71	1.90	2.12	2.31
3.5	0.99	1.38	1.46	1.60	1.80	2.02	2.28	2.50
4.0	1.01	1.41	1.50	1.66	1.89	2.14	2.44	2.69
4.5	1.02	1.44	1.54	1.72	1.98	2.26	2.59	2.88
5.0	1.04	1.47	1.58	1.78	2.07	2.38	2.75	3.07
6.0	1.07	1.53	1.66	1.89	2.24	2.61	3.06	3.44
7.0	1.10	1.59	1.74	2.01	2.42	2.85	3.38	3.82
8.0	1.14	1.64	1.82	2.13	2.60	3.09	3.69	4.20
9.0	1.17	1.70	1.90	2.25	2.77	3.33	4.01	4.57
10.0	1.20	1.76	1.98	2.37	2.95	3.57	4.32	4.95

B. Bound Printed Matter Single-Piece Rate (Dollars)
(Representative Computed Postage Amount - Pieces with Postage Affixed)

Exhibit 711.22, Single-Piece Bound Printed Matter Rates

Rate	Zones							
	Local	1 & 2	3	4	5	6	7	8
Per Piece - Basic	0.440	0.590	0.590	0.590	0.590	0.590	0.590	0.590
- Car Rte	0.385	0.535	0.535	0.535	0.535	0.535	.0535	0.535
Per Pound	0.020	0.042	0.064	0.103	0.162	0.223	0.298	0.361

Exhibit 711.23, Bulk Bound Printed Matter Rates

722.55 Scheduled Pickup Service

722.551 When Available. Scheduled pickup service may be requested during the regular business hours of the serving postal facility. Scheduled pickup service will begin the next day when service is available and continue until canceled by the mailer.

722.552 Where Available. Scheduled pickup service is available at post offices with city delivery service (see Publication 65, *National Five-Digit ZIP Code and Post Office Directory*), and at other post offices where the mailer's address is along the route of travel of a rural or highway contract route.

722.553 Service Agreement. Mailers who desire scheduled pickup service must enter into a service agreement with the Postal Service, specifying the time, place, day or date, and frequency of service, and the approximate volume per pickup. (Form 5631, *Express Mail Service Agreement*, may be adapted for this use.) Mailers will be charged the pickup fee for a scheduled pickup regardless of volume collected.

722.554 Cancellation and Changes in Volume. The mailer must notify the serving post office no less than 24 hours in advance of the scheduled pickup if the pickup is not needed (canceled) or if the volume of mail to be picked up exceeds the amount specified in the service agreement by more than 20%. Mailers will not be charged the pickup fee for a scheduled pickup that is canceled as required (i.e., at least 24 hours prior to the scheduled pickup). Mailers who do not notify the serving post office of exceptional volume will be charged the pickup fee for each additional trip required.

722.555 Volume. There are no minimum or maximum limitations on the amount of volume that can be mailed using pickup service. However, the Postal Service reserves the right to defer pickup or to make multiple pickups at no additional charge to the mailer when the volume to be picked up exceeds available vehicle capacity, and to initiate action to establish plant-load service where warranted based on mailer volume.

722.556 Changes in Service

a. By the Mailer. Scheduled pickup service (the service agreement) may be changed by the mailer effective 5 business days from the receipt of the mailer's written notice to the serving postal facility.

b. By the Postal Service. Scheduled pickup service (the service agreement) may be changed by the Postal Service effective 5 days from the mailer's receipt of written notice from the serving post office. The mailer may appeal this notice as provided by 133, but must pay all pickup fees chargeable during the appeal period.

c. Disruptions in Service. The Postal Service may suspend scheduled pickup service when weather or road conditions, facility emergencies at mailer or postal premises, unforeseen personnel or vehicle shortages, or other exceptional situations make it impossible or unsafe to provide pickup service.

722.557 Termination of Service

a. By the Mailer. Scheduled pickup service will be terminated within 24 hours of receipt of the mailer's written notice to the serving postal facility. The mailer will be liable for fees for pickup service provided prior to termination of service.

b. By the Postal Service. The Postal Service may terminate pickup service effective 24 hours from the mailer's receipt of written notice from the serving post office. Termination must be based on the mailer's failure to pay postage and fees or to meet the requirements that apply to pickup service or mailing at parcel post rates. The mailer may appeal this notice as provided by 133, but must pay all pickup fees chargeable during the appeal period.

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Weight Not Exceeding (pounds)	Zones							
	Local	1 & 2	3	4	5	6	7	8
1.5	$.470	$.653	$.686	$.745	$.833	$.925	$1.037	$1.132
2.0	.480	.674	.718	.796	.914	1.036	1.186	1.312
2.5	.490	.695	.750	.848	.995	1.148	1.335	1.493
3.0	.500	.716	.782	.899	1.076	1.259	1.484	1.673
3.5	.510	.737	.814	.951	1.157	1.371	1.633	1.854
4.0	.520	.758	.846	1.002	1.238	1.482	1.782	2.034
4.5	.530	.779	.878	1.054	1.319	1.594	1.931	2.215
5.0	.540	.800	.910	1.105	1.400	1.705	2.080	2.395
6.0	.560	.842	.974	1.208	1.562	1.928	2.378	2.756
7.0	.580	.884	1.038	1.311	1.724	2.151	2.676	3.117
8.0	.600	.926	1.102	1.414	1.886	2.374	2.974	3.478
9.0	.620	.968	1.166	1.517	2.048	2.597	3.272	3.839
10.0	.640	1.010	1.230	1.620	2.210	2.820	3.570	4.200

A. Basic Bulk Bound Printed Matter Rates

Weight Not Exceeding (pounds)	Zones							
	Local	1 & 2	3	4	5	6	7	8
1.5	.415	.598	.631	.690	.778	.870	.982	1.077
2.0	.425	.619	.663	.741	.859	.981	1.131	1.257
2.5	.435	.640	.695	.793	.940	1.093	1.280	1.438
3.0	.445	.661	.727	.844	1.021	1.204	1.429	1.618
3.5	.455	.682	.759	.896	1.102	1.316	1.578	1.799
4.0	.465	.703	.791	.947	1.183	1.427	1.727	1.979
4.5	.475	.724	.823	.999	1.264	1.539	1.876	2.160
5.0	.485	.745	.855	1.050	1.345	1.650	2.025	2.340
6.0	.505	.787	.919	1.153	1.507	1.873	2.323	2.701
7.0	.525	.829	.983	1.256	1.669	2.096	2.621	3.062
8.0	.545	.871	1.047	1.359	1.831	2.319	2.919	3.423
9.0	.565	.913	1.111	1.462	1.993	2.542	3.217	3.784
10.0	.585	.955	1.175	1.565	2.155	2.765	3.515	4.145

B. Carrier Route Bulk Bound Printed Matter Rates

Exhibit 711.25, Bulk Bound Printed Matter Rates
(Representative Computed Postage Amount - Pieces with Postage Affixed)

Note: These amounts are correct for the corresponding weights. Compute postage exactly for items of intermediate weights as provided by 783.

723 Bound Printed Matter Rates

723.1 Description. Delete existing 723.1e and f, and renumber existing 723.1g as new 723.1e.

723.2 Bulk Bound Printed Matter

723.21 Requirements

723.211 Bulk Bound Printed Matter Rate. The bulk bound printed matter rate applies to mailings of 300 or more pieces of bound printed matter. Mailings at bulk bound printed matter rates may contain nonidentical-weight pieces only if postage is affixed to each piece (see 711.24) or if the rates and classification center serving the office of mailing has authorized payment of postage by permit imprint in accordance with 145.7, 145.8, or 145.9.

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724 Special Fourth-Class Rates

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725 Library Rate

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740 Authorizations and Permits

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743 Destination BMC Entry Rate Mailing Fee

The destination BMC entry rate mailing fee (see 712.3) must be paid once each 12-month period at each office of mailing by or for any person or organization who mails at the destination BMC entry rates (see Exhibit 711.14 and 722.4).

750 Physical Limitations

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753 Nonmachinable Surcharge

753.1 General. In the second sentence, after "Intra-BMC/ASF" add "or destination BMC."

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760 Preparation Requirements

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762 Preparation of Parcel Post

762.1 Marking

762.11 General

a. Location. The marking required by 762.12-762.13 must be placed on the address side of each piece, adjacent to or below the postage and above the name of the addressee.

b. Method. The marking required by 762.12-762.13 may be printed or rubber-stamped, included as part of the permit imprint, or printed by postage meter slug or ad plate.

c. Other Content. Any marking which includes or is included in a decorative design or advertisement will not satisfy the requirements of this section.

d. Unmarked Pieces. Pieces lacking the endorsement required by 762.12-762.13, or not clearly marked as required by 762.11a-c, will be treated as single-piece rate parcel post and subject to additional postage as necessary.

Weight Not Exceeding (Pounds)	Single-Piece Rate	Level A Presort	Level B Presort	Weight Not Exceeding (Pounds)	Single-Piece Rate	Level A Presort	Level B Presort
1	$1.05	$0.59	$0.88	36	$10.88	$10.42	$10.71
2	1.48	1.02	1.31	37	11.13	10.67	10.96
3	1.91	1.45	1.74	38	11.38	10.92	11.21
4	2.34	1.88	2.17	39	11.63	11.17	11.46
5	2.77	2.31	2.60	40	11.88	11.42	11.71
6	3.20	2.74	3.03	41	12.13	11.67	11.96
7	3.63	3.17	3.46	42	12.38	11.92	12.21
8	3.88	3.42	3.71	43	12.63	12.17	12.46
9	4.13	3.67	3.96	44	12.88	12.42	12.71
10	4.38	3.92	4.21	45	13.13	12.67	12.96
11	4.63	4.17	4.46	46	13.38	12.92	13.21
12	4.88	4.42	4.71	47	13.63	13.17	13.46
13	5.13	4.67	4.96	48	13.88	13.42	13.71
14	5.38	4.92	5.21	49	14.13	13.67	13.96
15	5.63	5.17	5.46	50	14.38	13.92	14.21
16	5.88	5.42	5.71	51	14.63	14.17	14.46
17	6.13	5.67	5.96	52	14.88	14.42	14.71
18	6.38	5.92	6.21	53	15.13	14.67	14.96
19	6.63	6.17	6.46	54	15.38	14.92	15.21
20	6.88	6.42	6.71	55	15.63	15.17	15.46
21	7.13	6.67	6.96	56	15.88	15.42	15.71
22	7.38	6.92	7.21	57	16.13	15.67	15.96
23	7.63	7.17	7.46	58	16.38	15.92	16.21
24	7.88	7.42	7.71	59	16.63	16.17	16.46
25	8.13	7.67	7.96	60	16.88	16.42	16.71
26	8.38	7.92	8.21	61	17.13	16.67	16.96
27	8.63	8.17	8.46	62	17.38	16.92	17.21
28	8.88	8.42	8.71	63	17.63	17.17	17.46
29	9.13	8.67	8.96	64	17.88	17.42	17.71
30	9.38	8.92	9.21	65	18.13	17.67	17.96
31	9.63	9.17	9.46	66	18.38	17.92	18.21
32	9.88	9.42	9.71	67	18.63	18.17	18.46
33	10.13	9.67	9.96	68	18.88	18.42	18.71
34	10.38	9.92	10.21	69	19.13	18.67	18.96
35	10.63	10.17	10.46	70	19.38	18.92	19.21

Exhibit 711.32, Special Fourth-Class Rates

e. Single-Piece Rate Pieces. Pieces mailed at the single-piece parcel post rates do not require a marking, although mailers are encouraged to mark those pieces "Parcel Post."

762.12 Bulk Parcel Post. Each piece mailed at the bulk parcel post rates must be marked "Fourth-Class Bulk Rates" or Fourth-Class Blk.Rt."

762.13 DBMC Rate Parcel Post. Each piece mailed at the DBMC parcel post rates must be marked "DBMC Parcel Post" or "4C DBMC." If postage for the piece is paid by permit imprint and the office of mailing is in a different 3-digit ZIP Code area than the post office in the return address (see 761.14), the 5-digit ZIP Code or the 3-digit ZIP Code prefix of the office of mailing must be included in the indicia or, alternatively, incorporated in the required marking (e.g., "4C DBMC 011" or "DBMC Parcel Post Mailed From 01101").

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770 Mailing

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774 Zoned Rates

Pieces paid at rates which are based on zones (e.g., parcel post and bound printed matter rates) must be presented for acceptance at the post office from which the applicable zoned-rate postage is computed, except as provided by 711.62 and 711.63.

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780 Payment of Postage

781 Single-Piece Mailings

Add to the end of the section: The mailer is responsible for proper payment of postage. See 111.32.

782 Bulk Rate Mailings

Mailers of fourth-class matter at bulk rates must pay postage by permit imprint or meter stamps and must complete and submit the appropriate Postal Service mailing statement with each mailing. The mailer is responsible for proper payment of postage. See 111.32.

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784 Plant-Verified Drop Shipment Postage Payment System

784.1 General

784.11 Definition. The plant-verified drop shipment postage payment system is designed to allow destination acceptance of mailings prepared for entry at DBMC rates (see 722.4), while taking advantage of the greater postal efficiency associated with origin postage payment. Approval for use of a plant-verified drop shipment postage payment system will be granted under the conditions specified in 784.2.

784.12 System Elements. Under this system

(a) the mailer's product is verified for proper classification, rate eligibility, preparation, and presort by postal personnel located at a mailer's plant (e.g., at a detached mail unit (DMU));

(b) postage is prepaid at the post office serving the mailer's location;

(c) the shipment is released for dispatch under postal seal;

(d) the shipment is transported to destination postal facilities at the mailer's expense on the mailer's vehicle or on transportation procured by the mailer;

(e) the shipment is deposited at the destination postal facility by the mailer or the mailer's agent;

(f) the shipment is verified and accepted as mail by postal personnel at the destination postal facility and released for processing.

784.13 Participation. The plant-verified drop shipment postage payment system may be used only by mailers who have been authorized by the field division general manager/postmaster in whose service area the mailer is located (see 784.3).

784.14 Other Mailings. Other destination entry mailings that are not verified at the origin plant under a plant-verified drop shipment postage payment system must be verified, accepted and paid for at the destination post office in accordance with 722.431c and 722.431d.

Weight Not Exceeding (Pounds)	Single-Piece Rate	Weight Not Exceeding (Pounds)	Single-Piece Rate	Weight Not Exceeding (Pounds)	Single-Piece Rate
1	$0.65	24	$4.13	47	$6.89
2	0.89	25	4.25	48	7.01
3	1.13	26	4.37	49	7.13
4	1.37	27	4.49	50	7.25
5	1.61	28	4.61	51	7.37
6	1.85	29	4.73	52	7.49
7	2.09	30	4.85	53	7.61
8	2.21	31	4.97	54	7.73
9	2.33	32	5.09	55	7.85
10	2.45	33	5.21	56	7.97
11	2.57	34	5.33	57	8.09
12	2.69	35	5.45	58	8.21
13	2.81	36	5.57	59	8.33
14	2.93	37	5.69	60	8.45
15	3.05	38	5.81	61	8.57
16	3.17	39	5.93	62	8.69
17	3.29	40	6.05	63	8.81
18	3.41	41	6.17	64	8.93
19	3.53	42	6.29	65	9.05
20	3.65	43	6.41	66	9.17
21	3.77	44	6.53	67	9.29
22	3.89	45	6.65	68	9.41
23	4.01	46	6.77	69	9.53
				70	9.65

Exhibit 711.42, Library Rate

Facility	3-Digit ZIP Code Areas Served
Albuquerque ASF	865, 870-875, 877-884
Atlanta BMC	298, 300-312, 317-319, 350-368, 373-374, 377-379, 399
Billings ASF	590-599
Buffalo ASF	130-136, 140-149
Chicago BMC	463-464, 530-535, 537-539, 600-611, 613
Cincinnati BMC	250-253, 255-259, 400-418, 421-422, 425-427, 430-433, 437-438, 448-462, 469-474
Dallas BMC	706, 710-712, 718, 733, 747, 750-799, 885
Denver BMC	690-693, 800-816, 820-831
Des Moines BMC	500-516, 520-528, 612, 680-689
Detroit BMC	434-436, 465-468, 480-497
Fargo ASF	565, 567, 580-588
Greensboro BMC	240-243, 245-249, 270-297, 376
Jacksonville BMC	299, 313-316, 320-342, 346-347, 349
Kansas City BMC	640-653, 656-679, 739
Los Angeles BMC	889-892, 900-935
Memphis BMC	369-372, 375, 380-397, 700-705, 707-709, 713-714, 716-717, 719-729
Minneapolis BMC	498-499, 540-564, 566
New Jersey Int'l & BMC	004-005, 070-079, 088-119, 127
Oklahoma City ASF	730-732, 734-738, 740-746, 748-749
Philadelphia BMC	080-087, 137-139, 169-199
Phoenix ASF	850-860, 863-864
Pittsburgh BMC	150-168, 260-266, 439-447
St. Louis BMC	420, 423-424, 475-479, 614-620, 622-639, 654-655
Salt Lake City ASF	832-834, 836-837, 840-847, 893, 898, 979
San Francisco BMC	894-897, 936-966
Seattle BMC	835, 838, 970-978, 980-994
Sioux Falls ASF	570-577
Springfield BMC	010-069, 120-126, 128-129
Washington BMC	200-239, 244, 254, 267-268

Exhibit 722.411. BMC/ASF Service Areas for DBMC Rates

784.2 Program Participation Criteria for Mailers

784.21 Request for Participation. The mailer must submit an application for participation in the plant-verified drop shipment postage payment system as prescribed in 784.3.

784.22 Facilities for Postal Personnel. At each plant at which mail is inspected pursuant to a plant-verified drop shipment agreement (see 784.3), the mailer must provide an enclosed work area for the DMU that can be locked, has a telephone, is separate from the mailer's activities, and provides a safe working environment, as determined by the Postal Service.

784.23 Postage Payment. The mailer must pay all applicable fees, and must obtain and maintain all applicable permits or authorizations at the local post office serving the mailer's plant. Unless authorized to pay postage under a CPP system, the mailer must pay postage for plant-verified drop shipments at the post office serving the mailer's plant. If permit imprints are used, the mailer must ensure that sufficient funds are on deposit in the appropriate advance deposit accounts to pay for all plant-verified drop shipments prior to their release for dispatch.

784.24 Documentation

a. The mailer must produce and submit an individual mailing statement for each mailing destined for each destination entry post office, at the time the mail is presented for verification and postage payment.

b. When required by the local postmaster, the mailer must submit consolidated mailing statements and a register of mailing statements to the Postal Service.

c. The mailer must produce and submit to the Postal Service the prescribed clearance documents, in duplicate, that must accompany each plant-verified drop shipment to the destination post office where the shipment will be deposited. Those documents must be presented in triplicate if the mailer wishes to have a signed and dated copy returned to its driver when mailings are unloaded at the destination entry postal facility.

784.25 Transportation

784.251 Responsibility. The mailer is responsible for the transportation of plant-verified drop shipments from the origin plant to the destination postal facility.

784.252 Other Mailings. The mailer must not transport plant-verified drop shipment mailings on the same vehicle with other shipments that are not entered as plant-verified drop shipments.

784.253 Scheduling. The mailer must meet the requirements in 722.432 in regard to the deposit of mail at destination entry postal facilities.

784.254 Separation of Mailings. When a vehicle contains more than one plant-verified drop shipment for a single destination postal facility, the shipments must be separated, except that this requirement may be waived by the origin postmaster for

FACILITY	PARENT POST OFFICE	ZONE CHART
Albuquerque ASF	Albuquerque NM 87101-9998	870
Atlanta BMC	Atlanta GA 30304-9998	300
Billings ASF	Billings MT 59101-9998	590
Buffalo ASF	Buffalo NY 14240-9998	140
Chicago BMC	Chicago IL 60607-9998	603
Cincinnati BMC	Cincinnati OH 45234-9998	450
Dallas BMC	Dallas TX 75260-9998	750
Denver BMC	Denver CO 80202-9998	800
Des Moines BMC	Des Moines IA 50318-9998	500
Detroit BMC	Detroit MI 48233-9998	480
Fargo ASF	Fargo ND 58102-9998	580
Greensboro BMC	Greensboro NC 27420-9998	272
Jacksonville BMC	Jacksonville FL 32203-9998	320
Kansas City BMC	Kansas City KS 66106-9998	660
Los Angeles BMC	Long Beach CA 90809-9998	902
Memphis BMC	Memphis TN 38101-9998	380
Minneapolis BMC	Minneapolis MN 55401-9998	550
New Jersey Int'l & BMC	Newark NJ 07102-9998	070
Oklahoma City ASF	Oklahoma City OK 73125-9998	730
Philadelphia BMC	Philadelphia PA 19104-9998	190
Phoenix ASF	Phoenix AZ 85026-9998	850
Pittsburgh BMC	Pittsburgh PA 15290-9998	150
Saint Louis BMC	Saint Louis MO 63155-9998	630
Salt Lake City ASF	Salt Lake City UT 84199-9998	840
San Francisco BMC	San Francisco CA 94188-9998	940
Seattle BMC	Seattle WA 98109-9998	980
Sioux Falls ASF	Sioux Falls SD 57101-9998	570
Springfield BMC	Springfield MA 01101-9998	010
Washington BMC	Southern MD 20790-9998	206

Exhibit 722.44, BMC/ASF Parent Post Offices

copalletized or combined mailings provided the clearance document for that destination clearly identifies all of the mail for that facility. In addition, when a vehicle contains one or more shipments for more than one destination postal facility, the shipments must be separated by destination.

784.255 Hazardous Freight. Any material classified by the Postal Service as "hazardous" (see 124.3) may not be carried as freight in the same vehicle as a plant-verified drop shipment.

784.3 Authorization

784.31 Request

784.311 General. The mailer must submit a written request to the mailer's local postmaster seeking assignment of postal personnel to the mailer's plant (e.g., establishment of a DMU) to support plant-verified drop shipment of destination entry rate mailings. No form is provided for this purpose.

784.312 Date of Filing. The mailer must submit the request at least 30 days prior to the date proposed for submission of the first plant-verified drop shipment using the system.

784.313 Content. The request must fully describe the characteristics of the mailings that will be prepared as plant-verified drop shipments. At a minimum, the request must include the following information for each mailing or series of mailings of the same product, publication, or job:

a. the schedule of mailing, i.e., the number, frequency and time of mailings (e.g., at noon daily for two weeks, every other Monday at 4:00 P.M., etc.);

b. the number of pieces and mailing statements to be presented to postal personnel, both daily and in total;

c. the class of mail and processing category;

d. the level of sortation and rate(s) claimed, as applicable;

e. either

(1) if postage is paid locally

(a) the method of postage payment and a listing of the postage meter numbers and licenses, and permit imprint (or company permit imprint) to be used; and

(b) the alternative mailing system used by the mailer, if any (see 145.7, 145.8, and 145.9);

(2) if postage is paid under Centralized Postage Payment (CPP) procedures, a copy of the authorization must accompany the request (separate authorization by the serving rates and classification center is required to mail under CPP);

f. the type and capacity of scales at the mailer's plant, if any;

g. the space available for postal personnel to use and the suitability of that space for verification of mail, recordkeeping installation of computer equipment, and monitoring of vehicle loading;

h. the types of equipment used (trays, sacks, pallets, etc.) (authorizations must be obtained where required); and

i. the destination entry points to which shipments will be dispatched (e.g., a listing of the BMCs and 5-digit facilities).

784.314 Existing Plant-Load Mailers. A request for authorization must also be submitted by existing plant-load mailers to allow verification that the current mailer facilities and DMU resources remain adequate. Depending on the specific situation, the 30-day advance notice required by 784.312 may be waived by the approving official (see 784.32).

784.32 Approving or Denying Authorization

784.321 Local Post Office. The local postmaster will review the application for completeness and accuracy; evaluate the mailer's ability to meet the requirements in 784.2, the suitability of the mailer's plant to accommodate postal personnel (i.e., a DMU), and the capability of the local post office to support the requested activity; and prepare a written summary of the results. This report and a recommendation for approval or denial of the mailer's request will be forwarded through the MSC/division manager, mailing requirements, to the field division general manager/postmaster.

784.322 Field Division. The field division general manager/postmaster will consider the postmaster's report and recommendation, determine whether the local post office has sufficient employees who are trained and qualified in mail classification and verification to support the requested plant-verified drop shipment activity, and prepare a final written decision on the mailer's request.

784.323 Approval. If the mailer's request for participation in the plant-verified drop shipment postage payment system is approved, the field division general manager/postmaster will prepare a plant-verified drop shipment agreement that must be signed by the general manager/postmaster, the mailer, and the postmaster of the post office serving the mailer's plant before the approval can be made effective. The agreement will specify the terms and period of the authorization (not to exceed 2 years). Copies of the agreement will be provided to the local postmaster, the MSC/division manager, mailing requirements, and the rates and classification center.

784.324 Denial. If the mailer's request for participation in the plant-verified drop shipment postage payment system is denied, the field division general manager/postmaster will notify the mailer in writing, stating the reasons for the decision, and provide copies of the decision to the local postmaster, the MSC/division manager, mailing requirements, and the rates and classification center. The denial may be appealed as provided in 133

784.33 Renewal, Termination, and Revocation

784.331 Renewal. The mailer must submit a new request for authorization at least 30 days prior to the expiration of a plant-verified drop shipment agreement. The content of the request, and the procedures for its review, approval, or denial are as prescribed in 784.31 and 784.32.

784.332 Termination. A mailer may elect to terminate participation in a plant-verified drop shipment agreement by 10 calendar days' written notice to the authorizing field division general manager/postmaster.

784.333 Revocation. A plant-verified drop shipment agreement may be revoked by the authorizing field division general manager/postmaster by 10 calendar days' written notice to the mailer. Revocation must be based on the mailer's failure to pay postage and fees or to meet the requirements that apply to plant-verified drop shipment or mailing at parcel post rates. The revocation action may be appealed as provided by 133.

784.4 DMU Functions

784.41 General. Assignment of postal personnel to the mailer's plant to process plant-verified drop shipments may be in conjunction with the DMU staffing associated with a plant-load authorization for that mailer's plant, but may be provided to a mailer's plant that is not authorized plant load, at the discretion of the division general manager/postmaster.

784.42 Inspection of Mailpieces. Postal personnel assigned to the mailer's plant must verify drop shipment mailings for classification, rate eligibility, preparation, presort, and postage in the same manner as plant-load mailings.

784.43 Documents

784.431 Preparation. Before each plant-verified drop shipment is released for dispatch, postal personnel must ensure that all clearance documents are properly completed, signed, and dated, and that each includes the number of the postal seal to be used on the vehicle, if appropriate (see 784.5). The required documents must be provided for each mailing prepared for each destination entry postal facility. The DMU will retain one copy of each completed clearance document.

784.432 Enclosure. Postal personnel must ensure that all appropriate clearance documents are provided to the mailer who is responsible for placing them in each vehicle to accompany the corresponding plant-verified drop shipments. These documents must be placed on the left rear wall of the vehicle just inside the door of the vehicle. Affix the required Form 5111-R, *Revenue Protection Placard*, to the outside rear of the vehicle after the mailer has completed loading the vehicle.

784.44 Loading. Postal personnel must observe the loading of each vehicle used to transport plant-verified drop shipments to ensure the correct mailings are loaded into vehicles for the correct destinations and that shipments are not improperly commingled (see 784.254).

784.45 Security. Postal personnel must seal the vehicle containing the plant-verified drop shipments mailings with a postal revenue protection seal (i.e., a USPS ball seal, USPS lock, or other postal security device) that prevents access to the shipments by other than authorized postal employees. Vehicles that make en route stops must be resealed after the corresponding mail is removed (see 784.5).

784.5 Destination Postal Facility Functions

784.51 Verification of Documents. The postal seal number on the clearance document for that destination post office must match the number on an unbroken seal securing the vehicle. Container identification codes on the clearance document must match the containers deposited. If these items match, the destination facility will sign and date the clearance documents accompanying the mailings and process the mail. These documents will be retained for one year in a chronological file, and receipted copies will be returned to the mailer's employee, if appropriate (see 784.24c and 784.431).

784.52 Verification of Contents. Each destination postal facility where plant-verified drop shipments are deposited must ensure that only the appropriate shipments are unloaded and accepted.

784.53 Vehicles Containing Mail for More Than One Destination Facility. When a mailer's vehicle contains mail for more than one destination entry facility, each intermediate postal facility will record the number of a new USPS ball seal on the clearance document for the next scheduled destination post office, and affix that seal to secure the vehicle. (If USPS locks are used, they must be removed and retained at the final postal facility where the vehicle stops.)

784.54 Loading of Mail Prohibited. Postal Service mail for downstream postal facilities must not be loaded onto the mailer's vehicle by any intermediate postal facility at which the mailer has stopped to deposit a plant-verified drop shipment.

784.6 Liability. The mailer assumes all liability and responsibility for any loss or damage to plant-verified drop shipments before they are deposited and accepted as mail at destination entry postal facilities, regardless of whether a third party is used to transport those shipments. The Postal Service is not liable or responsible for any loss or damage to plant-verified drop shipments before they are deposited and accepted as mail at a destination postal facility.

784.7 Postage

784.71 Method of Payment. Postage for a plant-verified drop shipment must be paid by meter stamps or by permit imprint using a meter license or permit imprint advance deposit account, as applicable, maintained by the mailer at the post office serving the mailer's location.

784.72 Computation. Postage for DBMC rate mailings prepared as plant-verified drop shipments is calculated (zoned) from the destination postal facility where mailings are deposited and accepted into the mailstream.

784.73 Refunds. The Postal Service will not refund postage for any failure to provide service that is caused in whole or in part by any event that occurs before the shipment is deposited and accepted into the mailstream and becomes mail at a destination postal facility, except in accordance with the provisions of 147.2.

785 Postage Payment for Plant-Verified Drop Shipment Permit Imprint Mailings at Origin Post Office Serving Mailer's Plant

785.1 General. Postage is normally debited from a mailer's advance deposit account using the information presented by the mailer on hard-copy individual mailing statements. Under this payment option, in addition to the individual mailing statements required for each fourth-class mailing (see 782), mailers may be required to submit registers of mailing statements and consolidated mailing statements for bulk rate permit imprint mailings that are verified under a plant-verified drop shipment postage payment system (see 784). A single, unique USPS mailing number (key) must appear on all related individual mailing statement, the register of mailing statements listing these individual statements, and the associated consolidated mailing statement. This unique key number will identify the relationship between the individual statements, the register, and the consolidated statement. When a mailer is required to submit consolidated mailing statements, the information on these statements will be used to debit the mailer's account instead of using the information on each individual mailing statement.

785.2 Participation

785.21 Required by Local Post Office. The local post office serving the mailing plant where the advance deposit account is maintained will require a plant-verified drop shipment mailer to submit registers of mailing statements (see 785.32) and consolidated mailing statements (785.33) whenever individual jobs or mailing cycles presented by the mailer to the DMU for verification and acceptance for postage payment on any given day are segmented for deposit and entry at five or more destination postal facilities requiring five or more individual mailing statements for each job or mailing cycle.

785.22 Request by Mailer. An authorized plant-verified drop shipment postage payment system mailer may request authorization to submit registers of mailing statements and consolidated mailing statements for all mailings that will be drop shipped into more than one entry post office.

785.23 Approval of Registers of Mailing Statements and Consolidated Mailing Statements. The MSC manager, mailing requirements, must review and approve the format and method of generation of individual mailing statements, registers of mailing statements, and consolidated mailing statements to be presented by the mailer to ensure that they comply with the requirements prescribed in 785.3 before the local post office serving the mailing plant can use the consolidated statements for debiting the mailer's account.

785.3 Required Mailer Documentation

785.31 Individual Mailing Statements. The mailer must produce and submit a signed individual mailing statement in hard-copy for each mailing destined for each destination entry post office, at the time the mailing is presented for verification and postage payment. In addition to the information required on all individual mailing statements, when the mailer is required to submit consolidated mailing statements (for 5 or more entry post offices) for debiting of the advance deposit account, each individual mailing statement must include a uniquely assigned mailing statement sequence number that must not exceed nine digits. The numbers must be sequential within a job or mailing cycle for mailings verified, paid for, and cleared for dispatch on the same day. The statements must also include a unique USPS mailing number (key) corresponding to the number on the

related register of mailing statements and consolidated mailing statement.

785.32 Register of Mailing Statements

785.321 General. A register of mailing statements is a computer-generated line item listing of all individual mailing statements for plant-verified drop shipment permit imprint mailings verified and released for dispatch on a single day from a job or mailing cycle. All individual mailing statements represented on a register of mailing statements will be represented by a corresponding consolidated mailing statement and the total postage charge on the register must be identical to the total postage charge on the corresponding consolidated statement. The information on a register of mailing statements is reconciled against individual mailing statements and the consolidated mailing statement to ensure proper payment of postage.

785.322 Content. The information identified in 785.323-785.325 is required to appear on each register of mailing statements. Additional information may be shown.

785.323 First Page. The following information must appear at the top of the first page of each register of mailing statements:

a. the endorsement "Register of Mailing Statements;"

b. the name and location of the mailing agent;

c. the date mailings represented are verified and cleared for dispatch;

d. the permit imprint advance deposit account to be debited;

e. the unique USPS mailing number (key) corresponding to the number on related individual mailing statements and the related consolidated statement.

785.324 Line Items. Each line item listing on a register must include the following data elements from the individual mailing statement represented on that line:

a. the unique individual mailing statement sequence number;

b. the destination post office of mailing;

c. the total number of pieces in the mailing;

d. the total weight of the mailing;

e. the total postage charge.

785.325 Totals. The register must also include a total postage charge representing the sum of the total postage charges from each individual mailing statement listed, as well as the total number of pieces and the total weight for all individual mailing statements listed. The total postage charge on the register must match total postage charge on the related consolidated statement.

785.326 Corrections. Where necessary, due to changes made to individual mailing statements, manual corrections may be made to the register of mailing statements listing the data from the individual statements. These corrections must be documented by the DMU and the corrected register of mailing statement must be signed and dated by both the mailer and the Postal Service representative that approved the changes. The changes on the register must be reflected on the associated consolidated mailing statement.

785.327 Submission by Mailer. The mailer must submit the register of mailing statements to the DMU at or before the time that the first individual mailing included on the register is presented to the DMU for verification and release for dispatch.

785.328 Retention. The normal retention period for financial documents also applies to registers of mailing statements.

785.33 Consolidated Mailing Statement

785.331 General. This statement consolidates all mailing statement data from individual mailing statements representing permit imprint mailings verified, paid for, and released for dispatch on a single day from a job or mailing cycle. The consolidated mailing statements are used to debit the mailer's advance deposit account by the post office where the mailer's account is maintained. The following information must be identical for each of the individual mailing statements that will be rolled up to a single consolidated mailing statement:

a. the mailing statement date representing the date mailings are verified ad cleared for dispatch by the DMU serving the mailer's plant;

b. the name and location of the mailing agent;

c. the processing category for individual mailings;

d. the permit imprint advance deposit account to be debited;

e. the job or mailing cycle description;

f. the unique USPS mailing number (key) corresponding to the number on related individual mailing statements.

785.332 Format. The consolidated mailing statement must be a computer-generated facsimile that has essentially the same format at the individual Postal Service mailing statements that it represents. It must be signed and dated by the mailer. Certain data elements including the range of unique individual mailing statement sequence numbers, the number of individual mailing statements represented, and the endorsement "Consolidated Mailing Statement," that are not shown on individual mailing statements must be shown on the consolidated statement. Other data elements included on individual statements, such as each post office of deposit for drop shipment mailings, will not be shown on the consolidated statement because this statement is consolidating information from multiple individual mailing statements. In addition, each individual mailing statement must contain a USPS mailing number (a key) that corresponds to the USPS mailing number on the related consolidated mailing statement.

785.333 Calculation of Data. Each field on the consolidated mailing statement represents the sum total of the numbers in that field from all of the individual mailing statements represented by the consolidated statement. The number in each field on the consolidated mailing statement bust be held to the same number of decimal places required to be held on an individual mailing statement. All fields containing data on the individual mailing statements must be rolled up to the consolidated mailing statement. The total postage charge on the consolidated mailing statement must be the sum of the total postage charges for all subordinate individual mailing statements and will be sued to debit the mailer's advance deposit account.

Note: When each of the lime item totals that have been calculated using standard procedures for computing, rounding and expressing weight and postage figures on all of the individual mailing statements are rolled up to a consolidated statement, the sum of those line item totals on the consolidated statement will not result in the exact sum of the total postage charges from all of the individual mailing statements.

785.334 Submission by Mailer. The mailer must submit the consolidated mailing statement to the DMU at or before the time the last individual mailing statement it represents is submitted to the DMU for the day's mailing.

785.335 Correction. Changes made to individual mailing statements may require the mailer to correct the consolidated mailing statement to reflect the changes. Such corrections must be documented by the DMU and a corrected consolidated mailing statement, signed and dated by the mailer, must be submitted to the DMU for proper debiting of the mailer's account.

785.336 Retention. The normal retention period for financial documents applies to consolidated mailing statements.

785.4 Post Office Responsibilities

785.41 General. Postal personnel assigned to the detached mail unit (DMU) in the mailer's plant must perform all duties described in 784 pertaining to the verification, clearance and release for dispatch of plant-verified drop shipment mailings.

785.42 Reconciliation of Individual Mailing Statements Against Register. The DMU must reconcile the information reported on the individual statements for each mailing from a job or mailing cycle that has been verified and cleared for dispatch each day against the line item entries on the register of mailing statements representing those individual statements. The DMU must ensure that all mailings that were verified and cleared for dispatch are represented on the register and any corrections made to the individual statements are reflected on the register.

785.43 Reconciliation of Register of Mailing Statement and Consolidated Mailing Statement. The DMU must ensure that the total postage charge shown on the register of mailing statements matches the total postage charge on the corresponding consolidated mailing statement.

785.44 Approval of Documents. When the DMU determines that the data on the individual mailing statements, the register of mailing statements and the consolidated mailing statement are correct and all in agreement, the postal employee must sign and date (round stamp) each statement. A correct consolidated mailing statement, signed and dated by the mailer and the DMU, will be used by the post office to debit the mailer's account.

790 Ancillary Services

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793 Address Correction

793.1 Address Correction Service Text of existing 793

793.2 Address-Change Service (ACS)

a. ACS is designed to centralize, automate, and improve the processing of address-correction requests for mailers. The ACS process involves the transmission of change-of-address information to a central point where the changes are consolidated onto a magnetic tape filed by unique identifier. These records are sequentially organized by USPS assigned codes and distributed to each participating mailer. Label formats are found in 441.232.

b. ACS is available to mailers who maintain their address records on computers. For further information, write to:

ADDRESS CHANGE SERVICE
ADDRESS INFORMATION CENTER
US POSTAL SERVICE
6060 PRIMACY PARKWAY SUITE 101
MEMPHIS TN 38188-0002

* * * * * * *

CHAPTER 9 - SPECIAL SERVICES

910 Special Mail Services

911 Registered Mail

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911.2 Fees and Liability

911.21 Fees in Addition to Postage. See Exhibit 911.21.

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912 Certified Mail

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912.3 Fees in Addition to Postage. The fees for certified mail are:

Fee	$1.00
Restricted delivery	$2.50
Return receipts:	
Requested at time of mailing:	
Showing to whom (signature) and date delivered	$1.00
Showing to whom (signature), date, and address where delivered	$1.35
Requested after mailing:	
Showing to whom (signature) and date delivered	$6.00

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912.6 Carrier Controls

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912.62 Clearance. * * * * *

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g. International recorded delivery service mail must be handled according to clearance procedures for certified mail as described in 912.62a-f. See *International Mail Manual* 385.

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913 Insured Mail

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913.2 Fees and Liability

913.21 Fees in Addition to Postage. The fees for insured mail are:

Liability	Fee
$0.01 to $50	$0.75
50.01 to 100	1.60
100.01 to 200	2.40
200.01 to 300	3.50
300.01 to 400	4.60
400.01 to 500	5.40
500.01 to 600	6.20

Maximum liability for insured mail is $600.

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913.3 Additional Services

913.31 Restricted Delivery. Restricted delivery may be obtained for parcels that are insured for more than $50. See 913.33 and 933 for the applicable fees and conditions. See 933.4 for circumstances under which restricted delivery may be made by delivery to a person other than the addressee.

913.32 Return Receipt. Upon payment of the fee specified in 913.33, Form 3811, *Domestic Return Receipt*, may be obtained for parcels insured for more than $50, as provided by 932.2.

913.33 Fees. In addition to the postage and insured fee that is applicable to the mailpiece, the following fees must be paid for the corresponding additional services:

Restricted delivery	$2.50
Return receipts:	
Requested at time of mailing:	
Showing to whom (signature) and date delivered	$1.00
Showing to whom (signature), date, and address where delivered	$1.35
Requested after mailing:	
Showing to whom (signature) and date delivered	$6.00

913.34 Other Services. Other additional services that can be requested for insured mail are special delivery, special handling, parcel airlift, and merchandise return (by shippers only); see 915, 916, 918, and 919, respectively for more information

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914 Collect on Delivery (COD) Mail

914.1 Description

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914.13 Conditions

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914.132 Maximum Amount. The amount collected from the addressee cannot exceed $600.

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914.174 Registered COD Mail. Sealed domestic mail of any class bearing postage at the First-Class rate may be sent as registered COD mail. Such mail is handled in the same manner as other registered mail. The maximum amount collectible from the recipient on an individual parcel is $600. Indemnity may be purchased up to the registry limit of $25,000, by payment of the registry fee from Column A, Exhibit 911.21, corresponding to the value declared. Payment of a registry fee from Column B, Exhibit 911.21, will not provide any indemnity coverage. The total fees charged for registered COD service will include the appropriate registry fee for the value declared, plus the registered COD fee (see 914.21). The mailer must declare the full value of the article being mailed, regardless of the amount to be collected from the recipient.

914.175 Express Mail COD. Any article sent COD may also be sent by Express Mail. Such mail is handled in the same manner as other Express Mail. The maximum amount collectible from the addressee on an individual article is $600, and indemnity for failure to collect or issue payment will be limited to $600. See 292-296 for indemnity for loss, damage, or rifling of Express Mail COD articles. Express Mail postage (see Exhibit 210) and the appropriate COD fees (see 914.2) must be paid. Both the Express Mail label and COD tag must be affixed to each article. Enter the Express Mail number as the COD number on the COD tag.

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914.2 Fees

914.21 Fees in Addition to Postage. Collect-on-delivery (COD) fees are:

Amount to be collected or insurance coverage desired [1]	COD Fees
$ 0.01 to $ 50	$2.50
50.01 to 100	3.25
100.01 to 200	4.00
200.01 to 300	4.75
300.01 to 400	5.50
400.01 to 500	6.50
500.01 to 600	7.00
Restricted delivery	2.50
Notice of nondelivery	2.10
Alteration of COD charges or designation of new addressee	2.10
Registered COD	2.50

[1] For Express Mail COD shipments, collect the fee for the amount to be paid the sender only. Express Mail insurance covers up to $500 merchandise insurance.

914.22 Payment of Fees and Postage.

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Example:		
	$45.63	Cost of Contents
	4.03	Postage
	$49.66	Subtotal
	3.25	COD Fee*
	$52.91	Total Amount Due Sender

* In the example cited, the COD fee for articles valued at up to $50 is $2.50. Since the $2.50 fee raises the amount to be collected to over $50, the next higher COD fee ($3.25 in this case) must be charged

* * * * * * *

Value	Fees (in addition to postage)	
	For articles with postal insurance COLUMN A	For articles without postal insurance COLUMN B
$0.00 to $100	$4.50	4.40
$100.01 to $500	4.85	4.70
$500.01 to $1,000	5.25	5.05
$1,000.01 to $2,000	5.70	5.40
$2,000.01 to $3,000	6.15	5.75
$3,000.01 to $4,000	6.60	6.10
$4,000.01 to $5,000	7.05	6.45
$5,000.01 to $6,000	7.50	6.80
$6,000.01 to $7,000	7.95	7.15
$7,000.01 to $8,000	8.40	7.50
$8,000.01 to $9,000	8.85	7.85
$9,000.01 to $10,000	9.30	8.20
$10,000.01 to $11,000	9.75	8.55
$11,000.01 to $12,000	10.20	8.90
$12,000.01 to $13,000	10.65	9.25
$13,000.01 to $14,000	11.10	9.60
$14,000.01 to $15,000	11.55	9.95
$15,000.01 to $16,000	12.00	10.30
$16,000.01 to $17,000	12.45	10.65
$17,000.01 to $18,000	12.90	11.00
$18,000.01 to $19,000	13.35	11.35
$19,000.01 to $20,000	13.80	11.70
$20,000.01 to $21,000	14.25	12.05
$21,000.01 to $22,000	14.70	12.40
$22,000.01 to $23,000	15.15	12.75
$23,000.01 to $24,000	15.60	13.10
$24,000.01 to $25,000	16.05	13.45
$25,000.01 to $1,000,000 Fees for articles valued in excess of $25,000 are for handling only. $25,000 is the maximum amount of insurance coverage available.	$16.05 plus handling charge of $0.35 per $1,000 or fraction over first $25,000.	$13.45 plus handling charge of $0.35 per $1,000 or fraction over first $25,000.
$1,000,000.01 to $15,000,000	$357.30 plus handling charge of $0.35 per $1,000 or fraction over first $1,000,000.	$354.70 plus handling charge of $0.35 per $1,000 or fraction over first $1,000,000.
Over $15,000,000	Additional charges may be made based on considerations of weight, space, and value.	

ADDITIONAL SERVICES

	Extra Fee
COD COLLECTION CHARGE (Maximum amount collectible, $600)	$2.50
RESTRICTED DELIVERY	$2.50
RETURN RECEIPTS:	
Requested at time of mailing:	
Showing to whom (signature) and date delivered	$1.00
Showing to whom (signature), date, and address where delivered	$1.35
Requested after mailing:	
Showing to whom (signature) and date delivered	$6.00

Exhibit 911.21, Registry Fees

915 Special Delivery

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915.3 Fees in Addition to Postage. The special delivery fees are:

Class of Mail	2 lbs. or less	Over 2 lbs. but not over 10 lbs.	Over 10 lbs.
First-Class and Priority Mail	$7.65	$7.95	$8.55
All Other Classes	$8.05	$8.65	$9.30

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916 Special Handling

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916.4 Fees in Addition to Postage. The fees for special handling are:

Weight	Fee
Not more than 10 pounds	$1.80
More than 10 pounds	2.50

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917 Business Reply Mail (BRM)

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917.3 Postage and Fees

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917.33 Fees

917.331 Annual BRM Permit Fee. The annual BRM permit and renewal fee is $75.

917.332 Annual BRM Accounting Fee. The annual BRM accounting fee is $185.

917.333 Per Piece. The applicable business reply mail fee must be collected for each piece of business reply mail in addition to the single-piece rate First-Class postage that applies to the mailpiece:

With business reply mail advance deposit account	
Regular	$ 0.09
BRMAS	0.02
Without business reply mail advance deposit account	0.40

917.334 Schedule of Payment. The applicable annual BRM fees must be paid once each 12-month period, commencing on the anniversary date of the permit's issuance or previous fee payment, whichever is later.

917.34 Payment of Postage and Fees

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917.342 Cash or Postage-Due Account

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a. Amount Collected. The fee prescribed in 917.333 must be collected when the mailer pays by cash or postage-due account.

* * * * * * *

917.343 Business Reply Account

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a. Amount Collected. The fee prescribed in 917.333 must be collected when the mailer pays by business reply account.

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Exception: Business reply cards and letters returned under BRMAS that are rejected by USPS barcode sorters and found not to meet the machinability, barcode, or other preparation requirements for BRMAS will be charged the appropriate First-Class postage plus $0.09 per piece. In addition, if improper barcodes appear on BRM pieces returned under BRMAS (for example, if a barcode representing the card rate appears on a letter-size piece) the pieces will be subject to the appropriate First-Class postage plus $0.09 per piece.

b. Permit and Accounting Fee.

* * * * * * * **Delete the "Note" and "Example."**

c. Other Applicable Conditions. **No change in text.**

d. Insufficient Funds. When a business reply account contains insufficient funds to cover the amount due for postage and fees, the BRM is held and the permit holder notified by certified mail. If funds are not deposited within 3 days, the BRM is treated as a cash or postage-due account transaction, and the permit holder is charged the corresponding fee (see 917.333). If funds are deposited within 3 days, all BRM held during the 3 days will be charged the applicable fee for a BRM account transaction (see 917.333).

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917.35 BRM Bearing Stamps

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917.352 Refunds

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b. The per-piece charges in 917.333 are not refundable.

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918 Parcel Airlift

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918.4 Fees. In addition to the regular surface rate of postage, the fees for parcel airlift are:

Weight	Fee
Not more than 2 pounds	$ 0.35
Over 2 but not more than 3 pounds	0.70
Over 3 but not more than 4 pounds	1.05
Over 4 pounds	1.40

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919 Merchandise Return

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919.3 Postage and Fees

919.31 Permit Fee. A fee of $75 will be charged once each 12-month period on the anniversary date for each permit issued.

919.32 Transaction Fee. The fee for each item returned is $0.25 per parcel, in addition to the postage and other applicable fees.

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930 Supplemental Mail Services

931 Certificates of Mailing

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931.2 Fees

931.21 Basic Fee

a. The fee for certificates of mailing for all classes of mail is $0.50 per article listed individually on Form 3817, *Certificate of Mailing.*

b. Additional copies of either Form 3817 or firm mailing bills are available for $0.50 per page.

931.22 Firm Mailing Books

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b. The fee is $0.20 per article listed.

931.23 Bulk Mailings. Identical pieces of First-Class and third-class mail paid with ordinary stamps, precanceled stamps, or meter stamps, are subject to the following fees:

Up to 1,000 pieces (1 certificate for total number)	$2.50
Each additional 1,000 pieces or fraction thereof	0.30
Duplicate copy	0.50

* * * * * * *

932 Return Receipts

932.1 Description

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932.12 Return Receipt for Merchandise Service. Return receipt for merchandise service is available for merchandise sent as First-Class, Priority Mail, third-class, parcel post, bound printed matter, special fourth-class rate, and library rate mail (see 934).

Note: For information about international return receipt service, see *International Mail Manual*, 340.

932.2 Fees. In addition to postage and other fees, the fees for return receipts are:

REQUESTED AT TIME OF MAILING:	
Showing to whom (signature) and date delivered	$1.00
Showing to whom (signature), date, and address where delivered	1.35
REQUESTED AFTER MAILING:	
Showing to whom (signature) and date delivered	6.00
RETURN RECEIPT FOR MERCHANDISE (see 934)	
Showing to whom (signature) and date delivered	1.10
Showing to whom (signature), date, and address where delivered	1.50

933 Restricted Delivery

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933.2 Fees. In addition to postage and other fees, the fee for restricted delivery is $2.50.

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934 Return Receipt for Merchandise

934.1 Description

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934.2 What May be Sent With Return Receipt for Merchandise Service. Return receipt for merchandise service is available for merchandise sent at the First-Class, Priority, third-class, parcel post, bound printed matter, special fourth-class, and library rates of postage. All articles must be mailable in accordance with postal regulations. Special delivery service is available for other than bulk third-class upon payment of the prescribed fees (see 915.3). Special handling is available for single-piece rate third-class and fourth-class pieces.

934.3 Fees

Showing to whom (signature) and date of delivery	$1.10
Showing to whom (signature), date, and address where delivered	$1.50

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934.8 Acceptance Procedures

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934.83 Verification of Delivery. Mailers may obtain a copy of the delivery record by sending a written request to the post office of address. The fee is $6 for each copy requested and must be sent with the request. Mailers may not obtain a return receipt after mailing.

940 Nonmail Services

941 Money Orders

941.1 Issuance

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941.12 Purchase Amounts, Fees, and Payments

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941.124 Fees

a. Postal military money order (issued by military facilities authorized by the Department of Defense) $0.25

b. Domestic money order (issued at other post offices, including those with branches or stations on military installations) $0.75

c. Inquiry fee (includes the issuance of a copy of a paid money order) $2.50

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941.4 Inquiries

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941.43 Fee

941.431 Amount. The customer must pay the fee prescribed in 941.124c for each money order inquiry submitted on a Form 6401. Each Form 6401 covers only one money order.

941.432 Exception. The fee required by 941.431 does not have to be paid by banks, other financial institutions, and the Government agencies that process money orders directly with the Federal Reserve Bank, and for official post office business.

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945 Mailing List Services

945.1 General

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945.16 Fees

945.161 Correction of Name and Address or Occupant Lists

a. The fee is $0.15 for each name or street address on the list, with a minimum fee of $5 for each list corrected. (The minimum applies for lists with fewer than 35 names or addresses.)

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945.162 Sortation of Mailing Lists on Cards by Five-Digit ZIP Code. The fee for this service is $54 per 1,000 addresses or fraction thereof.

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945.4 Sortation of Mailing Lists on Cards by Five-Digit ZIP Code

945.41 Address Information System Products. In the third sentence, delete "(at no charge)."

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950 Alternative Delivery Services

951 Post Office Box (P.O. Box) Service

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951.2 Fees

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951.22 Fee Groups

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951.222 Group 1 Fees

a. General Application. **Text of existing 951.222a(1).**

b. Independent Facilities. **Text of existing 951.222a(2).**

c. Group 1 Categories. Group 1 fees are divided into three categories as listed below. Customers must pay the category of Group 1 fee that corresponds to the post office where the box is rented.

951.223 Group 2 Fees. **Text of existing 951.222b.**

951.224 Group 3 Fees. **Text of existing 951.222c.**

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951.25 Facilities Primarily Serving Academic Institutions

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951.252 Adjustment of Fees to Meet Semester Schedules. **In the note, replace the first sentence as follows:** Round charges to the next (higher) multiple of $0.10. * * * * *

951.26 Fee Schedule

951.261 Fees. Fees for post office box rental are as follows:

Box Size	1	2	3	4	5
	Per Semi-Annual Period				
Group 1A	$21.50	$31.00	$57.50	$95.00	$157.50
Group 1B	19.50	27.50	50.00	84.00	140.00
Group 1C	17.50	24.50	46.50	77.50	130.00
Group 2	---	---	10.75	15.75	25.00
	Per Annual Period				
Group 2	$7.25	$11.25	---	---	---
Group 3	2.00	2.00	2.00	2.00	2.00

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952 Caller Service

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952.2 Fees

952.21 Reserved Number Fee. The fee for each number reserved by a customer is $25 per postal calendar year or any part of such a calendar year.

952.22 Caller Service Fees

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952.222 Basic Caller Service Fee

a. General Rule. The applicable fee for caller service shown in 952.222c must be paid semiannually for each caller number or separation used. A separate basic fee must be paid for each facility where Accelerated Reply Mail (origin caller service) is provided.

Category	Post Office	ZIP Codes
1A	New York, NY	10001-10299
1B	Staten Island, NY	10301-10399
	Boston, MA	02113, 02115, 02128, 02134-02135, 02139-02140, 02142, 02146, 02158-02162, 02164-02168, 02178-02179, 02181, 02205, 02214-02216, 02218, 02238
	Long Island City, NY	11101-11199
	Brooklyn, NY	11201-11299
	Queens (Flushing), NY	11301-11399
	Queens (Jamaica), NY	11401-11499
	Queens (Far Rockaway), NY	11601-11699
	Philadelphia, PA	19101-19104, 19107
	Washington, DC	20004-20009, 20013, 20026, 20036-20037, 20050
	Bethesda, MD	20813, 20824-20825, 20827
	Arlington, VA	22202, 22209-22210, 22216
	McLean, VA	22103
	Chicago, IL	60606, 60610-60611, 60654, 60664, 60680-60681, 60684, 60690
	Los Angeles, CA	90019, 90024-90025, 90034-90035, 90048-90049, 90064, 90067, 90069
	Beverly Hills, CA	90210-90212
	Santa Monica, CA	90401-90405
	San Francisco, CA	94101, 94107-94108, 94126, 94133, 94147, 94159, 94164
	Honolulu, HI	96801-96815, 96830
1C	**Post Office Box Service:** All post offices that have city delivery by postal carrier and are not listed in Group 1A or 1B. **Caller Service:** All post offices not listed in Group 1A or 1B.	

Exhibit 951.222, Post Office Box Service

b. Fee Categories. Caller service fees are divided into three categories as listed Exhibit 951.222. Customers must pay the category of fee that corresponds to the post office where caller service is used.

c. Fee

Category	Fee
1A	$225.00
1B	215.00
1C	202.50

Redesignate existing 952.222b and 952.222c as 952.222d and 952.222e, respectively.

Statement of Mailing Second-Class Special and Classroom Rates

UNITED STATES POSTAL SERVICE

CHECK AS APPLICABLE
- ☐ Special Rate
- ☐ Classroom Rate
- ☐ Incidental First-Class Enclosed

*Requester publications, and all commingled nonsubscriber copies in excess of the 10% allowance, must claim regular rates and use Form 3541-R. Noncommingled nonsubscriber copies in excess of the 10% allowance are not mailable at Second-Class rates.

Name of Publication or News Agent	Publication No.	Edition Code/Key	Date of Issue	Frequency of Issue
Post Office (PO) and State of Mailing	PO ZIP + 4	PO Finance Number	Date of Mailing	Sequenced Statement No. (Required)

Complete ONE of the Boxes Below

Complete this section if this statement is for ONE ISSUE or EDITION.

Average Weight per Copy for the Issue (DMM 463.34)
____ . ____ lbs.
(Round off to 6 decimal places if necessary)

Percent of Advertising in This Issue %

Post Office Computed Average of Combined Weight per Copy
____ . ____ lbs.
(Round off to 6 decimal places if necessary)

Complete this section when this statement is for ALL ISSUES of a calendar month. Enter total pounds either in items 1 through 9, or in item 11, as appropriate, and in item 12. To compute per-piece charges, multiply the number of addressed pieces per issue by the number of issues and put the result in items 16 through 27 as appropriate.

Number of Issues This Month	Percent of Adv. in Total Month's Issue %
Weight of One Sheet (DMM 463.34)	____ . ____ lbs. (Round off to 6 decimal places if necessary)
Combined Weight of One Copy from Each Issue	____ . ____ lbs. (Round off to 6 decimal places if necessary)

Pound Rate (per lb. or fraction)

Zone	*Subscriber Copies	*Non-subscriber Copies	Total Copies	Total Pounds	Advertising Pounds	Rate	Postage	Totals
1. Del. Unit						$.120		
2. SCF						.123		
3. 1 & 2						.141		
4. 3						.151		
5. 4						.177		
6. 5						.217		
7. 6						.258		
8. 7						.308		
9. 8						.350		
10. Subtotals								
11. KEY RATE Computation (if used, do not complete items 1-9; see DMM 463.4) Total Adv. Lbs. _____ × Key Rate _____ =								
12. Nonadvertising Pounds (Total lbs. − Adv. lbs.) _____ × 106 =								
Lines 14 and 15 are reserved. Total Pound Rate Postage (1-12) →								13.

Piece Rate (per addressed piece)

Level	Description		Number of Copies	Number Qualified Addressed Pieces	Rate	Postage
16. 17 G 18.	Pcs. packaged and sacked under DMM 441	Not ZIP + 4/ZIP + 4 Barcoded			.169	
		ZIP + 4			.162	
		ZIP + 4 Barcoded			.152	
19. 20. H3 21.	Pcs. packaged and sacked under DMM 443	Not ZIP + 4/ZIP + 4 Barcoded			.126	
		ZIP + 4			.122	
		ZIP + 4 Barcoded			.116	
22. 23. H5 24.	Pcs. in 5D pkgs. placed in 5D city, & unique 3D sacks (DMM 443)	Not ZIP + 4/ZIP + 4 Barcoded			.126	
		ZIP + 4			.122	
		ZIP + 4 Barcoded			.109	
25. I1	Pcs. packaged and sacked under DMM 444	Carrier Route			.088	
26. I2		125-pc. W/S			.088	
27. I3		Saturation W/S			.081	
28. Subtotals						+
29. Nonadv. Percentage (100 − Adv. %) _____ × $0.00035 × No. Qual. Pcs. (Line 28) =						
30. No. of Addr. Pcs. (*not* copies) entered at Del. Unit zone rate _____ × $0.005 =						
31. No. of Addr. Pcs. (*not* copies) entered at SCF zone rate _____ × $0.003 =						
32. Total Piece Rate Discount (29+30+31) →						−
Total Piece Rate Postage (28-32) →						33.
Total Postage − side 1 (13 + 33) − Carry to side 2, line 35 →						34.

PS Form 3541-N, January, 1991

Go to Reverse of This Form

In-County and Foreign Rates

*Requester publications, and all commingled nonsubscriber copies in excess of the 10% limit are not eligible for in-county rates.

Total Postage From Side One (Line 34) → 35.

*In-County

		*Subscriber Copies	*Nonsubscriber Copies	Total Copies	Total Pounds	Rate	Postage
Pound Rate	36. Delivery Unit Entry					$0.106	
	37. All Other Entry					$0.116	

Total In-County Pound Rate Postage → 38.

Piece Rate (In Addition to the Pound Rate)

Level	Description		Number of Copies	No. of Qualifying Addressed Pieces	Rate	Postage
J1	Pcs. Packaged and sacked under DMM 441	39. Not ZIP + 4 or ZIP + 4 Barcoded			$.077	
		40. ZIP + 4			.077	
		41. ZIP + 4 Barcoded			.077	
J3	Pcs. in city or unique 3D pkgs. placed in city or unique 3D sacks (DMM 441)	42. Not ZIP + 4 or ZIP + 4 Barcoded			.077	
		43. ZIP + 4			.073	
		44. ZIP + 4 Barcoded			.073	
J5	Pcs. in 5D pkgs. placed in 5D, city, & unique 3D sacks (DMM 441)	45. Not ZIP + 4 or ZIP + 4 Barcoded			.077	
		46. ZIP + 4			.073	
		47. ZIP + 4 Barcoded			.060	
K1	Pcs. packaged and sacked under DMM 444	48. Carrier Route			.040	
K2		49. 125-pc. W/S			.035	
K3		50. Saturation W/S			.033	
51. Subtotal (lines 39-50)						+
52. Number of Addressed Pieces (*not* copies) entered at Delivery Unit zone rate _____				× $0.003 =		−

Total In-County Piece Rate Postage → 53.

Foreign (IMM 242.2)

54. Weight per Copy (Canada) (Include all wrappings) _____ . _____ lbs. (Round off to 6 decimal places if necessary)

55. Weight per Copy (Other Countries) (Include all wrappings) _____ . _____ lbs. (Round off to 6 decimal places if necessary)

Rate Category	Subscriber/ Requester Copies	Nonsubscriber/ Nonrequester Copies	Total Copies	Rate	Postage
56. Canada					
57. Other Countries					

Total Foreign Postage → 58.

59. Additional Postage for commingled Nonsubscriber Nonrequester Copies in excess of the 10% limit (Compute on side 1 of a separate 3541-R, carry forward to this entry the figure on line 34 of that form, attach that form to this form.)

Sequence number of attached form _____

Total Copies	Total Pounds	Postage	
		→	60.

Total Postage (Add items 35, 38, 53, 58 and 60) → 61.

The submission of a false, fictitious, or fradulent statement may result in imprisonment of up to 5 years and a fine of up to $10,000. (18 USC 1001).

In addition, a civil penalty of up to $5,000 and an additional assessment of twice the amount falsely claimed may be imposed (31 USC 3802).

I hereby certify that all information furnished on this form is accurate and truthful, and that this material presented qualifies for the rates postage claimed.

62a. Name (Printed), Telephone Number, and Signature of Mailer	62b. Printed Name and Telephone No. of Publisher (If not same as mailer)	63. Computed by USPS (Signature Required)	64. Date (USPS Round Stamp)

PS Form 3541-N, January 1991. *(Reverse)*

Statement of Mailing Second-Class Regular & Science of Agriculture Rates

UNITED STATES POSTAL SERVICE

CHECK APPLICABLE
- Regular Rate Requester
- Sci. of Agr. Rate
- Incidental First Class Enclosed

*Regular publications, and all commingled nonsubscriber copies in excess of the 10% allowance, must claim only regular rates. Noncommingled nonsubscriber/nonrequester copies in excess of the 10% allowance are not mailable at Second-Class rates.

Name of Publication or News Agent	Publication No.	Edition Code/Key	Date of Issue	Frequency of Issue
Post Office (PO) and State of Mailing	**PO ZIP + 4**	**PO Finance Number**	**Date of Mailing**	**Sequenced Statement No. (Required)**

Complete ONE of the Boxes Below

Complete this section if this statement is for ONE ISSUE or EDITION.

Average Weight per Copy for the Issue (DMM 463.34)

____ . ____ lbs.
(Round off to 6 decimal places if necessary)

Percent of Advertising in This Issue ____ %

Post Office Computed Average of Combined Weight per Copy

____ . ____ lbs.
(Round off to 6 decimal places if necessary)

Complete this section when this statement is for ALL ISSUES of a calendar month. Enter total pounds either in items 1 through 9, or in item 11, as appropriate, and in item 12. To compute per-piece charges, multiply the number of addressed pieces per issue by the number of issues and put the result in items 16 through 27 as appropriate.

Number of Issues This Month	Percent of Adv. in Total Month's Issue %
Weight of One Sheet (DMM 463.34)	____ . ____ lbs. (Round off to 6 decimal places if necessary)
Combined Weight of One Copy from Each Issue	____ . ____ lbs. (Round off to 6 decimal places if necessary)

Pound Rate (per lb. or fraction)

	Zone	Subscriber/ Requester Copies	Non-Sub./Non-Req. Copies w/i 10% Limit	Non-Sub./Non-Req. Copies Over 10% Com.	Total Copies	Total Pounds	Advertising Pounds	Rate Regular	Rate Sci./Ag.	Postage	Totals
1.	Del. Unit							$.168	$.120		
2.	SCF							178	123		
3.	1 & 2							196	141		
4.	3							.204			
5.	4							.224			
6.	5							.258			
7.	6							.292			
8.	7							.332			
9.	8							.367			
10.	Subtotals										

11. KEY RATE Computation (if used, do not complete items 1-9; see DMM 463.4) Total Adv. Lbs. ____ × Key Rate ____ =

12. Nonadvertising Pounds (Total lbs. − Adv. lbs.) ____ × .147 =

Lines 14 and 15 are reserved.

Total Pound Rate Postage (1-12) → 13.

Piece Rate (per addressed piece)

	Level	Description		Number of Copies	Number Qualified Addressed Pieces	Rate	Postage
16.	*A	Pcs. packaged and sacked under DMM 441	Not ZIP + 4/ZIP + 4 Barcoded			.201	
17.			ZIP + 4			.192	
18.			ZIP + 4 Barcoded			.182	
19.	B3	Pcs. packaged and sacked under DMM 443	Not ZIP + 4/ZIP + 4 Barcoded			.158	
20.			ZIP + 4			.154	
21.			ZIP + 4 Barcoded			.147	
22.	B5	Pcs. in 5D pkgs. placed in 5D city, & unique 3D sacks (DMM 443)	Not ZIP + 4/ZIP + 4 Barcoded			.158	
23.			ZIP + 4			.154	
24.			ZIP + 4 Barcoded			.139	
25	C1	Pcs. packaged and sacked under DMM 444	Carrier Route			.119	
26.	C2		125-pc. W/S			.114	
27.	C3		Saturation W/S			.104	
28.	Subtotals						+

29. Nonadv. Percentage (100 − Adv. %) ____ × $0.0005 × No. of Qual. Pcs. (line 28) ____ =

30. No. of Addr. Pcs. (*not* copies) entered at Del. Unit zone rate ____ × $0.014 =

31. No. of Addr. Pcs. (*not* copies) entered at SCF zone rate ____ × $0.009 =

32. Total Piece Rate Discount (29+30+31) → −

Total Piece Rate Postage (28-32) → 33.

Total Postage − side 1 (13 + 33) − Carry to side 2, line 35 → 34.

PS Form **3541-R**, January, 1991

Go to Reverse of This Form

In-County and Foreign Rates

*Requester publications, and all commingled nonsubscriber copies in excess of the 10% limit are not eligible for in-county rates.

Total Postage From Side One (Line 34) → 35.

*In-County

		*Subscriber Copies	*Nonsubscriber Copies	Total Copies	Total Pounds	Rate	Postage
Pound Rate	36. Delivery Unit Entry					$0.106	
	37 All Other Entry					$0.116	

Total In-County Pound Rate Postage → 38.

Piece Rate (In Addition to the Pound Rate)	Level	Description		Number of Copies	No. of Qualifying Addressed Pieces	Rate	Postage
	J1	Pcs. Packaged and sacked under DMM 441	39. Not ZIP + 4 or ZIP + 4 Barcoded			$.077	
			40. ZIP + 4			.077	
			41. ZIP + 4 Barcoded			.077	
	J3	Pcs. in city or unique 3D pkgs. placed in city or unique 3D sacks (DMM 441)	42. Not ZIP + 4 or ZIP + 4 Barcoded			.077	
			43. ZIP + 4			073	
			44. ZIP + 4 Barcoded			.073	
	J5	Pcs. in 5D pkgs. placed in 5D, city, & unique 3D sacks (DMM 441)	45. Not ZIP + 4 or ZIP + 4 Barcoded			.077	
			46. ZIP + 4			.073	
			47. ZIP + 4 Barcoded			.060	
	K1	Pcs. packaged and sacked under DMM 444	48. Carrier Route			.040	
	K2		49. 125-pc. W/S			.035	
	K3		50. Saturation W/S			033	
	51. Subtotal (lines 39-50)						+
	52. Number of Addressed Pieces (*not* copies) entered at Delivery Unit Zone rate _____ × $0.003 =						−

Total In-County Piece Rate Postage → 53.

Foreign (IMM 242.2)

54. Weight per Copy (Canada) (Include all wrappings) _____ . _____ lbs. (Round off to 6 decimal places if necessary)

55. Weight per Copy (Other Countries) (Include all wrappings) _____ . _____ lbs. (Round off to 6 decimal places if necessary)

Rate Category	Subscriber/ Requester Copies	Nonsubscriber/ Nonrequester Copies	Total Copies	Rate	Postage
56. Canada					
57. Other Countries					

Total Foreign Postage → 58.

59. Additional Postage for commingled nonsubscriber copies in excess of the 10% limit (Compute on side 1 of a separate 3541-R; carry forward to this entry the figure on line 34 of that form; attach that form to this form.)

Sequence number of attached form _____

Total Copies	Total Pounds	Postage
		→ 60.

Total Postage (Add items 35, 38, 53, 58 and 60) → 61.

The submission of a false, fictitious, or fradulent statement may result in imprisonment of up to 5 years and a fine of up to $10,000. (18 USC 1001).

In addition, a civil penalty of up to $5,000 and an additional assessment of twice the amount falsely claimed may be imposed (31 USC 3802).

I hereby certify that all information furnished on this form is accurate and truthful, and that this material presented qualifies for the rates postage claimed.

62a. Name (Printed), Telephone Number, and Signature of Mailer	62b. Printed Name and Telephone No. of Publisher (If not same as mailer)	63. Computed by USPS (Signature Required)	64. Date (USPS Round Stamp)

PS Form **3541-R**, January 1991, *(Reverse)*

UNITED STATES POSTAL SERVICE

Statement of Mailing with Meter or Precanceled Postage Affixed First-Class Mail (For Priority Mail Use Form 3605-PC)

Method of Payment
☐ Meter Postage
☐ Precanceled Stamp

MAILER: Complete all items by typewriter, pen, or indelible pencil. Use Form 3606 if you need a receipt.

Mailer's Information

Post Office of Mailing		Date	Processing Category (DMM 128) ☐ Letters ☐ Flats ☐ Irregular Parcels
Permit No.		Mailing Statement Seq. No.	
Permit Holder's Name & Address (Include ZIP Code)	Telephone Number	Receipt No.	
		No. Sacks / No. Trays	No. Pallets / No. Other
		Weight of a Single Piece ___ . ___ ___ ___ ___ pounds	
		Total Pieces in Mailing	Total Weight of Mailing
Name & Address of Individual or Organization for Which Mailing is Prepared (If other than the permit holder)		Name and Address of Mailing Agent (If other than the permit holder)	Check All That Apply (USPS Only) ☐ Centralized Postage Payment ☐ Plant Loaded to ☐ DMM 144.8 Drop Shipment to ☐ Entered at ☐ Orig. ☐ Dest. A/O ZIP ___ ☐ Orig. ☐ Dest. SCF 3D ZIP ___ ☐ Orig. ☐ Dest. ADC ___

USPS Authorized Mailing ID Code(s)

Postage Computation

- For mailings of automation-compatible letter-size pieces (DMM 520), other than cards, go to Part A on the reverse of this form.
- For mailings of non-automation-compatible letter-size pieces (DMM 128), other than cards, weighing .6875 pound (11 ounces) or less, go to Part B on the reverse of this form.
- For mailings of non letter-size pieces (DMM 128) other than cards weighing .6875 pound (11 ounces) or less, go to Part C on the reverse of this form.
- For mailings of postal cards and postcards (DMM 128), go to Part D on the reverse of this form.

Postage (From Reverse Side) ▶

Part A	$
Part B	$
Part C	$
Part D	$

Additional Postage Payment (State reasons for Additional Postage)	No. Pieces	Rate/Piece $. ___ = $
Postage Affixed at (Check one) (DMM 382.4) ☐ Correct Rate ☐ Lowest Rate (Affix balance to this form) ☐ Neither	**Total Postage** ⟶	$

Certification

The signature of a mailer or its agent certifies that it will be liable for and agrees to pay, subject to appeals prescribed by postal laws and regulations, any revenue deficiencies assessed on this mailing. If this form is signed by an agent, the agent certifies that it is authorized to sign this statement, that the certification binds the agent and the mailer and both the mailer and the agent will be liable for and agree to pay any deficiences.)

The submission of a false, fictitious or fraudulent statement may result in imprisonment of up to 5 years and a fine of up to $10,000 (18 USC 1001). In addition, a civil penalty of up to $5,000 and an additional assessment of twice the amount falsely claimed may be imposed (31 USC 3802).

I hereby certify that all information furnished on this form is accurate and truthful, and that this material presented qualifies for the rates of postage claimed.

Signature of Permit Holder or Agent (Both principal and agent are liable for any postage deficiency incurred)	Telephone Number

USPS Use Only

Single Piece Weight ___ . ___ ___ ___ ___ pounds	Are the figures at left adjusted from mailer's entries? ☐ Yes ☐ No If "Yes" Reason		
Check One ☐ Verif. Not Scheduled ☐ Presort Verification Performed as Scheduled	Date Mailer Notified	Contact	By (Initials)
I CERTIFY that this mailing has been inspected concerning: 1) eligibility for the rate of postage claimed; 2) proper preparation (and presort where required); 3) proper completion of the statement of mailing; and 4) payment of the required annual fee.			Round Stamp (Required)
Signature of Weigher		Time AM PM	

PS Form **3600-PC**, January 1991

Financial Document – Forward to Finance Office

Form 3600-PC — First-Class Other than Priority Mail — Postage Affixed

Postage Computation

Automation-Compatible Letter (DMM 520)

Presort/ Automation Discounts	Net Rate	Count (Pcs)	Charge
ZIP + 4 Barcoded (5-Digit)	_____	× _____ pcs.	= $ _____
ZIP + 4 Barcoded (3-Digit)	_____	× _____ pcs.	= $ _____
ZIP + 4 Presort	_____	× _____ pcs.	= $ _____
ZIP + 4 (Nonpresorted)	_____	× _____ pcs.	= $ _____
Carrier Route	_____	× _____ pcs.	= $ _____
Presorted First-Class	_____	× _____ pcs.	= $ _____
Single-Piece Rate	_____	× _____ pcs.	= $ _____

Non-Automation-Compatible Letter .6875 lb. (11 oz.) or less

Presort/ Automation Discounts	Net Rate	Count (Pcs)	Charge
Carrier Route	_____	× _____ pcs.	= $ _____
Presorted First-Class	_____	× _____ pcs.	= $ _____
Single-Piece Rate	_____	× _____ pcs.	= $ _____
Nonstandard Surcharge (If Applicable) Presorted and Carrier Route	.05	× _____ pcs.	= $ _____
Single-Piece Rate	.10	× _____ pcs.	= $ _____

Total – Part A (Carry to front of form) $ _____

Total – Part B (Carry to front of form) $ _____

Nonletter – .6875 lb. (11 oz.) or Less

Carrier Route	_____	× _____ pcs.	= $ _____
Presorted First-Class	_____	× _____ pcs.	= $ _____
Single-Piece Rate	_____	× _____ pcs.	= $ _____
Nonstandard Surcharge (If Applicable) Presorted and Carrier Route	.05	× _____ pcs.	= $ _____
Single-Piece Rate	.10	× _____ pcs.	= $ _____

Postal Cards and Post Cards

ZIP + 4 Barcoded (5-Digit)	.155	× _____ pcs.	= $ _____
ZIP + 4 Barcoded (3-Digit)	.161	× _____ pcs.	= $ _____
ZIP + 4 Barcoded (Nonpresorted)	.177	× _____ pcs.	= $ _____
ZIP + 4 Presort	.184	× _____ pcs.	= $ _____
ZIP + 4 (Nonpresorted)	.180	× _____ pcs.	= $ _____
Carrier Route	.152	× _____ pcs.	= $ _____
Presorted First-Class	.170	× _____ pcs.	= $ _____
Single-Piece Rate	.190	× _____ pcs.	= $ _____

Total – Part C (Carry to front of form) $ _____

Total – Part D (Carry to front of form) $ _____

PS Form **3600-PC**, January 1991 *(Reverse)*

Statement of Mailing with Permit Imprints
First-Class Mail (For Priority Mail Use Form 3605-R)

MAILER: Complete all items by typewriter, pen, or indelible pencil. Prepare in duplicate if you need a receipt.

Mailer's Information

Post Office of Mailing		Date	Processing Category (DMM 128) ☐ Letters ☐ Flats ☐ Irregular Parcels	USPS Authorized Mailing ID Code(s)
Permit No.	Federal Agency Cost Code	Mailing Statement Seq. No.		
Permit Holder's Name & Address (Include ZIP Code)	Telephone Number	Receipt No.		
		No. Sacks / No. Trays	No. Pallets / No. Other	
		Weight of a Single Piece ___ . ___ ___ ___ ___ pounds		
		Total Pieces in Mailing	Total Weight of Mailing	
Name & Address of Individual or Organization for Which Mailing is Prepared (If other than the permit holder)		Name and Address of Mailing Agent (If other than the permit holder)		Check All That Apply (USPS Only) ☐ Centralized Postage Payment ☐ Plant Loaded to ☐ Entered at ☐ Orig. ☐ Dest. A/O ZIP ☐ Orig. ☐ Dest. SCF 3D ZIP ☐ Orig. ☐ Dest. ADC

Postage Computation

- For mailings of automation-compatible letter-size pieces (DMM 520), other than cards, go to Part A on the reverse of this form.
- For mailings of non-automation-compatible letter-size pieces (DMM 128), other than cards, weighing .6875 pound (11 ounces) or less, go to Part B on the reverse of this form.
- For mailings of non letter-size pieces (DMM 128) other than cards weighing .6875 pound (11 ounces) or less, go to Part C on the reverse of this form.
- For mailings of postal cards and postcards (DMM 322), go to Part D on the reverse of this form.

Postage (From Reverse Side) ►

Part A	$
Part B	$
Part C	$
Part D	$

Additional Postage Payment (State reasons for Additional Postage)	No. Pieces	Rate/Piece $. ___ = $
Total Postage ⟶		$

Certification

The signature of a mailer or its agent certifies that it will be liable for and agrees to pay, subject to appeals prescribed by postal laws and regulations, any revenue deficiencies assessed on this mailing. If this form is signed by an agent, the agent certifies that it is authorized to sign this statement, that the certification binds the agent and the mailer and both the mailer and the agent will be liable for and agree to pay any deficiencies.)

The submission of a false, fictitious or fraudulent statement may result in imprisonment of up to 5 years and a fine of up to $10,000 (18 USC 1001). In addition, a civil penalty of up to $5,000 and an additional assessment of twice the amount falsely claimed may be imposed (31 USC 3802).

I hereby certify that all information furnished on this form is accurate and truthful, and that this material presented qualifies for the rates of postage claimed.

Signature of Permit Holder or Agent (Both principal and agent are liable for any postage deficiency incurred)	Telephone Number

USPS Use Only

Single Piece Weight ___ . ___ ___ ___ ___ pounds		Are the figures at left adjusted from mailer's entries? ☐ Yes ☐ No If "Yes" Reason		
Total Pieces	Total Weight			
Total Postage				
Check One ☐ Verif. Not Scheduled ☐ Presort Verification Performed as Scheduled		Date Mailer Notified	Contact	By (Initials)
I CERTIFY that this mailing has been inspected concerning: 1) eligibility for the rate of postage claimed; 2) proper preparation (and presort where required); 3) proper completion of the statement of mailing; and 4) payment of the required annual fee.				Round Stamp (Required)
Signature of Weigher		Time AM PM		

PS Form **3600-R**, January 1991 — **Financial Document - Forward to Finance Office**

Form 3600-R — First-Class Other than Priority Mail — Permit Imprint

Postage Computation

Presort/ Automation Discounts	Net Rate	Count (Pcs)	Charge
Automation-Compatible Letter (DMM 520)			
ZIP + 4 Barcoded (5-Digit)	_____	x _____ pcs.	= $ _____
ZIP + 4 Barcoded (3-Digit)	_____	x _____ pcs.	= $ _____
ZIP + 4 Presort	_____	x _____ pcs.	= $ _____
ZIP + 4 (Nonpresorted)	_____	x _____ pcs.	= $ _____
Carrier Route	_____	x _____ pcs.	= $ _____
Presorted First-Class	_____	x _____ pcs.	= $ _____
Single-Piece Rate	_____	x _____ pcs.	= $ _____
Total – Part A (Carry to front of form)			$ _____

Presort/ Automation Discounts	Net Rate	Count (Pcs)	Charge
Non-Automation-Compatible Letter .6875 lb. (11 oz.) or Less			
Carrier Route	_____	x _____ pcs.	= $ _____
Presorted First-Class	_____	x _____ pcs.	= $ _____
Single-Piece Rate	_____	x _____ pcs.	= $ _____
Nonstandard Surcharge (If Applicable) Presorted and Carrier Route	.05	x _____ pcs.	= $ _____
Single-Piece Rate	.10	x _____ pcs.	= $ _____
Total – Part B (Carry to front of form)			$ _____

Presort/ Automation Discounts	Net Rate	Count (Pcs)	Charge
Nonletter – .6875 lb. (11 oz.) or Less			
Carrier Route	_____	x _____ pcs.	= $ _____
Presorted First-Class	_____	x _____ pcs.	= $ _____
Single-Piece Rate	_____	x _____ pcs.	= $ _____
Nonstandard Surcharge (If Applicable) Presorted and Carrier Route	.05	x _____ pcs.	= $ _____
Single Piece Rate	.05	x _____ pcs.	= $ _____
Total – Part C (Carry to front of form)			$ _____

Presort/ Automation Discounts	Net Rate	Count (Pcs)	Charge
Postal Cards and Post Cards			
ZIP + 4 Barcoded (5-Digit)	.155	x _____ pcs.	= $ _____
ZIP + 4 Barcoded (3-Digit)	.161	x _____ pcs.	= $ _____
ZIP + 4 Barcoded (Nonpresorted)	.177	x _____ pcs.	= $ _____
ZIP + 4 Presort	.164	x _____ pcs.	= $ _____
ZIP + 4 (Nonpresorted)	.180	x _____ pcs.	= $ _____
Carrier Route	.162	x _____ pcs.	= $ _____
Presorted First-Class	.170	x _____ pcs.	= $ _____
Single-Piece Rate	.190	x _____ pcs.	= $ _____
Total – Part D (Carry to front of form)			$ _____

PS Form **3600-R**, January 1991 *(Reverse)*

UNITED STATES POSTAL SERVICE

Statement of Mailing with Permit Imprints
Third-Class Mail (Nonprofit Rates Only)

MAILER: Complete all items by typewriter, pen, or indelible pencil. Prepare in duplicate if you need a receipt.

Mailer's Information

Post Office of Mailing		Date	Processing Category (DMM 128) ☐ Letters ☐ Flats ☐ Machinable Parcels ☐ Irregular Parcels ☐ Outside Parcels
Permit No.		Mailing Statement Seq. No.	
Permit Holder's Name & Address (Include ZIP Code)	Telephone Number	Receipt No.	
		No. Sacks / No. Trays	No. Pallets / No. Other
		Weight of a Single Piece ___ . ___ ___ ___ ___ pounds	
Authorized to use nonprofit rates? (DMM 625)* ☐ Yes ☐ No		Total Pieces in Mailing	Total Weight of Mailing
Name & Address of Individual or Organization for Which Mailing is Prepared (If other than the permit holder)		Name and Address of Mailing Agent* (If other than the permit holder)	Sacking Based on ☐ 125 pcs. ☐ 15 lbs. ☐ Both (DMM 641)
Authorized to use nonprofit rates? (DMM 625)* ☐ Yes ☐ No			Check All That Apply (USPS Only) ☐ Centralized Postage Payment ☐ Plant Loaded to ☐ Plant Verified Drop Shipment to ☐ Entered at ☐ Orig. ☐ Dest. A/O ZIP ☐ Orig. ☐ Dest. SCF 3D ZIP ☐ Orig. ☐ Dest. BMC

Postage Computation

- For bulk mailings of **automation-compatible letter-size** pieces (see DMM 520), go to **Part A** on the reverse of this form.
- For bulk mailings of **non-automation compatible letter-size** pieces (see DMM 128) weighing **.2082 lb. (3.3314 oz.) or less**, go to **Part B** on the reverse of this form.
- For bulk mailings of **non letter-size** pieces (see DMM 128) weighing **.2082 lb. (3.3314 oz.) or less**, go to **Part C** on the reverse of this form.
- For bulk mailings of **all** pieces (see DMM 128) weighing **more than .2082 lb. (3.3314 oz.) but less than 1.0 lb. (16.0 oz.)**, go to **Part D** on the reverse of this form.

Postage (From Reverse Side) ▶

Part A	$
Part B	$
Part C	$
Part D	$

Single Piece Rate ☐ or Additional Postage Payment (State reasons for Additional Postage)	No. Pieces	Rate/Piece $. ___ = $
Is applicable bulk per piece rate affixed to each piece? (Form 3602-PC required) ☐ Yes ☐ No	**Total Postage** ⟶	$

Certification

*The signature of a mailer certifies that: (1) the mailing does not violate DMM 625; (2) only the mailer's matter is being mailed; (3) this is not a cooperative mailing with other persons or organizations that are not authorized to mail at special bulk third-class rates at this office; (4) this mailing has not been undertaken by the mailer on behalf of or produced for another person or organization not authorized to mail at special bulk third-class rates at this office; and (5) it will be liable for and agrees to pay, subject to appeals prescribed by postal laws and regulations, any revenue deficiencies assessed on this mailing, whether due to a finding that the mailing is cooperative or for other reasons. (If this form is signed by an agent, the agent certifies that it is authorized to sign this statement, that the certification binds the agent and the nonprofit mailer, and that both the nonprofit mailer and the agent will be liable for and agree to pay any deficiencies.)

The submission of a false, fictitious or fraudulent statement may result in imprisonment of up to 5 years and a fine of up to $10,000 (18 USC 1001). In addition, a civil penalty of up to $5,000 and an additional assessment of twice the amount falsely claimed may be imposed (31 USC 3802).

I hereby certify that all information furnished on this form is accurate and truthful, and that this material presented qualifies for the rates of postage claimed.

Signature of Permit Holder or Agent (Both principal and agent are liable for any postage deficiency incurred)	Telephone Number

USPS Use Only

Single Piece Weight ___ . ___ ___ ___ ___ pounds		Are the figures at left adjusted from mailer's entries? ☐ Yes ☐ No If "Yes" Reason	
Total Pieces	Total Weight		
Total Postage			
Check One ☐ Verif. Not Scheduled ☐ Presort Verification Performed as Scheduled		Date Mailer Notified	Contact / By (Initials)
I CERTIFY that this mailing has been inspected concerning: 1) eligibility for the rate of postage claimed; 2) proper preparation (and presort where required); 3) proper completion of the statement of mailing; and (4) payment of the required annual fee.			Round Stamp (Required)
Signature of Weigher		Time AM PM	

PS Form **3602-N**, January 1991 — **Financial Document – Forward to Finance Office**

Form 3602-N — Third-Class Nonprofit Rate — Permit Imprint

Postage Computation — Bulk Rates

Entry Discount (If Any)	Presort/ Automation Discounts	Net Rate	Count (Pcs/Lbs)	Charge
Automation-Compatible Letter (DMM 520)				
None	Saturation W/S	.071	____ pcs.	$ ____
	Carrier Route	.074	____ pcs.	$ ____
	5-Digit Barcoded	.081	____ pcs.	$ ____
	3-Digit Barcoded	.088	____ pcs.	$ ____
	3/5-Digit ZIP + 4	.094	____ pcs.	$ ____
	3/5-Digit Presort	.098	____ pcs.	$ ____
	Basic Barcoded	.094	____ pcs.	$ ____
	Basic ZIP + 4	104	____ pcs.	$ ____
	Basic	111	____ pcs.	$ ____
BMC Entry	Saturation W/S	.059	____ pcs.	$ ____
	Carrier Route	.062	____ pcs.	$ ____
	5-Digit Barcoded	.069	____ pcs.	$ ____
	3-Digit Barcoded	.076	____ pcs.	$ ____
	3/5-Digit ZIP + 4	.082	____ pcs.	$ ____
	3/5-Digit Presort	.086	____ pcs.	$ ____
	Basic Barcoded	.082	____ pcs.	$ ____
	Basic ZIP + 4	.092	____ pcs.	$ ____
	Basic	.099	____ pcs.	$ ____
SCF Entry	Saturation W/S	.054	____ pcs.	$ ____
	Carrier Route	.057	____ pcs.	$ ____
	5-Digit Barcoded	.064	____ pcs.	$ ____
	3-Digit Barcoded	.071	____ pcs.	$ ____
	3/5-Digit ZIP + 4	.077	____ pcs.	$ ____
	3/5-Digit Presort	.081	____ pcs.	$ ____
	Basic Barcoded	.077	____ pcs.	$ ____
	Basic ZIP + 4	.087	____ pcs.	$ ____
	Basic	.094	____ pcs.	$ ____
DDU Entry	Saturation W/S	.049	____ pcs.	$ ____
	Carrier Route	.052	____ pcs.	$ ____
Total – Part A (Carry to front of form)				$ ____

Entry Discount (If Any)	Presort/ Automation Discounts	Net Rate	Count (Pcs/Lbs)	Charge
Non-Automation Compatible Letter .2082 lb. (3.3314 oz.) or less				
None	Saturation W/S	.071	____ pcs.	$ ____
	Carrier Route	.074	____ pcs.	$ ____
	3/5-Digit Presort	.098	____ pcs.	$ ____
	Basic	111	____ pcs.	$ ____
BMC Entry	Saturation W/S	.069	____ pcs.	$ ____
	Carrier Route	.062	____ pcs.	$ ____
	3/5-Digit Presort	.086	____ pcs.	$ ____
	Basic	.099	____ pcs.	$ ____
SCF Entry	Saturation W/S	.054	____ pcs.	$ ____
	Carrier Route	.057	____ pcs.	$ ____
	3/5 Digit Presort	.081	____ pcs.	$ ____
	Basic	.094	____ pcs.	$ ____
DDU Entry	Saturation W/S	.049	____ pcs.	$ ____
	Carrier Route	.062	____ pcs.	$ ____
Total – Part B (Carry to front of form)				$ ____
Nonletter – .2082 lb. (3.3314 oz.) or Less				
None	Saturation W/S	.073	____ pcs.	$ ____
	Carrier Route	.080	____ pcs.	$ ____
	3/5-Digit Presort	111	____ pcs.	$ ____
	Basic	126	____ pcs.	$ ____
BMC Entry	Saturation W/S	.061	____ pcs.	$ ____
	Carrier Route	.068	____ pcs.	$ ____
	3/6-Digit Presort	.099	____ pcs.	$ ____
	Basic	113	____ pcs.	$ ____
SCF Entry	Saturation W/S	.056	____ pcs.	$ ____
	Carrier Route	.063	____ pcs.	$ ____
	3/5-Digit Presort	.094	____ pcs.	$ ____
	Basic	108	____ pcs.	$ ____
DDU Entry	Saturation W/S	.061	____ pcs.	$ ____
	Carrier Route	.058	____ pcs.	$ ____
Total – Part C (Carry to front of form)				$ ____

Entry Discount (If Any)	Presort/ Automation Discounts	Net Rate	Count (Pcs/Lbs)	Charge
All Mail – More than .2082 lb. (3.3314 oz.) But less than 1.0 lb. (16.0 oz.)				
None	Saturation W/S	.002	____ pcs.	$ ____
	plus	.341	____ lbs.	$ ____
	Carrier Route	.009	____ pcs.	$ ____
	plus	.341	____ lbs.	$ ____
	3/5-Digit Presort	.040	____ pcs.	$ ____
	plus	.341	____ lbs.	$ ____
	Basic	.054	____ pcs.	$ ____
	plus	.341	____ lbs.	$ ____
BMC Entry	Saturation W/S	.002	____ pcs.	$ ____
	plus	.283	____ lbs.	$ ____
	Carrier Route	.009	____ pcs.	$ ____
	plus	.283	____ lbs.	$ ____
	3/5-Digit Presort	.040	____ pcs.	$ ____
	plus	.283	____ lbs.	$ ____
	Basic	.054	____ pcs.	$ ____
	plus	.283	____ lbs.	$ ____
SCF Entry	Saturation W/S	.002	____ pcs.	$ ____
	plus	.260	____ lbs.	$ ____
	Carrier Route	.009	____ pcs.	$ ____
	plus	.260	____ lbs.	$ ____
	3/5-Digit Presort	.040	____ pcs.	$ ____
	plus	.260	____ lbs.	$ ____
	Basic	.054	____ pcs.	$ ____
	plus	260	____ lbs.	$ ____
DDU Entry	Saturation W/S	.002	____ pcs.	$ ____
	plus	.237	____ lbs.	$ ____
	Carrier Route	009	____ pcs.	$ ____
	plus	.237	____ lbs.	$ ____
Total – Part D (Carry to front of form)				$ ____

PS Form **3602-N**, January 1991 *(Reverse)*

Statement of Mailing with Permit Imprints
Third-Class Mail (Regular Rates Only)

MAILER: Complete all items by typewriter, pen, or indelible pencil. Prepare in duplicate if you need a receipt.

Mailer's Information

Post Office of Mailing		Date	Processing Category (DMM 128) ☐ Letters ☐ Flats ☐ Machinable Parcels ☐ Irregular Parcels ☐ Outside Parcels
Permit No.		Mailing Statement Seq. No.	
Permit Holder's Name & Address (Include ZIP Code)	Telephone Number	Receipt No.	
		No. Sacks / No. Trays	No. Pallets / No. Other
		Weight of a Single Piece — . — — — — — pounds	
Authorized to use nonprofit rates? (DMM 625)* ☐ Yes ☐ No		Total Pieces in Mailing	Total Weight of Mailing
Name & Address of Individual or Organization for Which Mailing is Prepared (If other than the permit holder)		Name and Address of Mailing Agent* (If other than the permit holder)	Sacking Based on ☐ 125 pcs. ☐ 15 lbs. ☐ Both (DMM 641)
Authorized to use nonprofit rates? (DMM 625)* ☐ Yes ☐ No			Check All That Apply (USPS Only) ☐ Centralized Postage Payment ☐ Plant Loaded to ☐ Plant Verified Drop Shipment to ☐ Entered at ☐ Orig. ☐ Dest. A/O ZIP _____ ☐ Orig. ☐ Dest. SCF 3D ZIP _____ ☐ Orig. ☐ Dest. BMC _____

Postage Computation

- For bulk mailings of **automation-compatible letter-size** pieces (see DMM 520), go to **Part A** on the reverse of this form.
- For bulk mailings of **non-automation compatible letter-size** pieces (see DMM 128) weighing **.2067 lb. (3.3067 oz.) or less**, go to **Part B** on the reverse of this form.
- For bulk mailings of **non letter-size** pieces (see DMM 128) weighing **.2067 lb. (3.3067 oz.) or less**, go to **Part C** on the reverse of this form.
- For bulk mailings of **all pieces** (see DMM 128) weighing **more than .2067 lb. (3.3067 oz.) but less than 1.0 lb. (16.0 oz.)**, go to **Part D** on the reverse of this form.

Postage (From Reverse Side) ▶

Part A	$
Part B	$
Part C	$
Part D	$

Single Piece Rate ☐ or Additional Postage Payment (State reasons for Additional Postage)		No. Pieces	Rate/Piece $. — = $
Is applicable bulk per piece rate affixed to each piece? (Form 3602-PC required) ☐ Yes ☐ No	**Total Postage** ⟶		$

Certification

The signature of a mailer certifies that it will be liable for and agrees to pay, subject to appeals prescribed by postal laws and regulations, any revenue deficiencies assessed on this mailing. If this form is signed by an agent, the agent certifies that it is authorized to sign this statement, that the certification binds the agent and the mailer and both the mailer and the agent will be liable for and agree to pay any deficiencies.

The submission of a false, fictitious or fraudulent statement may result in imprisonment of up to 5 years and a fine of up to $10,000 (18 USC 1001). In addition, a civil penalty of up to $5,000 and an additional assessment of twice the amount falsely claimed may be imposed (31 USC 3802).

I hereby certify that all information furnished on this form is accurate and truthful, and that this material presented qualifies for the rates of postage claimed.

Signature of Permit Holder or Agent (Both principal and agent are liable for any postage deficiency incurred)	Telephone Number

USPS Use Only

Single Piece Weight — . — — — — — pounds		Are the figures at left adjusted from mailer's entries? ☐ Yes ☐ No If "Yes" Reason	
Total Pieces	Total Weight		
Total Postage			
Check One ☐ Verif. Not Scheduled ☐ Presort Verification Performed as Scheduled		Date Mailer Notified	Contact / By (Initials)

I CERTIFY that this mailing has been inspected concerning: 1) eligibility for the rate of postage claimed; 2) proper preparation (and presort where required); 3) proper completion of the statement of mailing; and 4) payment of the necessary annual fee.

Signature of Weigher	Time AM / PM	Round Stamp (Required)

PS Form **3602-R**, January 1991 — **Financial Document - Forward to Finance Office**

Form 3602-R — Third-Class Regular Rate — Permit Imprint

Postage Computation — Bulk Rates

Automation-Compatible Letter (DMM 520)

Entry Discount (If Any)	Presort/ Automation Discounts	Net Rate	Count (Pcs/Lbs)	Charge
None	Saturation W/S	.124 × _____	pcs. =	$ _____
	Carrier Route	.131 × _____	pcs. =	$ _____
	5-Digit Barcoded	.146 × _____	pcs. =	$ _____
	3-Digit Barcoded	.164 × _____	pcs. =	$ _____
	3/5-Digit ZIP + 4	.161 × _____	pcs. =	$ _____
	3/5-Digit Presort	.165 × _____	pcs. =	$ _____
	Basic Barcoded	.179 × _____	pcs. =	$ _____
	Basic ZIP + 4	.189 × _____	pcs. =	$ _____
	Basic	.198 × _____	pcs. =	$ _____
BMC Entry	Saturation W/S	.112 × _____	pcs. =	$ _____
	Carrier Route	.119 × _____	pcs. =	$ _____
	5-Digit Barcoded	.134 × _____	pcs. =	$ _____
	3-Digit Barcoded	.142 × _____	pcs. =	$ _____
	3/5-Digit ZIP + 4	.149 × _____	pcs. =	$ _____
	3/5-Digit Presort	.153 × _____	pcs. =	$ _____
	Basic Barcoded	.167 × _____	pcs. =	$ _____
	Basic ZIP + 4	.177 × _____	pcs. =	$ _____
	Basic	.186 × _____	pcs. =	$ _____
SCF Entry	Saturation W/S	.107 × _____	pcs. =	$ _____
	Carrier Route	.114 × _____	pcs. =	$ _____
	5-Digit Barcoded	.129 × _____	pcs. =	$ _____
	3-Digit Barcoded	.137 × _____	pcs. =	$ _____
	3/5-Digit ZIP + 4	.144 × _____	pcs. =	$ _____
	3/5-Digit Presort	.148 × _____	pcs. =	$ _____
	Basic Barcoded	.162 × _____	pcs. =	$ _____
	Basic ZIP + 4	.172 × _____	pcs. =	$ _____
	Basic	.181 × _____	pcs. =	$ _____
DDU Entry	Saturation W/S	.102 × _____	pcs. =	$ _____
	Carrier Route	.109 × _____	pcs. =	$ _____

Total – Part A (Carry to front of form) $ _____

Non-Automation-Compatible Letter .2067 lb. (3.3067 oz.) or less

Entry Discount (If Any)	Presort/ Automation Discounts	Net Rate	Count (Pcs/Lbs)	Charge
None	Saturation W/S	.124 × _____	pcs. =	$ _____
	Carrier Route	.131 × _____	pcs. =	$ _____
	3/5-Digit Presort	.165 × _____	pcs. =	$ _____
	Basic	.198 × _____	pcs. =	$ _____
BMC Entry	Saturation W/S	.112 × _____	pcs. =	$ _____
	Carrier Route	.119 × _____	pcs. =	$ _____
	3/5-Digit Presort	.153 × _____	pcs. =	$ _____
	Basic	.186 × _____	pcs. =	$ _____
SCF Entry	Saturation W/S	.107 × _____	pcs. =	$ _____
	Carrier Route	.114 × _____	pcs. =	$ _____
	3/5-Digit Presort	.148 × _____	pcs. =	$ _____
	Basic	.181 × _____	pcs. =	$ _____
DDU Entry	Saturation W/S	.102 × _____	pcs. =	$ _____
	Carrier Route	.109 × _____	pcs. =	$ _____

Total – Part B (Carry to front of form) $ _____

Nonletter – .2067 lb. (3.3067 oz.) or Less

Entry Discount (If Any)	Presort/ Automation Discounts	Net Rate	Count (Pcs/Lbs)	Charge
None	Saturation W/S	.127 × _____	pcs. =	$ _____
	Carrier Route	.142 × _____	pcs. =	$ _____
	3/5-Digit Presort	.187 × _____	pcs. =	$ _____
	Basic	.233 × _____	pcs. =	$ _____
BMC Entry	Saturation W/S	.115 × _____	pcs. =	$ _____
	Carrier Route	.130 × _____	pcs. =	$ _____
	3/5-Digit Presort	.175 × _____	pcs. =	$ _____
	Basic	.221 × _____	pcs. =	$ _____
SCF Entry	Saturation W/S	.110 × _____	pcs. =	$ _____
	Carrier Route	.126 × _____	pcs. =	$ _____
	3/5-Digit Presort	.170 × _____	pcs. =	$ _____
	Basic	.216 × _____	pcs. =	$ _____
DDU Entry	Saturation W/S	.105 × _____	pcs. =	$ _____
	Carrier Route	.120 × _____	pcs. =	$ _____

Total – Part C (Carry to front of form) $ _____

All Mail – More than .2067 lb. (3.3067 oz.) But less than 1.0 lb. (16.0 oz.)

Entry Discount (If Any)	Presort/ Automation Discounts	Net Rate	Count (Pcs/Lbs)	Charge
None	Saturation W/S	.003 × _____	pcs. =	$ _____
	plus	.600 × _____	lbs. =	$ _____
	Carrier Route	.018 × _____	pcs. =	$ _____
	plus	.600 × _____	lbs. =	$ _____
	3/5-Digit Presort	.063 × _____	pcs. =	$ _____
	plus	.600 × _____	lbs. =	$ _____
	Basic	.109 × _____	pcs. =	$ _____
	plus	.600 × _____	lbs. =	$ _____
BMC Entry	Saturation W/S	.003 × _____	pcs. =	$ _____
	plus	.542 × _____	lbs. =	$ _____
	Carrier Route	.018 × _____	pcs. =	$ _____
	plus	.542 × _____	lbs. =	$ _____
	3/5-Digit Presort	.063 × _____	pcs. =	$ _____
	plus	.542 × _____	lbs. =	$ _____
	Basic	.109 × _____	pcs. =	$ _____
	plus	.542 × _____	lbs. =	$ _____
SCF Entry	Saturation W/S	.003 × _____	pcs. =	$ _____
	plus	.519 × _____	lbs. =	$ _____
	Carrier Route	.018 × _____	pcs. =	$ _____
	plus	.519 × _____	lbs. =	$ _____
	3/5-Digit Presort	.063 × _____	pcs. =	$ _____
	plus	.519 × _____	lbs. =	$ _____
	Basic	.109 × _____	pcs. =	$ _____
	plus	.519 × _____	lbs. =	$ _____
DDU Entry	Saturation W/S	.003 × _____	pcs. =	$ _____
	plus	.496 × _____	lbs. =	$ _____
	Carrier Route	.028 × _____	pcs. =	$ _____
	plus	.496 × _____	lbs. =	$ _____

Total – Part D (Carry to front of form) $ _____

PS Form **3602-R**, January 1991 *(Reverse)*

UNITED STATES POSTAL SERVICE

Statement of Mailing with Meter or Precanceled Postage Affixed Bulk Third-Class Mail (Regular or Nonprofit Rates)

Method of Payment
☐ Meter Postage
☐ Precanceled Stamps

MAILER: Complete all items by typewriter, pen, or indelible pencil. Prepare in duplicate if you need a receipt.

Mailer's Information

Post Office of Mailing	Date	Processing Category (DMM 128) ☐ Letters ☐ Flats ☐ Machinable Parcels ☐ Irregular Parcels ☐ Outside Parcels	USPS Authorized Mailing ID Code(s)
Permit No.	Mailing Statement Seq. No.		
Permit Holder's Name & Address (Include ZIP Code) / Telephone Number	Receipt No.		
	No. Sacks / No. Trays	No. Pallets / No. Other	
	Weight of a Single Piece ___ . ___ ___ ___ ___ pounds		
Authorized to use nonprofit rates? (DMM 625)* ☐ Yes ☐ No	Total Pieces in Mailing	Total Weight of Mailing	Sacking Based on ☐ 125 pcs. ☐ 15 lbs. ☐ Both (DMM 641)
Name & Address of Individual or Organization for Which Mailing is Prepared (If other than the permit holder) Authorized to use nonprofit rates? (DMM 625)* ☐ Yes ☐ No	Name and Address of Mailing Agent* (If other than the permit holder)		Check All That Apply (USPS Only) ☐ Centralized Postage Payment ☐ Plant Loaded to ☐ Plant Verified Drop Shipment to ☐ DMM 144.8 Drop Shipment to ☐ Entered at ☐ Orig. ☐ Dest. A/O ZIP ☐ Orig. ☐ Dest. SCF 3D ZIP ☐ Orig. ☐ Dest. BMC

Postage Computation

- For bulk mailings of automation-compatible letter-size pieces (see DMM 520) go to Part A on the reverse of this form.
- For bulk mailings of non-automation compatible letter-size pieces (see DMM 128) weighing .2067 lb. (3.3067 oz.) or less (or .2082 lb. (3.3314 oz.) or less for nonprofit), go to Part B on the reverse of this form.
- For bulk mailings of non letter-size pieces (see DMM 128) weighing .2067 lb. (3.3067 oz.) or less (or .2082 lb. (3.3314 oz.) or less for nonprofit), go to Part C on the reverse of this form.
- For bulk mailings of all pieces (see DMM 128) weighing more than .2067 lb. (3.3067 oz.) (or .2082 lb. (3.3314 oz.) for nonprofit) but less than 1.0 lb. (16.0 oz.), go to Part D on the reverse of this form.

Postage (From Reverse Side) ▶

Part A	$
Part B	$
Part C	$
Part D	$

Single-Piece Rate ☐ or Additional Postage Payment (State reasons for Additional Postage)	No. Pieces	Rate/Piece ¢ . ___ = $
Is additional bulk pound rate paid by permit imprint? (3602-R or N required) ☐ Y ☐ N	Total Postage ▶	$
Postage affixed at (Check one) ☐ Correct Rate ☐ Lowest Rate ☐ Neither (DMM 661.324)		

Certification

*The signature of a mailer certifies that: (1) the mailing does not violate DMM 625; (2) only the mailer's matter is being mailed; (3) this is not a cooperative mailing with other persons or organizations that are not authorized to mail at special bulk third-class rates at this office; (4) this mailing has not been undertaken by the mailer on behalf of or produced for another person or organization not authorized to mail at special bulk third-class rates at this office; and (5) it will be liable for and agrees to pay, subject to appeals prescribed by postal laws and regulations, any revenue deficiencies assessed on this mailing, whether due to a finding that the mailing is cooperative or for other reasons. (If this form is signed by an agent, the agent certifies that it is authorized to sign this statement, that the certification binds the agent and the nonprofit mailer, and that both the nonprofit mailer and the agent will be liable for and agree to pay any deficiencies.)

The submission of a false, fictitious or fraudulent statement may result in imprisonment of up to 5 years and a fine of up to $10,000 (18 USC 1001). In addition, a civil penalty of up to $5,000 and an additional assessment of twice the amount falsely claimed may be imposed (31 USC 3802).

I hereby certify that all information furnished on this form is accurate and truthful, and that this material presented qualifies for the rates of postage claimed.

Signature of Permit Holder or Agent (Both principal and agent are liable for any postage deficiency incurred)	Telephone Number

USPS Use Only

Single Piece Weight ___ . ___ ___ ___ ___ pounds	Are the figures at left adjusted from mailer's entries? ☐ Yes ☐ No If "Yes" Reason		
Check One ☐ Verif. Not Scheduled ☐ Presort Verification Performed as Scheduled	Date Mailer Notified	Contact	By (Initials)
I CERTIFY that this mailing has been inspected concerning: 1) eligibility for the rate of postage claimed; 2) proper preparation (and presort where required); 3) proper completion of the statement of mailing; and 4) payment of the required annual fee.			Round Stamp (Required)
Signature of Weigher	Time AM PM		

PS Form **3602-PC**, January 1991 — **Financial Document – Forward to Finance Office**

Form 3602-PC — Third-Class Regular or Nonprofit Rates — Postage Affixed

Postage Computation — Bulk Rates

Automation-Compatible Letter (DMM 520)

Entry Discount (If Any)	Presort/ Automation Discounts	Net Rate	Count (Pcs/Lbs)	Charge
None	Saturation W/S	×	pcs. =	$
	Carrier Route	×	pcs. =	$
	5-Digit Barcoded	×	pcs. =	$
	3-Digit Barcoded	×	pcs. =	$
	3/5-Digit ZIP + 4	×	pcs. =	$
	3/5-Digit Presort	×	pcs. =	$
	Basic Barcoded	×	pcs. =	$
	Basic ZIP + 4	×	pcs. =	$
	Basic	×	pcs. =	$
BMC Entry	Saturation W/S	×	pcs. =	$
	Carrier Route	×	pcs. =	$
	5-Digit Barcoded	×	pcs. =	$
	3-Digit Barcoded	×	pcs. =	$
	3/5-Digit ZIP + 4	×	pcs. =	$
	3/5-Digit Presort	×	pcs. =	$
	Basic Barcoded	×	pcs. =	$
	Basic ZIP + 4	×	pcs. =	$
	Basic	×	pcs. =	$
SCF Entry	Saturation W/S	×	pcs. =	$
	Carrier Route	×	pcs. =	$
	5-Digit Barcoded	×	pcs. =	$
	3-Digit Barcoded	×	pcs. =	$
	3/5-Digit ZIP + 4	×	pcs. =	$
	3/5-Digit Presort	×	pcs. =	$
	Basic Barcoded	×	pcs. =	$
	Basic ZIP + 4	×	pcs. =	$
	Basic	×	pcs. =	$
DDU Entry	Saturation W/S	×	pcs. =	$
	Carrier Route	×	pcs. =	$

Total – Part A (Carry to front of form) $ _____

Non-Automation-Compatible Letter .2067 lb. (3.3067 oz.) or less (.2082 lb. (3.3314 oz.) or less for nonprofit)

Entry Discount (If Any)	Presort/ Automation Discounts	Net Rate	Count (Pcs/Lbs)	Charge
None	Saturation W/S	×	pcs. =	$
	Carrier Route	×	pcs. =	$
	3/5-Digit Presort	×	pcs. =	$
	Basic	×	pcs. =	$
BMC Entry	Saturation W/S	×	pcs. =	$
	Carrier Route	×	pcs. =	$
	3/5-Digit Presort	×	pcs. =	$
	Basic	×	pcs. =	$
SCF Entry	Saturation W/S	×	pcs. =	$
	Carrier Route	×	pcs. =	$
	3/5-Digit Presort	×	pcs. =	$
	Basic	×	pcs. =	$
DDU Entry	Saturation W/S	×	pcs. =	$
	Carrier Route	×	pcs. =	$

Total – Part B (Carry to front of form) $ _____

Nonletter – .2067 lb. (3.3067 oz.) or less (.2082 lb. (3.3314 oz.) or less for nonprofit)

Entry Discount (If Any)	Presort/ Automation Discounts	Net Rate	Count (Pcs/Lbs)	Charge
None	Saturation W/S	×	pcs. =	$
	Carrier Route	×	pcs. =	$
	3/5-Digit Presort	×	pcs. =	$
	Basic	×	pcs. =	$
BMC Entry	Saturation W/S	×	pcs. =	$
	Carrier Route	×	pcs. =	$
	3/5-Digit Presort	×	pcs. =	$
	Basic	×	pcs. =	$
SCF Entry	Saturation W/S	×	pcs. =	$
	Carrier Route	×	pcs. =	$
	3/5-Digit Presort	×	pcs. =	$
	Basic	×	pcs. =	$
DDU Entry	Saturation W/S	×	pcs. =	$
	Carrier Route	×	pcs. =	$

Total – Part C (Carry to front of form) $ _____

All Mail – More than .2067 lb. (3.3067 oz.) (.2082 lb. (3.3314 oz.) for nonprofit) but less than 1.0 lb. (16.0 oz.) Enter the applicable rate applied to each piece computed as described in DMM 611.242

Entry Discount (If Any)	Presort/ Automation Discounts	Net Rate	Count (Pcs/Lbs)	Charge
None	Saturation W/S	×	pcs. =	$
	Carrier Route	×	pcs. =	$
	3/5-Digit Presort	×	pcs. =	$
	Basic	×	pcs. =	$
BMC Entry	Saturation W/S	×	pcs. =	$
	Carrier Route	×	pcs. =	$
	3/5-Digit Presort	×	pcs. =	$
	Basic	×	pcs. =	$
SCF Entry	Saturation W/S	×	pcs. =	$
	Carrier Route	×	pcs. =	$
	3/5-Digit Presort	×	pcs. =	$
	Basic	×	pcs. =	$
DDU	Saturation W/S	×	pcs. =	$
	Carrier Route	×	pcs. =	$

Total – Part D (Carry to front of form) $ _____

PS Form **3602-PC**, January 1991 *(Reverse)*

Statement of Mailing with Permit Imprints
Priority Mail and Zone-Rated Fourth-Class Mail

MAILER: Complete all items by typewriter, pen, or indelible pencil. Prepare in duplicate if you need a receipt.

Mailer's Information

Post Office of Mailing		Date	Processing Category (DMM 128) ☐ Letters ☐ Machinable Parcels ☐ Flats ☐ Irregular Parcels ☐ Outside Parcels	USPS Authorized Mailing ID Code(s)
Permit No.	Federal Agency Cost Code	Mailing Statement Seq. No.		
Permit Holder's Name & Address (Include ZIP Code)	Telephone Number	Receipt No.		
		No. Sacks	No. Pallets / No. Other	
		Weight of a Single Piece ___ ___ . ___ ___ ___ ___ pounds		
		Total Pieces in Mailing	Total Weight of Mailing	If BPM, sacking based on (DMM 767) ☐ 10 pcs. ☐ 20 lbs. ☐ 1000 cu. in.
Name & Address of Individual or Organization for Which Mailing is Prepared (If other than the permit holder)		Name and Address of Mailing Agent (If other than the permit holder)		Check All That Apply (USPS Only) ☐ Centralized Postage Payment ☐ Plant Loaded to ☐ Plant Verified Drop Shipment to ☐ Entered at ☐ Orig. ☐ Dest. A/O ZIP ☐ Orig. ☐ Dest. SCF 3D ZIP ☐ Orig. ☐ Dest. BMC

Postage Computation

- For bound printed matter go to **Part A** on the reverse of this form. (Check if catalog bound printed matter) ⟶ ☐
- For parcel post go to **Part B** on the reverse of this form. (Check if bulk parcel post) ⟶ ☐
- For destination BMC/ASF mail go to **Part C** on the reverse of this form.
- For Priority Mail go to **Part D** on the reverse of this form.

Postage (From Reverse Side) ▶

Part A	$
Part B	$
Part C	$
Part D	$
Parcel Post Nonmachinable Surcharge (Inter-BMC Parcel Post Only) — No. Pieces	$ 1.50 = $
Total Postage ⟶	$

Certification

The signature of a mailer or its agent certifies that it will be liable for and agrees to pay, subject to appeals prescribed by postal laws and regulations, any revenue deficiencies assessed on this mailing. If this form is signed by an agent, the agent certifies that it is authorized to sign this statement, that the certification binds the agent and the mailer and both the mailer and the agent will be liable for and agree to pay any deficiencies.

The submission of a false, fictitious or fraudulent statement may result in imprisonment of up to 5 years and a fine of up to $10,000 (18 USC 1001). In addition, a civil penalty of up to $5,000 and an additional assessment of twice the amount falsely claimed may be imposed (31 USC 3802).

I hereby certify that all information furnished on this form is accurate and truthful, and that this material presented qualifies for the rates of postage claimed.

Signature of Permit Holder or Agent (Both principal and agent are liable for any postage deficiency incurred)	Telephone Number

USPS Use Only

Single Piece Weight ___ ___ . ___ ___ ___ ___ pounds		Are the figures at left adjusted from mailer's entries? ☐ Yes ☐ No If "Yes" Reason	
Total Pieces	Total Weight		
Total Postage			
Check One ☐ Verif. Not Scheduled ☐ Presort Verification Performed as Scheduled		Date Mailer Notified / Contact	By (Initials)
I CERTIFY that this mailing has been inspected concerning: 1) eligibility for the rate of postage claimed; 2) proper preparation (and presort where required); 3) proper completion of the statement of mailing; and 4) payment of the required annual fee.			Round Stamp (Required)
Signature of Weigher		Time AM PM	

PS Form **3605-R**, January 1991 — **Financial Document – Forward to Finance Office**

Form 3605-R — Statement of Mailing with Permit Imprints
Priority Mail and Zone-Rated Fourth-Class Mail

☐ **Bound Printed Matter** ☐ **Catalog Bound Printed Matter**

ZONES	SINGLE-PIECE RATE			BASIC BULK PIECE RATE			CARRIER ROUTE BULK PC RT			BULK BPM POUND RATE			Total Postage — Part A
	Number of Pieces ×	Rate =	Single-Piece Rate Postage	Number of Pieces ×	Rate =	Basic Piece Rate Charge	Number of Pieces ×	Rate =	Carrier Route Piece Rate Charge	Number of Pounds	Pound Rate	BPM Pound Rate Charge	
Local					$0.44			$0.385			$0.020		
1 & 2					$0.59			$0.535			$0.042		
3					$0.59			$0.535			$0.064		
4					$0.59			$0.535			$0.103		
5					$0.59			$0.535			$0.162		
6					$0.59			$0.535			$0.223		
7					$0.59			$0.535			$0.298		
8					$0.59			$0.535			$0.361		
TOTALS													

☐ **Bulk** **Parcel Post**

ZONES	INTER BMC PARCEL POST			INTRA BMC PARCEL POST			Total Postage — Part B
	Number of Pieces ×	Inter BMC Rate =	Inter BMC Postage	Number of Pieces ×	Intra BMC Rate =	Intra BMC Postage	
Local							
1 & 2							
3							
4							
5							
6							
7							
8							
TOTALS							

Destination BMC/ASF Mail

ZONES	Number of Pieces ×	Destination BMC/ASF Rate =	Total Postage Part C
Local, 1 & 2			
3			
4			
5			
TOTALS			

Priority Mail

ZONES	PRESORTED PRIORITY MAIL			RESIDUAL/SINGLE PIECE PRIORITY MAIL			Total Postage — Part D
	Number of Pieces ×	Presorted Priority Rate =	Presorted Priority Postage	Number of Pieces ×	Priority Rate =	Single-Piece Priority Postage	
Local							
1 & 2							
3							
4							
5							
6							
7							
8							
TOTALS							

PS Form **3605-R**, January 1991 *(Reverse)*

Statement of Mailing with Meter Postage Affixed Priority Mail and Zone-Rated Fourth-Class Mail

MAILER: Complete all items by typewriter, pen, or indelible pencil. Use Form 3606 if you need a receipt.

Mailer's Information

Post Office of Mailing		Date	Processing Category (DMM 128) ☐ Letters ☐ Machinable Parcels ☐ Flats ☐ Irregular Parcels ☐ Outside Parcels
Permit No.		Mailing Statement Seq. No.	
Permit Holder's Name & Address (Include ZIP Code)	Telephone Number	Receipt No.	
		No. Sacks	No. Pallets / No. Other
		Weight of a Single Piece ___ ___ . ___ ___ ___ ___ pounds	
		Total Pieces in Mailing	Total Weight of Mailing
Name & Address of Individual or Organization for Which Mailing is Prepared (If other than the permit holder)		Name and Address of Mailing Agent (If other than the permit holder)	

USPS Authorized Mailing ID Code(s)

If BPM, sacking based on (DMM 767) ☐ 10 lbs. ☐ 20 lbs. ☐ 1000 cu. in.

Check All That Apply (USPS Only)
- ☐ Centralized Postage Payment
- ☐ Plant Loaded to
- ☐ Plant Verified Drop Shipment to
- ☐ Entered at
- ☐ Orig. ☐ Dest. A/O ZIP _____
- ☐ Orig. ☐ Dest. SCF 3D ZIP _____
- ☐ Orig. ☐ Dest. BMC _____

Postage Computation

- For bound printed matter go to **Part A** on the reverse of this form. (Check if catalog bound printed matter) ⟶ ☐
- For bulk parcel post go to **Part B** on the reverse of this form.
- For destination BMC/ASF mail go to **Part C** on the reverse of this form.
- For Presorted Priority Mail go to **Part D** on the reverse of this form.

Postage (From Reverse Side) ▶

Part A	$
Part B	$
Part C	$
Part D	$

Parcel Post Nonmachinable Surcharge (Inter-BMC Parcel Post Only) — No. Pieces — $ 1.50 = $

Total Postage ⟶ $

Certification

The signature of a mailer or its agent certifies that it will be liable for and agrees to pay, subject to appeals prescribed by postal laws and regulators, any revenue deficiencies assessed on this mailing. If this form is signed by an agent, the agent certifies that it is authorized to sign this statement, that the certification binds the agent and the mailer and both the mailer and the agent will be liable for and agree to pay any deficiencies.

The submission of a false, fictitious or fraudulent statement may result in imprisonment of up to 5 years and a fine of up to $10,000 (18 USC 1001). In addition, a civil penalty of up to $5,000 and an additional assessment of twice the amount falsely claimed may be imposed (31 USC 3802).

I hereby certify that all information furnished on this form is accurate and truthful, and that this material presented qualifies for the rates of postage claimed.

Signature of Permit Holder or Agent (Both principal and agent are liable for any postage deficiency incurred) — Telephone Number

USPS Use Only

Single Piece. Weight ___ ___ . ___ ___ ___ ___ pounds

Are the figures at left adjusted from mailer's entries? ☐ Yes ☐ No

If "Yes" Reason

Check One: ☐ Verif. Not Scheduled ☐ Presort Verification Performed as Scheduled	Date Mailer Notified	Contact / By (Initials)

I CERTIFY that this mailing has been inspected concerning: 1) eligibility for the rate of postage claimed; 2) proper preparation (and presort where required); 3) proper completion of the statement of mailing; and 4) payment of the required annual fee.

Round Stamp (Required)

Signature of Weigher — Time AM / PM

PS Form **3605-PC** January 1991 — **Financial Document – Forward to Finance Office**

Form 3605-PC — Statement of Mailing with Meter Postage Affixed — Priority Mail and Zone-Rated Fourth-Class Mail

☐ **Bulk Bound Printed Matter** ☐ **Bulk Catalog Bound Printed Matter**

ZONES	BASIC BULK RATE			CARRIER ROUTE BULK RATE			Total Postage — Part A
	Number of Pieces ×	Rate =	Basic Rate Charge	Number of Pieces ×	Rate =	Carrier Route Rate Charge	
Local							
1 & 2							
3							
4							
5							
6							
7							
8							
TOTALS							

Bulk Parcel Post

ZONES	INTER BMC PARCEL POST			INTRA BMC PARCEL POST			Total Postage — Part B
	Number of Pieces ×	Inter BMC Rate =	Inter BMC Postage	Number of Pieces ×	Intra BMC Rate =	Intra BMC Postage	
Local							
1 & 2							
3							
4							
5							
6							
7							
8							
TOTALS							

Destination BMC/ASF Mail

ZONES	Number of Pieces ×	Destination BMC/ASF Rate =	Total Postage — Part C
Local, 1 & 2			
3			
4			
5			
TOTALS			

Presorted Priority Mail

ZONES	PRESORTED PIECES			RESIDUAL PIECES			Total Postage — Part D
	Number of Pieces ×	Presorted Priority Rate =	Presorted Priority Postage	Number of Pieces ×	Single-Piece Priority Rate (or Additional Postage per piece) =	Single-Piece Priority (or Additional) Postage	
Local							
1 & 2							
3							
4							
5							
6							
7							
8							
TOTALS							

PS Form **3605-PC**, January 1991 *(Reverse)*

UNITED STATES POSTAL SERVICE

Statement of Mailing with Meter Postage Affixed
Presorted Special Fourth-Class Rate Mail

MAILER: Complete all items by typewriter, pen, or indelible pencil. Use Form 3608 if you need a receipt.

Mailer's Information

Post Office of Mailing		Date	Processing Category (DMM 128) ☐ Flats ☐ Machinable Parcels ☐ Irregular Parcels ☐ Outside Parcels	USPS Authorized Mailing ID Code(s)
Permit No.		Mailing Statement Seq. No.		
Permit Holder's Name & Address (Include ZIP Code)	Telephone Number	Receipt No.		
		No. Sacks	No. Pallets / No. Other	
		Weight of a Single Piece ___ ___ . ___ ___ ___ ___ pounds		
		Total Pieces in Mailing	Total Weight of Mailing	Sacking Based on (DMM 767) ☐ 10 pcs. ☐ 20 lbs. ☐ 1000 cu. in.
Name & Address of Individual or Organization for Which Mailing is Prepared (If other than the permit holder)		Name and Address of Mailing Agent (If other than the permit holder)		Check All That Apply (USPS Only) ☐ Centralized Postage Payment ☐ Plant Loaded to ☐ Plant Verified Drop Shipment to ☐ Entered at ☐ Orig. ☐ Dest. A/O ZIP ☐ Orig. ☐ Dest. SCF 3D ZIP ☐ Orig. ☐ Dest. BMC

Postage Computation

	Net Rate	Piece Count	Charge
Level A (5-digit) Presort		×	=
Level B (BMC) Presort		×	=
Total Postage →			$

Certification

The signature of a mailer or its agent certifies that it will be liable for and agrees to pay, subject to appeals prescribed by postal laws and regulations, any revenue deficiencies assessed on this mailing. If this form is signed by an agent, the agent certifies that it is authorized to sign this statement, that the certification binds the agent and the mailer and both the mailer and the agent will be liable for and agree to pay any deficiencies.

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I hereby certify that all information furnished on this form is accurate and truthful, and that this material presented qualifies for the rates of postage claimed.

Signature of Permit Holder or Agent (Both principal and agent are liable for any postage deficiency incurred)	Telephone Number

USPS Use Only

Single Piece Weight ___ ___ . ___ ___ ___ ___ pounds	Are the figures at left adjusted from mailer's entries? ☐ Yes ☐ No If "Yes" Reason		
Check One ☐ Verif. Not Scheduled ☐ Verification Performed as Scheduled	Date Mailer Notified	Contact	By (Initials)
I CERTIFY that this mailing has been inspected concerning: 1) eligibility for the rate of postage claimed; 2) proper preparation (and presort where required); 3) proper completion of the statement of mailing; and 4) payment of the required annual fee.			Round Stamp (Required)
Signature of Weigher	Time AM PM		

PS Form **3608-PC**, January 1991 — **Financial Document – Forward to Finance Office**

Statement of Mailing with Permit Imprints
Special Fourth-Class and Library Rate Fourth-Class Mail

MAILER: Complete all items by typewriter, pen, or indelible pencil. Prepare in duplicate if you need a receipt.

Mailer's Information

Post Office of Mailing		Date	Processing Category (DMM 128) [ ] Flats [ ] Machinable Parcels [ ] Irregular Parcels [ ] Outside Parcels	USPS Authorized Mailing ID Code(s)
Permit No.	Federal Agency Cost Code	Mailing Statement Seq. No.		
Permit Holder's Name & Address (Include ZIP Code)	Telephone Number	Receipt No.		
		No. Sacks	No. Pallets / No. Other	
		Weight of a Single Piece ___ ___ . ___ ___ ___ ___ pounds		
		Total Pieces in Mailing	Total Weight of Mailing	Sacking Based on (DMM 767) [ ] 10 pcs. [ ] 20 lbs. [ ] 1000 cu. in.
Name & Address of Individual or Organization for Which Mailing is Prepared (If other than the permit holder)		Name and Address of Mailing Agent (If other than the permit holder)		Check All That Apply (USPS Only) [ ] Centralized Postage Payment [ ] Plant Loaded to [ ] Plant Verified Drop Shipment to [ ] Entered at [ ] Orig. [ ] Dest. A/O ZIP _____ [ ] Orig. [ ] Dest. SCF 3D ZIP _____ [ ] Orig. [ ] Dest. BMC _____

Postage Computation

• For special fourth-class mail go to **Part A** on the reverse of this form.	Postage (From Reverse Side) ▶	Part A	$
• For library rate mail go to **Part B** on the reverse of this form.		Part B	$
Total Postage ⟶			

Certification

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I hereby certify that all information furnished on this form is accurate and truthful, and that this material presented qualifies for the rates of postage claimed.

Signature of Permit Holder or Agent (Both principal and agent are liable for any postage deficiency incurred)	Telephone Number

USPS Use Only

Single Piece Weight ___ ___ . ___ ___ ___ ___ pounds		Are the figures at left adjusted from mailer's entries? [ ] Yes [ ] No If "Yes" Reason		
Total Pieces	Total Weight			
Total Postage				
Check One [ ] Verif. Not Scheduled [ ] Presort Verification Performed as Scheduled		Date Mailer Notified	Contact	By (Initials)
I CERTIFY that this mailing has been inspected concerning: 1) eligibility for the rate of postage claimed; 2) proper preparation (and presort where required); 3) proper completion of the statement of mailing; and 4) payment of the required annual fee.				Round Stamp (Required)
Signature of Weigher		Time AM / PM		

PS Form **3608-R**, January 1991 — **Financial Document - Forward to Finance Office**

PS Form 3608-R (p.1)

Form 3608-R — Special Fourth-Class and Library Rate Fourth-Class Mail Permit Imprint

A. Special Fourth-Class	Net Rate		Piece Count		Charge
Nonpresorted	$	×		=	$
Level A (5-digit) Presort		×		=	
Level B (BMC) Presort		×		=	
Total Part A (Carry to Front of Form)					$

B. Library Rate	Net Rate		Piece Count		Charge
Total Part B	$	×		=	$ (Carry to Front of Form)

PS Form 3608-R, January 1991 *(Reverse)*

PS Form 3608-R (p.2)

U.S. Postal Service Printed Stamped Envelope Order Form

Form 3203-X, January 1991, *Printed Stamped Envelope Order*, is shown below. Window clerks must make sufficient copies to provide to customers until the official printed form is available. Availability of the new form will be announced in the forms updated column of the *Postal Bulletin*. Form 3203 dated April 1988 is obsolete and previous editions are to be destroyed.

Printed Stamped Envelope Order

Daytime Phone

Type or legibly print in this space the name and address to be printed on envelopes. Include ZIP + 4.

If envelopes are to be delivered to an address different from above, enter mailing address in this space.

Denominations on all envelope types are $ .29

Envelope Type	Style	Item No.	Quantity per Box	a. No. Boxes Ordered	b. Price per Box	c. Cost
Regular	6 3/4	2621	500		$156.40	
Regular	10	2131	500		160.00	
Window	6 3/4	2622	500		157.00	
Window	10	2132	500		161.00	
Regular	6 3/4	2641	50		17.20	
Regular	10	2141	50		17.40	
Window	6 3/4	2642	50		17.30	
Window	10	2142	50		17.50	

Ask your Post Office for a preprinted envelope or mail to:

STAMPED ENVELOPE UNIT
US POSTAL SERVICE
PO BOX 500
WILLIAMSBURG PA 16693-0500

Total Cost of This Order

Send check or money order payable to "Stamped Envelope Unit." Payment must accompany order. DO NOT SEND CASH.

PS Form 3203-X, February 1991

PS Form 3203-X (Front)

Please Follow These Procedures

1. REQUIRED PRINTING: Return address must include name, local address, city, state and ZIP Code. Logos cannot be printed.

2. OPTIONAL PRINTING:

   a. Two advertising/slogan lines may be included, but can be printed only above the name and address. Please - NO EXCEPTIONS.

   b. Phone number can be printed above name and local address. Please - NO EXCEPTIONS.

   c. Postal Service endorsements, such as "Address Correction Requested" - contact Stamped Envelope Unit or local post office.

3. PRINTING RESTRICTIONS:

   a. No line may exceed 47 characters and spaces.

   b. Total number of lines cannot exceed 7 in a regular return or 5 if a Postal Service endorsement is used.

   c. The Postal Service prefers all lines to be printed in uppercase letters with flush left margin, using 8 - point Helvetica type, with the firm or recipient lineprinted in bold type, as shown in this example:

   MR AND MRS JOHN DOE
   1234 MAIN ST
   WASHINGTON DC 12345 - 6789

4. INQUIRIES:

   a. Allow four weeks for delivery after which you may contact the Stamped Envelope Unit at the address on the front of this form, or you may phone the Unit at (814) 832 - 3229.

   b. All inquiries and claims regarding this order must be made within 6 months.

Thank You for Your Order

PS Form 3203-X, February 1991 (Reverse)

[FR Doc. 91-2127 Filed 1-29-91; 8:45 am]
BILLING CODE 7710-12-C

federal register

Wednesday
January 30, 1991

Part V

Department of Agriculture

Animal and Plant Health Inspection Service

9 CFR Parts 71 and 82

Chickens Affected by Salmonella Enteritidis; Final Rule

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 71 and 82

[Docket No. 90-134]

Chickens Affected by Salmonella enteritidis

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are affirming with changes an interim rule concerning chicken disease caused by *Salmonella enteritidis* serotype *enteritidis* (SE) by revising certain definitions, test procedures, and restrictions on interstate movement of chickens, eggs, and other articles. We are making these changes to better control the spread of SE in commercial egg-type chicken flocks, to control its spread from chicken breeding flocks to egg-type production flocks, and to better detect invasive strains of SE which are the cause of outbreaks of disease caused by SE in humans. These changes will affect persons engaged in interstate commerce involving the sale of eggs and egg-type chickens.

EFFECTIVE DATE: Final rule effective January 30, 1991.

FOR FURTHER INFORMATION CONTACT: Dr. I. L. Peterson, Staff Veterinarian, Sheep, Goat, Equine, and Poultry Diseases Staff, VS, APHIS, USDA, room 771, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-5777.

SUPPLEMENTARY INFORMATION: The bacterium known as *Salmonella enteritidis* serotye *enteritidis* (referred to below as SE) has been associated with disease problems in poultry, and is known to occur in chickens in the United States. This bacterium has been isolated from egg-type chicken breeding flocks and egg production flocks. Recent scientific evidence suggests that SE is passed along to eggs before shell formation occurs if the hen is infected systemically with SE bacteria, and suggests vertical passage of SE from hens to chicks.

In addition to this vertical mode of transmission, SE can be spread horizontally among chickens through direct contact and through contact with articles associated with infected chickens, such as feed, equipment, and litter. SE can also be introduced into a flock through contact with external sources including rodents, flies, animals, and people.

SE infection has a severe impact on the egg production industry by reducing consumer demand and disrupting egg marketing channels. During the past three years, SE has become recognized as an infectious agent in a number of domestic commercial egg-laying chicken flocks, in some cases causing morbidity and decreased production. Certain invasive strains of SE can cause systemic infections of chickens and can thereby contaminate commercial table eggs.

SE infection of egg production chickens is also a serious public health concern. Eggs contaminated with SE, when mishandled or improperly cooked, have resulted in a growing number of cases of human illness and death.

In an interim rule published in the Federal Register on February 16, 1990 (55 FR 5576-5584, Docket No. 88-161), we promulgated regulations to address the problem of chicken disease caused by SE. At that time we added two sets of regulatory requirements; one to address the spread of SE in egg-type chicken breeding flocks, and one to address the spread of SE in egg production flocks.

First, we required that all hatching eggs and newly-hatched chicks from egg-type chicken breeding flocks moved interstate must be from flocks classified "U.S. Sanitation Monitored" under the National Poultry Improvement Plan (NPIP), or must meet the requirements of a State classification plan determined by the Administrator to be equivalent to the "U.S. Sanitation Monitored" program (USSMP) under the NPIP. Such flocks are called "Certified *Salmonella enteritidis* serotype *enteritidis* Tested Free Flocks" for the purpose of this regulation. Hatching eggs and newly-hatched chicks may be moved interstate from such flocks without further restriction under the regulation. The purpose of this requirement was to prevent the spread of SE associated with movement of hatching eggs and chicks from breeding flocks. This approach relied on NPIP testing, sanitation, and flock managment techniques to exclude SE from breeding flocks.

Second, we established a system to study and test egg production flocks to identify those infected with SE, focusing on those flocks with clinical signs of disease and flocks that were implicated as the probable source of outbreaks of SE in chickens or humans. This flock study system involved classification of egg production flocks as Study Flocks, Test Flocks, or Infected Flocks, and included requirements for testing of environmental, blood, and internal organ samples for evidence of SE under certain circumstances. Interstate movement restrictions were also imposed on articles from Test Flocks and Infected Flocks. Restricted articles included live chickens, eggs, manure, cages, coops, containers, troughs, and other equipment. Some of these articles are prohibited movement, and some are allowed movement under a permit and special conditions. Eggs could be moved interstate from Infected Flocks and Test Flocks only for pasteurization.

Interagency Coordination

Salmonella enteritidis is a complex poultry health and public health problem requiring a comprehensive, interdisciplinary approach to its resolution. As we indicated in the interim rule and elsewhere in this document, responsibility for dealing with SE is distributed among several Federal and State agencies. We believe that it is in the best interest of poultry producers and the public that the Animal and Plant Health Inspection Service (APHIS), the Agricultural Marketing Service (AMS), and the Food and Drug Administration(FDA) take active roles in coordinating efforts to control the spread of SE. We have coordinated and will continue to coordinate our efforts to control the spread of SE with these and other agencies.

As we indicated in the interim rule, the animal health and public health implications of SE require substantive information sharing among the involved agencies. USDA has underway two important data collection activities—surveys of the presence of SE in spent fowl, and in eggs sent to breaker plants—which we believe will provide important additional information on the extent of SE in the United States. We will share these data, and our analysis of the data, with the other agencies not only for purposes of enforcement of public health regulations but for the development of a common understanding of the animal health and public health risks of SE, common objectives for the reduction of those risks, and common short- and long-term strategies for dealing with the SE problem. FDA, in cooperation with the Centers for Disease Control, will continue to monitor the number of human illnesses and outbreaks due to SE. Based upon these data, and other relevant data, the concerned Federal agencies will continue to evaluate the need for new or revised regulations.

Comments on the Interim Rule

We requested comments on the interim rule, to be received on or before

April 17, 1990. This deadline was subsequently extended to May 2, 1990, in a notice published in the Federal Register on April 5, 1990 (Docket No. 90–047, 55 FR 12631–12632), and was further extended to June 1, 1990, in a notice published in the Federal Register on May 1, 1990 (Docket No. 90–060, 55 FR 18099–18100). We received 138 comments on the interim rule, from poultry associations, breeding flock owners, egg production flock owners, State animal health agencies, State public health agencies, poultry related industries, universities, and others. These comments addressed almost every aspect of our SE program. In this final rule, we are addressing the areas of concern raised by commenters on the earlier interim rule.

Comments on Flock Versus House Restrictions

A total of 73 commenters requested that we revise the interim rule to place restrictions on smaller units within a flock, rather than the entire flock. Most of these commenters suggested that the rule should distinguish between individual poultry houses in a flock for purposes of regulatory restrictions. Forty of these commenters suggested that interstate movement restrictions should apply only to houses that have been positively determined to be infected with SE, and should not apply to houses that are in the process of testing.

We agree that the rule should focus on individual poultry houses when they are sufficiently separated to prevent the spread of disease between them. We are making changes to the rule to implement this approach, as discussed below. We do not agree that only houses that have been positively identified as infected with SE should be subject to interstate movement restrictions. To effectively control the spread of SE, we believe we must restrict interstate movements from some poultry houses (Test Poultry Houses, discussed below) during the testing process, because such houses present a significant risk of being infected with SE, and of spreading SE to other flocks prior to final determination of their infection status.

Comments on Egg Handling, Preparation, and Cooking

A total of 27 commenters addressed the fact that eggs are an inherently perishable food product that must be handled and cooked using specific precautions to prevent them from becoming contaminated with bacteria such as Salmonella that can cause human disease in consumers. Two of these commenters specifically recommended that refrigeration requirements be established for the shipment of eggs, to reduce the growth of bacteria in eggs during shipment. Several of these commenters also recommended that the Food and Drug Administration take steps to ensure that retail and institutional food service establishments adhere to proper food handling requirements, especially with respect to refrigeration, storage, preparation, and other safe food handling requirements.

We recognize that proper handling and preparation of eggs is essential to prevent disease in consumers that can be caused by consumption of improperly stored or prepared eggs or egg products. For many years, the United States Department of Agriculture has conducted educational programs to inform consumers and institutional food service facilities of the risks associated with improperly stored or prepared eggs. However, handling and preparation procedures for eggs for human consumption are outside the scope of the interim rule, which addressed controlling the spread of SE in egg-type chicken breeding flocks and egg production flocks. Actions that may be taken by the Food and Drug Administration are also outside the scope of the interim rule. While APHIS is working closely with the Food and Drug Administration and other Federal and State agencies that have the primary authority for regulating safe handling and preparation of eggs and egg products, no changes are being made to the interim rule in these areas.

Comments on Indemnity Payments

A total of 16 commenters suggested that some form of Federal indemnity should be paid to flock owners affected by the interim rule. Suggestions included both payment of indemnity to the owners of infected flocks who depopulate their flocks to eliminate SE, and payment of indemnity to owners of test or infected egg production flocks who sell their eggs for breaking (pasteurization) at a price lower than the price paid for eggs from either non-test or non-infected flocks. Several commenters suggested that APHIS order the owners of infected flocks to destroy the chickens in their flocks, and pay indemnity for the destroyed chickens.

Under Federal law (21 U.S.C. 114a), the Secretary of Agriculture may pay claims to the owners of animals (including poultry) who voluntarily offer their animals for destruction if the animals are affected by or exposed to communicable animal diseases. Also, in accordance with 21 U.S.C. 134a, the Secretary may order the destruction of animals, carcasses, products and related articles that may disseminate any dangerous, communicable disease of livestock or poultry if the articles are moving, or have moved, interstate, or if the Secretary has declared an extraordinary emergency. The Secretary must pay indemnity for animals that are ordered to be destroyed in accordance with 21 U.S.C. 134a. However, neither Federal law nor APHIS regulations, including the interim rule, require payment of claims for chickens voluntarily destroyed, or require mandatory destruction of flocks infected with SE. APHIS does not believe that conditions justifying payment of claims for voluntary destruction of chickens are present in the current SE situation. APHIS also does not believe that conditions requiring mandatory depopulation of flocks, which would require payment of indemnities, are present in the current SE situation, for the following reasons.

Mandatory depopulation and payment of indemnities are used to support disease eradication programs to eliminate the disease reservoir. SE is not highly host specific; it affects many species in addition to chickens. The *Salmonella* organism is ubiquitous in the environment, and eradication of the bacterium is impossible. The goal of the SE program is not to eradicate SE, but to control its spread in egg-type breeding flocks and egg production flocks.

Also, APHIS has used indemnity payments only when the nature of the disease or Federal actions cause severe and widespread economic impact on the affected agricultural industry. Compared to other situations where indemnity payments have been used, APHIS does not find this to be the case in the current SE situation. SE itself does not cause severe mortality in chicken flocks, and does not drastically reduce the productivity of affected chicken flocks. The interim rule, as amended by this final rule, permits alternative marketing routes for eggs from Test Poultry Houses and Infected Poultry Houses. The rule also does not require depopulation of any flocks. The interim rule has also been revised by this final rule to restrict product movements from certain individual poultry houses, rather than entire flocks. This revision will further reduce the economic impact of the rule on flock owners.

For the reasons stated above, APHIS does not intend to authorize payments of claims for chickens voluntarily destroyed, to order mandatory depopulation of infected chicken flocks and pay indemnities to the owners of destroyed chickens, or to make

indemnity payments for eggs sold for pasteurization.

Other Comments and Changes to the Interim Rule

The changes we are making in this final rule to implement a house-based rather than flock-based approach, and other comments and changes to the rule in response to them, are discussed below, section by section.

A large number of commenters submitted comments concerning matters outside the scope of the interim rule. Many commenters requested one or more of the following: changes to the National Poultry Improvement Plan; additional scientific research on diseases caused by *Salmonella* in humans and poultry; changes to *Salmonella* programs enforced by State governments, and changes to import and export regulations for poultry products. Comments outside the scope of the interim rule are not discussed in this document.

Section 82.30 Definitions

We are adding definitions of Poultry, Poultry House, Separate Poultry House, Infected Poultry House, and Test Poultry House. These definitions are needed because, in response to the 73 comments on the interim rule discussed above, we are changing the regulations to address events and restrictions concerning individual houses within a flock. Prior to the publication of this final rule, the regulations generally addressed the entire premises of a flock as a basic unit. For example, under the regulations, if a flock was determined to be an Infected Flock, all of the chickens on that premises, in all houses, were treated the same (unless a Federal or State representative determined that the flock could be divided into separate flocks, in accordance with the interim rule's definition of "flock").

The definition of "Flock" in the interim rule did allow premises to be broken into separate flocks for the purpose of regulation by stating that "at the discretion of a Federal representative, any group of chickens that is physically segregated from another group by barriers impervious to the spread of disease organisms and does not share common equipment or personnel with the other group may be considered as a separate flock" (55 FR 5582). However, many commenters did not understand that this definition effectively allowed each poultry house on a premises to be considered a separate flock if it met the standard for segregation from other houses on the premises. Twenty commenters included as a major theme of their comments a request that the regulation be organized around the poultry house, rather than the flock or premises, as a basic unit. We agree that this approach has merit.

Therefore, we are changing the regulations to use a term more familiar to the chicken industry, i.e. "house," when describing components of a flock or premises that can be separately regulated if they are sufficiently segregated from other flock components to prevent the spread of disease.

Under the new regulations a flock might include some Infected Poultry Houses subject to a high level of restriction, and some other poultry houses subject to a lower level of restriction.

This change is made in response to numerous comments describing chicken production situations in which one or a few houses on a premises could be infected with SE while the majority of the houses are not infected. Commenters suggested that if sufficient barriers to disease spread are maintained between houses, the entire premises need not be subjected to the same level of regulatory controls. We agree, and are making this change to allow us to focus SE control efforts on those houses which present a problem, and to alleviate the regulatory burden on other houses on the same premises.

To accomplish this change in approach, we are revising the definition of Flock by removing the phrase "except that, at the discretion of a Federal representative, any group of chickens that is physically segregated from another group by barriers impervious to the spread of disease organisms and does not share common equipment or personnel with the other group may be considered as a separate flock." This exception is not necessary in view of the provisions we are adding that allow flocks to be divided into separate poultry houses, discussed above.

We are also revising the definitions of Infected Flock and Test Flock to read as follows, and are adding the following definitions:

Poultry. Chickens of all ages, including eggs for hatching.

Poultry house. A building or other structure used to house poultry.

Separate poultry house. A poultry house that has been determined by a Federal or State representative to have biosecurity to prevent the transmission of communicable disease to other poultry houses. Biosecurity means that flock management procedures are in place to ensure that there is no contact between poultry houses through exposure to chickens, feed, water, manure, equipment, or personnel from other poultry houses.

Infected poultry houses. A poultry house containing chickens determined to be infected with *Salmonella enteritidis* serotype *enteritidis* in accordance with § 82.32(c) of this subpart.

Test poultry house. A poultry house determined in accordance with § 82.32(b) of this subpart of have tested positive for *Salmonella enteritidis* serotype *enteritidis* by isolation of the bacterium from one or more manure or egg transport machinery samples, and designated for blood and internal organ testing in accordance with § 82.32(c) of this subpart.

Infected flock. A flock that does not contain separate poultry houses as defined by this section, and in which any poultry has tested positive for *Salmonella enteritidis* serotype *enteritidis* in accordance with the blood and internal organ tests of § 82.32(c) of this subpart.

Test flock. A flock that does not contain separate poultry houses as defined by this section, and in which any manure and egg transport machinery samples have tested positive for *Salmonella enteritidis* serotype *enteritidis* in accordance with § 82.32(b) of this subpart.

We are also revising the definition of authorized laboratory in the regulations. The fifth and final element of the former definition of authorized laboratory stated that the Administrator would approve an authorized laboratory only after determining that the laboratory "reports all test results to the State animal health official and APHIS." This requirement was intended to apply only to the results of *Salmonella* tests ordered for Study Flocks, Test Poultry Houses, and Infected Poultry Houses in accordance with this rule, and to the results of *Salmonella* tests conducted in accordance with the USSMP. However, two commenters noted that the language could be interpreted as requiring these laboratories to report the results of all tests they conduct, regardless of whether the tests were required by this rule or the USSMP. Therefore, we are changing this language to require that the laboratory "reports all results of tests ordered in accordance with this subpart or in accordance with § 145.23(d) of this chapter to the State animal health official and APHIS." This will ensure that the results of *Salmonella* tests conducted under this rule, or under § 145.23(d) (the USSMP), are reported to the State animal health official and to APHIS.

Section 82.32 Old Heading: Determination That Egg Production Flocks Are Study Flocks, Test Flocks, or Flocks Infected With Salmonella Enteritidis Serotype Enteritidis

Section 82.32 New heading: Identification of Study Flocks, Test Poultry Houses, Test Flocks, Infected Poultry Houses, and Infected Flocks

This section describes how a Federal or State representative will determine the status of egg production flocks, and the status of individual houses in the flock.

This method by which Study Flocks are identified is slightly changed from the method used under the interim rule. Under that rule, one way a flock could be classified a Study Flock if it received progeny from any flock with a positive environmental sample for SE. We are changing this requirement to allow classification of a flock as a Study Flock if it receives progeny from a chicken breeding flock infected with SE thorugh testing under the NPIP. (The NPIP considers a breeding flock infected if SE has been recovered from the internal organs of one or more chickens in the flock.)

We are making this change in response to 13 comments that noted that the former method for identifying Study Flocks could result in APHIS designating a large number of Study Flocks that include only a small number of actually infected flocks. Two commenters specifically suggested that NPIP test results be used as a primary means of identifying Study Flocks.

As noted in the earlier rule, recovery of SE from the internal organs of chickens (the liver, spleen, oviduct, ovaries, and heart) is the only conclusive proof of SE infection; recovery from environmental samples is only indicative, not conclusive. By tracing forward the movement of progeny from breeding flocks that are found infected through NPIP testing, we will identify as Study Flocks those flocks that are most likely to be infected with SE. This will allow more effective use of our limited resources to monitor as Study Flocks those flocks that present a high risk of being infected with SE through contact with chickens from infected breeding flocks (i.e., flocks where SE was recovered from internal organs). We agree with numerous commenters who noted that it would be relatively ineffective to monitor flocks that present only a small risk of being infected with SE, caused by contact with chickens from environmentally positive premises.

Therefore, we are changing § 82.32(a)(2) to identify as a Study Flock any flock that has received progeny from an egg-type chicken breeding flock that has had SE recovered from the internal organs of one or more chickens during testing for the U.S. Sanitation Monitored classification of the NPIP (9 CFR 145.23(d)). This change will target high-risk flocks by using test results from the ongoing U.S. Sanitation Monitored Program testing of breeding flocks. If a flock that is positive under the USSMP sends chickens to any other flock, the other flock is identified as a Study Flock for testing and possible restrictions under this rule. This provision will apply to any interstate movements of progeny at any time since the last date when the egg-type chicken breeding flock tested free of SE in accordance with the environmental sampling provisions of the U.S. Sanitation Monitored Program of the NPIP (9 CFR 145.23(d)).

We are making this change because if poultry in a breeding flock have positive internal organ tests under the NPIP, chickens moved from that flock are a significant risk of spreading SE. We will therefore, trace the movement of chickens from those houses, back to the point in time when the flock last tested negative for SE, since the flock was probably free of SE prior to that date.

Under the interim rule, a flock could also be designated a Study Flock if "a Federal or State representative determines through epidemiologic investigation that the flock is the probable source of disease in humans or poultry" caused by SE. Numerous commenters stated that this criterion was vague, and 14 commenters suggested further standards regarding how outbreaks of disease would be traced to particular flocks.

We have examined this issue, and believe that more detailed standards are necessary for identifying particular flocks as the source of SE in disease outbreaks. We believe that flocks should be designated as Study Flocks due to association with disease outbreaks if the cause of the outbreak is identified as SE, if eggs were the probable source of the SE, and if the probable source of the eggs can be identified as a particular flock. Therefore, we are changing part of § 82.32(a) to state that a flock may be determined to be a study flock if:

(1) The Administrator determines that the flock has been implicated as the probable source of disease in an outbreak of disease in humans or poultry caused by *Salmonella enteritidis* serotype *enteritidis*. The Administrator shall make such a determination after he or she determines that:

(i) Epidemiologic reports from Federal or State health agencies identify the cause of the outbreak as *Salmonella enteritidis* serotype *enteritidis*;

(ii) Eggs were the probable source of the *Salmonella enteritidis* serotype *enteritidis* organisms that caused the outbreak; and

(iii) Shipping records or other evidence reveal that the probable source of the eggs was the flock to be determined to be a study flock.

As noted above, at the request of commenters we are adding the terms Test Poultry House and Infected Poultry House to the rule. For most situations, it is believed that appropriate biosecurity will be in place and instead of using the former rule's classification of Test Flock and Infected Flock, we will classify individual houses within a flock as Test Poultry Houses or Infected Poultry Houses. This change will focus regulatory controls on the smallest unit (house rather than flock) where effective controls against disease spread are applied. The experience of APHIS in enforcing the interim rule has shown that controlling the spread of *Salmonella* at the separate poultry house level is practical. Focusing on a smaller unit means that the costs and regulatory burden of the regulations can be reduced without sacrificing program effectiveness.

The manner in which Test Poultry Houses (new § 82.32(b)) and Infected Poultry Houses (new § 82.32(c)) will be identified is very similar to the manner in which Test Flocks (former § 82.32(b)) and Infected Flocks (former § 82.32(c)) were identified. Under the interim rule, Infected Flocks were identified based on positive internal organ tests; under this final rule, Infected Poultry Houses will be identified the same way. Under the interim rule, Test Flocks were identified based on positive environmental samples; under this final rule, Test Poultry Houses will be identified the same way.

In this final rule, the procedures for identifying Test Poultry Houses and Infected Poultry Houses are as follows: A Federal or State representative determines which structures in a Study Flock qualify as separate poultry houses (to be considered a separate poultry house, there must be no contact with other houses through exposure to chickens, feed, water, manure, equipment, or personnel). Manure samples will be collected from under each row of cages and from the manure scraper of egg transport machinery (if any) in each house of the Study Flock, and will be cultured for SE, using standard microbiological procedures described in this rule for the isolation and identification of *Salmonella*-type organisms. If SE is recovered from any

manure or egg transport machinery samples in a separate poultry house, that house will be classified as a Test Poultry House and its chickens will be required to undergo blood and internal organ testing. However, only separate poultry houses with positive manure or egg transport machinery samples will be classified as Test Poultry Houses; other such houses in the same flock will not be classified as the Test Poultry Houses.

After a separate poultry house is classified as a Test Poultry House, it must undergo blood and internal organ testing. Those Test Poultry Houses that contain chickens and test positive during internal organ testing will be classified as Infected Poultry Houses.

We will continue to use the classifications of Test Flock and Infected Flock for situations where flocks do not contain separate poultry houses with sufficient barriers to prevent disease spread between them. In such situations the entire flock, rather than individual houses, will be assigned Test or Infected status.

Several commenters questioned a provision of the interim rule that expedited placing restrictions on flocks that are associated with three or more human disease outbreaks. Under the interim rule, a Federal or State representative could put an egg production flock directly into Test Flock status if the representative determined on the basis of epidemiologic investigation that the flock was the probable source of disease in three or more outbreaks of disease in humans caused by SE. Once in Test Flock status, the flock would be subject to interstate movement restrictions. The commenters felt that flocks placed in Test Flock status in this expedited manner should have the opportunity to undergo the environmental tests that normally precede Test Flock status, and should be released from Test Flock status and the corresponding movement restrictions if the environmental tests are negative.

We continue to believe that it is very important to place immediate interstate movement restrictions on flocks that are associated with three or more human disease outbreaks. Such flocks are very likely to continue to spread disease to poultry and humans if not controlled. Shutting down interstate movements of chickens, eggs, and other articles from these flocks until we determine the status of the flock or, if applicable, which, if any, of the flock's separate poultry houses are infected is a very effective method in controlling the spread of SE.

Therefore, this final rule continues to apply immediate interstate movement restrictions in such situations. However, we agree that poultry flocks classified as Test Flocks without going through the Study Flock stage should have an opportunity to undergo environmental testing, and to be released from Test Flock status if the results are negative; but we believe interstate movement restrictions must be in place while the environmental tests are done. In this final rule we provide an opportunity for such environmental testing in response to requests from several commenters, as follows:

Under this final rule, a flock identified as the probable source of three or more outbreaks of human disease will be designated as a Test Flock, and interstate movement of its articles will be restricted. All poultry houses in the flock will then undergo environmental testing of the same type applied to Study Flocks. Those separate poultry houses that test environmentally negative will be released from movement restrictions, and those that test positive will remain Test Poultry Houses subject to movement restrictions, and will be scheduled for the blood and internal organ testing required of Test Poultry Houses. After the houses of the flock undergo the testing required of Test Poultry Houses, any houses in which SE is isolated from internal organs will become Infected Poultry Houses, while the separate poultry houses with negative results will be released from Test Poultry House status and may resume interstate movement of articles in accordance with the rule.

In summary, Study Flocks, Test Poultry Houses, and Infected Poultry Houses are identifed in the following manner. A Study Flock is a flock that has been implicated as the probable source of one or two outbreaks of disease caused by SE in poultry or humans, or has received progeny from a breeding flock the NPIP identifies as infected. All houses in a Study Flock must have manure and egg transport machinery samples tested. The separate poultry houses that test positive through manure or egg transport machinery samples become Test Poultry Houses, and are subject to movement restrictions. If there are no separate poultry houses in the flock, the entire flock becomes a Test Flock and is subject to movement restrictions. All the houses in flocks associated with three or more human SE outbreaks also become Test Poultry Houses, without waiting to undergo manure and egg transport machinery tests.

Test Poultry Houses will have blood and internal organ samples from their chickens tested. If samples from those separate poultry houses test positive, the houses become Infected Poultry Houses. If there are no separate poultry houses, the entire flock becomes an Infected Flock if chickens in any house test positive.

We are also modifying, in § 82.32(d) of the final rule, the test procedures for environmental and internal organ samples, based on technical recommendations from 14 commenters and additional APHIS study of the test procedures. Based on consultation with National Veterinary Services Laboratory personnel who are expert in procedures for isolating and identifying *Salmonella* species, we believe the tests will be more accurate if the following changes suggested by commenters are made: (1) The enrichment broth incubation temperature is changed from 42 °C to 41 °C for environmental samples, and from 42 °C to 37 °C for internal organ samples; (2) use of XLD agar is discontinued, and use of XLT4 agar, Brilliant Green agar and MacConkey agar is added in certain steps; and (3) the number of *Salmonella*-suspect colonies inoculated from each sample to triple-sugar iron (TSI) and lysine-iron (LI) agar slants is changed to five.

Section 82.33 Old heading: Interstate Movement of Articles From Test Flocks and Infected Flocks

Section 82.33 New heading: Interstate Movement of Export of Articles From Test Poultry Houses, Test Flocks, Infected Poultry Houses, and Infected Flocks

To be consistent with the changes discussed above, we are changing this section to apply restrictions to individual houses rather than entire flocks for flocks containing separate poultry houses, to the extent allowed by good disease control practices. For flocks containing separate poultry houses, the restrictions that formerly applied to all restricted articles from Test Flocks and Infected Flocks will instead be applied to restricted articles from Test Poultry Houses and Infected Poultry Houses. Articles from other houses in the same flocks could move without regulatory restrictions.

Several commenters suggested changes regarding the restrictions on movement of eggs that are restricted articles. These commenters suggested that such eggs should be allowed to move interstate for boiling, as an alternative to pasteurization, since both procedures destroy the infectivity of SE. Another commenter suggested that eggs "graded inedible" in accordance with

Agricultural Marketing Service (AMS) regulations need not be further restricted under this rule, since the AMS regulations effectively prevent such inedible eggs from moving for human consumption or for uses that could infect other poultry.

We agree with this comment, and are making changes to the rule to implement it, as discussed below.

Under the previous rule, restricted eggs could be moved interstate only for pasteurization. We are changing this requirement to allow the interstate movement of such eggs for either pasteurization, hard cooking (boiling), or exportation from the United States in accordance with certain restrictions.

Hard cooking is available as an alternative at some egg processing plants, and has been shown by research to be as effective as pasteurization in destroying SE organisms. Therefore, we are allowing the interstate movement to a processing plan of restricted eggs for either pasteurization or hard cooking, provided this processing is done at egg product plants operating in accordance with regulations of the Agricultural Marketing Service (AMS) to ensure the effectiveness of the pasteurization or hard cooking. (See AMS regulations in 7 CFR parts 55 and 59.)

We are allowing restricted eggs to be moved interstate when such eggs are in the process of being exported from the United States. While they are being moved through the United States for export, such eggs would be subjected to the same conditions applied to restricted eggs moved interstate for pasteurization or hard boiling (i.e., movement under a permit, movment in an enclosed compartment of a vehicle, and no unloading during transit to the port).

Eggs from Test Flocks and Infected Flocks are considered by the Food and Drug Administration to be adulterated under the Federal Food, Drug, and Cosmetic Act (FFDCA) (See 21 U.S.C. 301 *et seq.*). The exportation of such eggs must therefore comply with provisions of the FFDCA. Persons interested in exporting eggs from Test Flocks or Infected Flocks may wish to contact the Food and Drug Administration regarding these requirements. APHIS will not issue a permit to export such eggs until the exporter signs and presents to APHIS a written statement stating that the proposed exportation meets the requirements of the FFDCA.[1] APHIS may consult with countries importing such eggs to ensure that the importing countries are aware of the status of the eggs and that the movement complies with the laws of the importing country.

We are also revising the permit application procedure in § 82.35 to clarify that only the owner of the poultry or other items to be moved, or the agent of the owner, may obtain a permit, and that the application must contain the name and mailing address of the owner or the agent of the owner.

Also, we are allowing the movement of certain inedible eggs classified as restricted in accordance with AMS regulations (7 CFR part 59), since AMS regulations require such eggs to be denatured and diverted from human consumption and thus prevent them from causing SE disease in humans. To prevent these inedible eggs from spreading SE in poultry, we are requiring that they be pasteurized if they are destined for use in animal feed.

These changes will reduce the adverse economic impact on the owners of Test Flocks and Infected Flocks and flocks containing Test Houses or Infected Houses by allowing them additional alternatives for sale of their eggs, without increasing the possibility of SE spread.

One commenter suggested that restricted eggs moved interstate need not go directly to an egg products plant, but rather could be moved to a temporary storage facility prior to final movement to the egg products plant. We disagree with this suggestion, because we believe that temporary storage would provide too many opportunities to divert restricted eggs to unauthorized destinations. Also, supervising temporary storage facilities would be a drain on Federal and State resources that can be used in other program efforts that more directly control the spread of *Salmonella*.

A total of 40 commenters requested that no interstate movement restrictions be applied to Test Flocks (or Test Poultry Houses), and that only movements from Infected Flocks (or Infected Poultry Houses) be restricted. Their comments suggested that it was unfair to restrict movement before a flock or house has been positively identified as infected with SE.

We disagree, and are making no change in response to this comment. Test Flocks and Test Poultry Houses pose a significant risk of being infected with SE, and unrestricted movements of articles from these houses could spread SE and significantly reduce the effectiveness of the regulations. Placing restrictions on flocks and houses that have been identified as posing a high risk of disease spread, until the time the flock or house can be conclusively tested, is a practice consistent with many other APHIS programs for disease control, and is a necessary part of the program.

Section 82.37 Cleaning, Washing, and Disinfection of Depopulated Infected Poultry Houses

Several commenters suggested that the rule should contain more requirements on how to clean poultry houses that formerly held infected chickens, to prevent the spread of SE to replacement stock. We agree, and are adding a new section to require stricter cleaning, washing, and disinfection of poultry houses that housed infected poultry. If any Infected Poultry House is depopulated, the house must be cleaned, washed, and disinfected in accordance with the rule's requirements prior to the time the house is restocked with new chickens. An Infected Poultry House that is depopulated will not be released from Infected Poultry House status until a Federal or State representative determines that the house has been cleaned, washed, and disinfected in accordance with the rule's requirements.

Section 82.38 Monitoring Other Poultry Houses on Premises Containing Infected Poultry Houses; Monitoring Poultry Houses Released From Infected Poultry House Status

Because this rule shifts the focus of control from entire flocks to individual houses under certain conditions, we are adding additional requirements to ensure that all the houses that should be subject to regulation are identified. As part of this effort, we are requiring monitoring tests for other houses on the same premises as Infected Poultry Houses. For as long as any house on the premises is classified as an Infected House, all other houses on the premises shall be subject to monitoring tests as described below.

All Test Poultry Houses on a premises containing an Infected Poultry House, like Test Poultry Houses on any premises, must undergo the tests required by § 82.32(b) and (c). Like any

[1] A major requirement of the FFDCA concerning exportation is contained in 21 U.S.C. 381(e), and reads in part as follows:

(1) A food, drug, device, or cosmetic intended for export shall not be deemed to be adulterated or misbranded under this chapter if it—

(A) Accords to the specifications of the foreign purchaser,

(B) Is not in conflict with the laws of the country to which it is intended for export,

(C) Is labeled on the outside of the shipping package that it is intended for export, and

(D) Is not sold or offered for sale in domestic commerce.

other Test Poultry Houses, Test Poultry Houses on a premises containing an Infected Poultry House may be released from Test Poultry House status when they are eligible in accordance with § 82.32(b)(2) (i.e., when 2 sets of 300 blood samples, and 2 sets of 60 internal organ samples, have been tested for SE with negative results). However, due to the risks associated with sharing premises with an Infected Poultry House, any former Test Poultry House (i.e., a Test Poultry House that has been tested and released in accordance with § 82.32(b)(2)) that shares premises with an Infected Poultry House will be subjected to a third test of 300 blood samples and 60 internal organ samples. This third round of monitoring tests will be conducted within 45 to 60 days following the date the house was released from Test House status. If the third round of blood and internal organ samples is negative, the Test Poultry House will be released from Test Poultry House status.

All other poultry houses (i.e., houses that tested negative to environmental manure and egg transport machinery samples) on a premises containing an Infected Poultry House shall undergo monitoring tests as follows. These monitoring tests will be performed from the date the flock owner is notified of the determination of an Infected House until 120 days after the date Infected House status is removed. A Federal representative or State representative shall collect manure and egg transport machinery samples from each house in accordance with § 82.32(b), at intervals of not less than 45 days and not more than 60 days. If the samples from any house test positive in accordance with § 82.32(d), that house shall be determined to be a Test Poultry House in accordance with § 82.32(b).

The following example may clarify the relationship between the various poultry house classifications, and the way a house may progress through them. Consider a flock that has been designated a Study Flock. The flock includes several structures housing poultry. A Federal or State representative has determined that each of these structures may be considered a separate poultry house, because there is no contact between them through movement of chickens, feed, water, manure, equipment, or personnel working in the houses.

All these houses undergo environmental testing of manure and egg transport machinery, because that is required of all houses in a Study Flock. Two of the six houses have positive environmental samples. These two houses are immediately designated Test Poultry Houses, interstate movements of poultry, eggs, and other articles from them are restricted, and blood and internal organ samples are collected from chickens in these two houses. The other four houses are not under any interstate movement restrictions at this point, and are not undergoing testing.

The blood and internal organ tests are positive for chickens in one of the Test Poultry Houses and negative for chickens in the second house. The positive house is immediately designated an Infected Poultry House. The chickens in the negative Test Poultry House undergo a second, confirmatory round of internal organ tests; the results are negative.

The premises now contain one Infected Poultry House, four houses that tested negative on environmental samples, and one house that tested positive to environmental samples but negative to two rounds of internal organ testing. The fact that there is an Infected Poultry House changes the situation for all other houses on the premises; although past tests show them to be non-infected, they must be monitored closely because of the proximity of an Infected Poultry House. (While we consider each separate poultry house to have effective barriers to the spread of disease between houses through the prohibition on common poultry, feed, water, equipment, and personnel, there is a slight risk of spread of SE through sources that can not practically be controlled, such as flies, rodents, or wild animals. This is the risk these monitoring tests address.)

This monitoring will be accomplished by the monitoring test provisions contained in new § 82.38. Essentially, the monitoring will consist of a third round of blood and internal organ tests for any former Test Houses on the premises, and testing of manure and egg transport machinery samples for all other houses on the premises. Samples from other than former Test Houses will be collected approximately every 45 days from each house on the premises with the Infected Poultry House for as long as that infected house remains there, and for 120 days afterward. If the monitoring samples for any house are positive, that house will move up to Test Poultry House status, and interstate movement restrictions will apply.

If a house was designated a Test Poultry House but then was released from that status after two sets of negative blood and organ tests, the chickens in the house would be subjected to the following monitoring test if there is an Infected Poultry House on the premises. For a third time, the blood and internal organ tests described in § 82.32(c) would be repeated for the poultry in the former Test Poultry House. Since this house represents the second highest risk on the premises, next to the Infected Poultry House, these tests must be repeated, with negative results, within 45 to 60 days after it is released from Test Poultry House status. If any test is positive, the house will be reclassified as an Infected Poultry House.

To summarize, during the period there is an Infected Poultry House on the premises, all other houses (except Test Poultry Houses) must undergo testing of manure and egg transport machinery samples every 45 to 60 days. From the date there is no longer an Infected Poultry House on the premises, all houses that never had positive environmental samples continue with environmental monitoring for 120 days. Any house in which chickens had positive environmental samples (any former Test Poultry House) must undergo blood and internal organ testing, not environmental sampling, within 45 to 60 days after it is released from Test Poultry House status.

Correction to 9 CFR Part 71

The interim rule added poultry disease caused by *Salmonella enteritidis* serotype *enteritidis* to paragraph (a) of 7 CFR 71.3, which lists animal diseases that are endemic in the United States and prohibits animals affected with these or any other communicable endemic diseases from moving interstate. Exceptions to the prohibition are specified in paragraphs (c), (d), and (e) of § 71.3. As discussed in the preamble of the interim rule (55 FR 5577), this change was made so that poultry and poultry products contaminated with *Salmonella enteritidis* serotype *enteritidis* "may not be moved interstate, except under conditions prescribed by the Deputy Administrator in accordance with § 71.3(d)(6)." However, paragraph (d)(6) of § 71.3 refers to "diseases named in paragraph (d)(1) of this section," and paragraph (d)(1) names only diseases of hoofed livestock and is limited to livestock moved to slaughter. The requirement for interstate movement of poultry affected with disease caused by *Salmonella enteritidis* serotype *enteritidis* is more logically placed in paragraph (c) of § 71.3. To make the requirements of § 71.3 clear and unambiguous, the phrase "poultry affected with disease caused by *Salmonella enteritidis* serotype *enteritidis* may be moved interstate in

accordance with part 82 of this chapter" should appear in paragraph (c) of § 71.3. This phrase was inadvertently left out of paragraph (c) when the interim rule was published. We are correcting this error in the regulatory text of the interim rule.

Effective Date

Pursuant to the provisions of 5 U.S.C. 553, we find good cause for making this rule effective less than 30 days after publication in the **Federal Register**. This is a substantive rule which relieves restrictions, and contains provisions to reduce spread of a serious poultry disease. Immediate implementation of this rule is necessary to provide relief to those poultry flock owners who are adversely affected by whole-flock restrictions we no longer find warranted, and to implement alternative restrictions which we believe will more effectively control the spread of *Salmonella enteritidis* serotype *enteritidis* in poultry flocks.

Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for making this rule effective upon publication.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with 21 U.S.C. 111, 134a, and 134f, the Secretary of Agriculture is authorized to promulgate regulations to prevent the dissemination of contagious, infectious, or communicable diseases of poultry from one State to another.

In the interim rule we summarized and requested comments on the Initial Regulatory Flexibility Analysis we prepared in accordance with 5 U.S.C. 603, evaluating the potential impact of the proposed rule on small entities. We have revised that analysis by including information contained in comments on the interim rule and further analysis by APHIS staff. The resulting Final Regulatory Flexibility Analysis (FRFA) is summarized below; copies of the entire FRFA may be obtained by writing to the Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

As an alternative to the provisions of this rule, we have considered taking no action, and allowing the interim rule to remain in effect unchanged. The alternative of no action was rejected because it would not be the most effective way to fulfill the APHIS mandate to prevent the dissemination of communicable poultry disease, and because it would impose an unnecessary burden on poultry producers.

This rule concentrates resources on addressing SE control at the breeder and layer flock levels, two critical control points in the egg production chain.

There are two provisions of this rule and the interim rule that may have significant economic impacts on small entities: (1) The prohibition on interstate movement of hatching eggs and newly-hatched chicks unless they are classified "U.S. Sanitation Monitored" under the NPIP or meet a State plan determined to be equivalent by the Administrator (the Certified *Salmonella enteritidis* serotype *enteritidis* Tested Free Flocks), and (2) the testing requirements and restrictions on interstate movement of restricted articles.

Breeders affected by the hatching eggs and newly-hatched chicks classification requirements fall into two groups; approximately 275 large commercial breeders (including 26 primary breeders) of egg-type chickens engaged in interstate movements, and a larger number (estimated at several thousand) of smaller breeders, most of which are small entities, that may occasionally or frequently wish to sell hatching eggs and newly-hatched chicks interstate.

Almost all large commercial breeders participate in the U.S. Sanitation Monitored program of the NPIP, and these breeders should feel little or no additional impact from the regulations, since they are already meeting its classification requirements by participating in this program of the NPIP.

Smaller breeders of egg-production chickens who wish to engage in interstate sales or other interstate distribution of hatching eggs and newly-hatched chicks will be required to participate in the U.S. Sanitation Monitored program of the NPIP or a State program determined to be equivalent by the Administrator, at an annual cost of approximately $750 per chicken house. In some cases, this testing cost could be partially or wholly subsidized by State governments or the Federal government. While this annual cost could be a significant expense for a small breeder, the data available to us indicate that a majority of small breeders engaged in interstate movements are already members of the NPIP or a State program, and therefore are already bearing the cost. Therefore, we do not believe this requirement will have a significant economic impact on a substantial number of small entities.

Egg production flocks containing houses that are identified as Test Poultry Houses or Infected Poultry Houses will suffer economic impacts as a result of this rule, in the form of revenue loss due to the restrictions on interstate movement of chickens and eggs (eggs may be moved interstate for breaking and pasteurization, boiling, or export) for the period they are considered to be from Test or Infected Houses. The total number of egg production flocks that will be identified as containing Test Poultry Houses or Infected Poultry Houses, and the number of these which are small entities, cannot be estimated until we acquire further data on the extent and rate of spread of SE in egg production flocks. In 1988, 40 egg production flocks were implicated, none of which were small entities. However, approximately 93 percent of egg production flocks are small entities (80,210 of 86,005 producers of poultry products for sale), and it is likely that some egg production flocks that are small entities will be implicated in the future.

The revenue loss will depend on the length of time the flock is determined to contain a Test Poultry House or an Infected Poultry House, the percentage of the flock's houses that are determined to be Test Poultry Houses or Infected Poultry Houses, the availability of interstate markets for pasteurized and boiled eggs, and other variables. Flocks that are determined to contain a large percentage of Test Poultry Houses or Infected Poultry Houses could suffer severe financial losses during the period of interstate movement restrictions. It is also possible that flocks identified as Study Flocks, or flocks that formerly contained Test Poultry Houses or Infected Poultry Houses and were later released from that status, could suffer indirect economic losses caused by adverse publicity. The owners of such flocks could face loss of markets or reduced prices for their products, even after interstate movement restrictions no longer apply to the flock. However, some producers would suffer such indirect economic impacts even if this

rule were not adopted. Flocks are frequently suspected of contamination by *Salmonella*, and suffer financial losses as a result, without being formally identified as suspect by a government program.

Based on the number of egg production flocks found to contain houses infected with SE over the past few years, we estimate that on the order of 80 egg production flocks per year will be determined to contain Test Poultry Houses or Infected Poultry Houses and will thus be subjected to interstate movement restrictions. This number is less than 0.1 percent of the total number of egg production flocks that are also small entities. Therefore, while those small entities that are affected may suffer significant economic impacts, we do not believe the total number of small entities affected will be substantial.

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

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V).

Paperwork Reduction Act

In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the information collection provisions that are included in this rule will be submitted for approval to the Office of Management and Budget.

List of Subjects

9 CFR Part 71

Animal diseases, Livestock and livestock products, Poultry and poultry products, Quarantine, Transportation.

9 CFR Part 82

Animal diseases, Chlamydiosis, Exotic Newcastle disease, Ornithosis, Poultry and poultry products, Psittacosis, Salmonella, Quarantine, Transportation.

Accordingly, we are adopting as a final rule with the following changes, the interim rule that amended 9 CFR parts 71 and 82 that was published at 55 FR 5570 through 5584 on February 16, 1990.

PART 71—GENERAL PROVISIONS

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

Authority: 21 U.S.C. 111–113, 114a, 114a–1, 115–117, 120–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

2. Paragraph (c) of § 71.3 is amended by removing the word "and" at the end of paragraph (c)(1); by removing the period at the end of paragraph (c)(2) and adding in its place a semicolon followed by the word "and"; and by adding paragraph (c)(3) as follows:

§ 71.3 Interstate movement of diseased animals and poultry generally prohibited.

* * * * *

(c) * * *

(3) poultry affected with disease caused by *Salmonella enteritidis* serotype *enteritidis* may be moved interstate in accordance with part 82 of this chapter.

PART 82—EXOTIC NEWCASTLE DISEASE IN ALL BIRDS AND POULTRY: PSITTACOSIS AND ORNITHOSIS IN POULTRY: POULTRY DISEASE CAUSED BY SALMONELLA ENTERITIDIS SEROTYPE ENTERITIDIS

3. The authority citation for part 82 continues to read as follows:

Authority: 21 U.S.C. 111–113, 115, 117, 120, 123–126, 134a, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

4. The heading for part 82 is revised to read as set forth above.

5. Subpart B is revised to read as follows:

Subpart B—Poultry Disease Caused by Salmonella Enteritidis Serotype Enteritidis

Sec.

§ 82.30 Definitions.

As used in connection with this subpart, the following terms shall have the meaning set forth in this section.

Administrator. The Administrator of the Animal and Plant Health Inspection Service or any individual authorized to act for the Administrator.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

Authorized laboratory. A laboratory approved by the Administrator to conduct tests in accordance with this subpart. Application for accreditation shall be made in writing by the owner or operator of the laboratory and sent to the Administrator, Animal and Plant Health Inspection Service, c/o Sheep, Goat, Equine, and Poultry Diseases Staff, Veterinary Services, U.S. Department of Agriculture, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

The applying laboratory will bear all costs associated with its application process. The Administrator will approve an authorized laboratory only after consulting with the State animal health official in the State in which the laboratory is located and after determining that the laboratory:

(1) Is supervised by a person holding, as a minimum, a bachelor's degree in either chemistry, microbiology, or a related field and having 1 year's experience in diagnostic microbiology, or equivalent qualifications, as determined by the Administrator;

(2) Has technical personnel assigned to conduct the tests who have received training prescribed by the National Veterinary Services Laboratories (NVSL);

(3) Uses reagents, media, and antigen approved by NVSL;

(4) Maintains laboratory quality control records for the most recent 3 years that samples have been analyzed under this Program;

(5) Demonstrates acceptable levels of systematic laboratory difference, variability, and individual large deviations in the identification of microorganisms. An applying laboratory will successfully demonstrate these capabilities if its diagnostic results from annual check test proficiency studies satisfy the criteria of NVSL;

(6) Follows standard test protocols approved by NVSL;

(7) Maintains complete records of the receipt, analysis, and disposition of official samples for the most recent 3 years that samples have been analyzed under this Program;

(8) Reports results of all tests ordered in accordance with this subpart or in accordance with § 145.23(d) of this chapter to the State animal health official and APHIS.[1]

[1] Training requirements, standard test protocols, and check test proficiency requirements prescribed by the National Veterinary Services Laboratories and the names and addresses of authorized laboratories can be obtained by writing to the

Continued

(9) Maintains a standards book, which is a permanently bound book with sequentially numbered pages, containing all readings and calculations for diagnostic tests and calibration of instruments. All entries are to be dated and signed by the analyst immediately upon completion of the entry and by his/her supervisor within 2 working days. The standards book is to be retained for a period of 3 years after the last entry is made;

(10) Analyzes NVSL check test proficiency samples and returns the results to NVSL within 3 weeks of sample receipt. This must be done whenever requested by NVSL and at no cost to USDA;

(11) Informs the Administrator by certified or registered mail, within 30 days, when there is any change in the laboratory's ownership, officers, directors, supervisory personnel, or other responsibly connected individual or entity; and

(12) Permits any duly authorized representative of the Secretary to perform both announced and unannounced on-site laboratory reviews of facilities and records during normal business hours and to copy all such records.

The Administrator may revoke the authorized status of a laboratory after determining that the laboratory fails to meet any requirement of this definition. The revocation will be effective on the date written notice of revocation is given to to the owner or operator of the laboratory. A laboratory whose accreditation has been revoked may reapply for authorized laboratory status no sooner than 6 months after the effective date of revocation, and must provide written documentation specifying what corrections were made.

Certified Salmonella enteritidis serotype enteritidis Tested Free Flocks. Egg-type chicken breeding flocks that are classified "U.S. Sanitation Monitored" under the National Poultry Improvement Plan (NPIP), or meet the requirements of a State classification plan determined by the Administrator to be equivalent to the NPIP, in accordance with § 145.23(d) of this chapter.

Egg production flock. A flock maintained for the purpose of producing eggs for human consumption.

Federal representative. An individual employed and authorized by the Federal government to perform the tasks required by this subpart.

Flock. All of the poultry on one premise.

Hatching eggs. Eggs in which young chickens are allowed to develop.

Infected flock. A flock that does not contain separate poultry houses as defined by this section, and in which any poultry has tested positive for *Salmonella enteritidis* serotype *enteritidis* in accordance with the blood and internal organ tests of § 82.32(c) of this subpart.

Infected poultry house. A poultry house containing chickens determined to be infected with *Salmonella enteritidis* serotype *enteritidis* in accordance with § 82.32(c) of this subpart.

Internal organs. All internal organs except for the lungs and organs of the gastrointestinal tract.

Interstate. From one State into or through any other State.

Move (moving, moved, movement). Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any means.

Multiplier breeding flock. A flock that is intended for the production of hatching eggs used for the purpose of producing progeny for commercial egg production.

Newly-hatched chicks. Chicks that have not been fed or watered for the first time.

Poultry. Chickens of all ages, including eggs for hatching.

Poultry house. A building or other structure used to house poultry.

Primary breeding flock. A flock composed of one or more generations that is maintained for the purpose of establishing or continuing multiplier breeding flocks for the ultimate purpose of commercial egg production.

Separate poultry house. A poultry house that has been determined by a Federal or State representative to have biosecurity to prevent the transmission of communicable disease to other poultry houses. Biosecurity means that flock management procedures are in place to ensure that there is no contact between poultry houses through exposure to chickens, feed, water, manure, equipment, or personnel from other poultry houses.

State. Any State, the District of Columbia, Puerto Rico, Guam, the Northern Mariana Islands, the Virgin Islands of the United States, and any other territory or possession of the United States.

State representative. An individual employed in animal health work and authorized by a State or political subdivision of a State to perform the tasks required by this subpart.

Study flock. A flock determined in accordance with § 82.32(a) of this part to be a study flock, based on:

(1) A determination by a Federal representative or State representative through epidemiologic investigation that the flock is the probable source of disease in an outbreak of disease in poultry or humans caused by *Salmonella enteritidis* serotype *enteritidis*, or

(2) A determination by a Federal representative or State representative that the flock has received progeny from a primary breeding flock or multiplier breeding flock that has had a positive organ sample in accordance with § 145.23(d) of this chapter, after the date of the last negative environmental sample for the primary breeding flock or multiplier breeding flock in accordance with § 145.23(d) of this chapter.

Test flock. A flock that does not contain separate poultry houses as defined by this section, and in which any manure and egg transport machinery samples have tested positive for *Salmonella enteritidis* serotype *enteritidis* in accordance with § 82.32(b) of this subpart.

Test poultry house. A poultry house determined in accordance with § 82.32(b) of this subpart to have tested positive for *Salmonella enteritidis* serotype *enteritidis* by isolation of the bacterium from one or more manure or egg transport machinery samples, and designated for blood and internal organ testing in accordance with § 82.32(c) of this subpart.

§ 82.31 Applicability.

The regulations in this subpart apply only to primary and multiplier breeding flocks used for the purpose of producing progeny for commercial egg production, and to egg production flocks used for the purpose of producing table eggs for sale or other distribution in interstate commerce or for export.

§ 82.32 Identification of study flocks, test poultry houses, test flocks, infected poultry houses, and infected flocks.

Only a Federal representative or State representative [2] may make a

Administrator, c/o Sheep, Goat, Equine, and Poultry Diseases Staff, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

[2] The location of Federal or State representatives can be obtained by writing to the Administrator, c/o Sheep, Goat, Equine, and Poultry Diseases Staff, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

determination in accordance with this subpart that an egg production flock is a study flock, a test flock, or an infected flock, or that a poultry house is a test poultry house or an infected poultry house. The Federal representative or State representative shall also determine which subunits of a flock meet the definition of a separate poultry house in § 82.30 of this subpart. Immediately after a study flock, test flock, infected flock, test poultry house, or infected poultry house is identified, a Federal representative or a State representative shall notify in writing the person in control of the flock that his or her flock has been determined to be a study flock, test flock, or infected flock, or that specified poultry houses in the flock have been determined to be test poultry houses or infected poultry houses. At any time after such notification, the person in control of such flock, test poultry house, or infected poultry house, upon request of a Federal representative or a State representative, shall make available for review and copying all records maintained in accordance with 7 CFR 59.200 [3] and all other records of the shipment of poultry and poultry products to and from the flock.

(a) *Study flocks.* An egg production flock shall be determined to be a study flock under the circumstances described in paragraphs (a)(1) or (a)(2) of this section:

(1) The Administrator determines that the flock has been implicated as the probable source of disease in an outbreak of disease in humans or poultry caused by *Salmonella enteritidis* serotype *enteritidis*. The Administrator shall make such a determination after he or she determines that:

(i) Epidemiologic reports from Federal or State health agencies identify the cause of the outbreak as *Salmonella enteritidis* serotype *enteritidis*;

(ii) Eggs were the probable source of the *Salmonella enteritidis* serotype *enteritidis* organisms that caused the outbreak; and

(iii) Shipping records or other evidence reveal that the probable source of the eggs was the flock determined to be a study flock.

(2) A Federal representative or a State representative determines that the flock has received progeny from an egg-type chicken breeding flock that has had *Salmonella enteritidis* serotype *enteritidis* recovered from the internal organs of one or more chickens through testing in accordance with § 145.23(d) of this chapter, at any time since the last negative environmental sample tested for that egg-type chicken breeding house in accordance with § 145.23(d) of this chapter.

(b) *Test poultry houses and test flocks.* A a separate poultry house in a study flock shall be determined to be a test poultry house if manure and egg transport machinery samples from the house are collected and tested in accordance with this paragraph and one or more of the samples from the house tests positive for *Salmonella enteritidis* serotype *enteritidis*. The entire flock shall be determined to be a test flock if the flock does not contain separate poultry houses as defined in § 82.30 of this chapter, and if manure and egg transport machinery samples from any poultry house in the flock test positive for *Salmonella enteritidis* serotype *enteritidis* in accordance with this paragraph. A study flock shall be determined to be a test flock if the person in control of the flock has refused to schedule collection of samples in accordance with paragraph (b)(1) of this section within 48 hours of the time the person in control of the flock was notified in writing by a Federal representative or a State representative that his flock was determined to be a study flock, or if the actions of the person in control of the flock prevent completion of collection of samples in accordance with paragraph (b)(1) of this section within 15 days of the time the person in control of the flock was notified by a Federal representative or a State representative that his flock was determined to be a study flock. If a Federal representative determines on the basis of epidemiologic investigation that any flock is the probable source of disease in three or more outbreaks of disease in humans caused by *Salmonella enteritidis* serotype *enteritidis*, that flock shall be determined to be a test flock; however, such test flocks shall have environmental samples collected and tested in accordance with paragraphs (b)(1) and (d) of this section, and any separate poultry houses that test negative in accordance with paragraph (d) of this section shall be released from test poultry house status.

(1) *Sample collection.* A Federal representative or a State representative shall initiate testing of each study flock by collecting the following samples for testing:

(i) *Manure samples.* The Federal representative or State representative shall collect two simultaneous manure samples from each row of cages, or from the floor area if there are no cages, using a sterile 4-inch by 4-inch gauze sponge for each sample. The manure sample shall be collected by fastening the gauze sponges to the scraper frame and running the scraper the full length of the row of cages, if a manure scraper is used on the row; otherwise, collect the manure sample by dragging the swab along the manure pile beneath the cages, or once along the full length of the floor if there are no cages. The gauze sponges used to collect manure samples shall be placed in an 18-ounce whirl-pak plastic bag containing double strength skim milk, and the bag shall be marked with the location of the row or floor area from which the sample is taken.

(ii) *Egg transport machinery samples.* The Federal representative or State representative shall collect one egg transport machinery sample from each row of cages by wiping the egg transport belt and egg escalator, using a sterile 4-inch by 4-inch gauze sponge for each sample. The gauze sponge used to collect egg transport machinery samples for each row shall be placed in an 18-ounce whirl-pak plastic bag containing double strength skim milk, and the bag shall be marked with the location of the row from which the sample is taken.

(2) *Release from test poultry house or test flock status.* A Federal or State representative shall determine that a separate poultry house is no longer a test poultry house, or that a flock is no longer a test flock, and shall notify in writing the person in control of the house or flock of that determination, after the Federal or State representative determines that blood and internal organ samples from the house or flock have been collected and tested twice in accordance with paragraphs (c) and (d) of this section with no recovery of *Salmonella enteritidis* serotype *enteritidis*.

(c) *Infected poultry houses and infected flocks.* A test poultry house shall be determined to be an infected poultry house if the house is tested in accordance with this paragraph and *Salmonella enteritidis* serotype *enteritidis* is recovered from the internal organs of one or more chickens in the house. A test flock shall be determined to be an infected flock if the flock is tested in accordance with this paragraph and *Salmonella enteritidis* serotype *enteritidis* is recovered from the internal organs of one or more

[3] In accordance with 7 CFR 59.200, persons engaged in the business of transporting, shipping, receiving, holding, or handling eggs or egg products in commerce shall maintain records for two years showing the receipt, delivery, sale, movement, and disposition of all eggs and egg products handled by them, and shall, upon the request of an authorized representative of the Secretary, permit him, at reasonable times, to have access to and to copy all such records.

chickens in the flock. If *Salmonella enteritidis* serotype *enteritidis* is not recovered from the internal organ samples, a second set of blood and internal organ samples from poultry in that house or flock shall be collected and tested in accordance with this paragraph beginning not less than 15 days after the date the first internal organ samples are collected.

(1) *Blood samples.* The Federal representative or State representative shall collect blood samples from 300 chickens in each poultry house, randomly selected from the cage banks that provided manure samples that tested positive in accordance with paragraph (b)(1) of this section, and shall also collect blood samples from any chickens that show clinical signs of infection with *Salmonella enteritidis.* Blood samples shall be tested in accordance with the procedures for the stained-antigen, rapid, whole-blood test described in § 147.3 of this chapter. The Federal or State representative shall band each chicken tested with a band bearing a unique number identifying the chicken with the blood test results.

(2) *Internal organ samples.* The Federal representative or State representative shall collect a total of 60 chickens from each test poultry house, or each house of a test flock, and send the chickens to an authorized laboratory for testing of internal organs. The Federal representative or State representative shall include in this sample all chickens that reacted to the blood test in paragraph (c)(1) of this section. If *Salmonella enteritidis* serotype *enteritidis* is recovered from any manure samples tested in accordance with paragraph (b)(1)(i) of this section, the Federal representative or State representative shall collect additional chickens from the rows that supplied the manure samples from which *Salmonella enteritidis* serotype *enteritidis* was recovered, to bring the total number of chickens from each house submitted for internal organ testing to 60.

(d) *Test methods for samples.* Blood samples shall be tested either at the flock premises or at an authorized laboratory, and all other samples shall be sent for testing to an authorized laboratory. Blood samples shall be tested using a stained-antigen, rapid, whole blood test, in accordance with § 147.3 of this chapter. Manure, egg transport machinery, and internal organ samples shall be sent for testing to an authorized laboratory, where they shall be cultured for identification of *Salmonella enteritidis* serotype *enteritidis* as follows:

(1) *Manure and egg transport machinery samples.* Place each sample in approximately 10 times its volume of Hajna tetrathionate or Mueller-Kauffman tetrathionate selective enrichment broth, and incubate at 41°C for 24 hours. Use each enriched sample to inoculate an agar plate of Brilliant green agar supplemented with novobiocin or XLT4 agar, and incubate the plates at 37°C for 24 hours. Inoculate at least 5 *Salmonella*-suspect colonies from each sample to slants of triple-sugar iron (TSI) agar and lysine-iron (LI) agar, and incubate at 37°C for 24 hours. Cultures showing typical reactions on TSI or LI or both shall be screened with Group D antiserum. Send all Group D isolates to the National Veterinary Services Laboratories for further characterization.

(2) *Internal organ samples.* Place each sample in approximately 10 times its volume of Hajna tetrathionate or Mueller-Kauffman tetrathionate selective enrichment broth, and incubate at 37°C for 24 hours. Use each sample to inoculate an agar plate of Brilliant green agar supplemented with novobiocin or XLT4 agar, and a supplemental plate of MacConkey agar if so desired, and incubate the plates at 37°C for 24 hours. Inoculate at least 5 *Salmonella*-suspect colonies from each sample to slants of TSI agar and LI agar, and incubate at 37°C for 24 hours. Cultures showing typical reactions on TSI or LI or both shall be screened with Group D antiserum. Send all Group D isolates to the National Veterinary Services Laboratories for further characterization.

(e) *Release from infected poultry house status or infected flock status.* A Federal or State representative shall determine that a house or flock is no longer an infected poultry house or an infected flock, and shall notify in writing the person in control of the house or flock of that determination, if the Federal or State representative determines that after the house or flock has been determined to be infected:

(1) The house or flock has been depopulated, and cleaned, washed, and disinfected in accordance with § 82.37 of this subpart; or,

(2) Internal organ samples have been collected from the chickens in the house or flock and tested in accordance with paragraphs (c) and (d) of this section, with no recovery of *Salmonella enteritidis* serotype *enteritidis.*

§ 82.33 Interstate movement or export of articles from test poultry houses, test flocks, infected poultry houses, and infected flocks.

Eggs, live chickens, cages, coops, containers, troughs, and other equipment, and manure may be moved interstate from a test poultry house, test flock, infected poultry house, or infected flock only in accordance with this section.

(a) Eggs that are crushed and denatured or otherwise denatured to deter their use as human food in accordance with 7 CFR part 59 may be moved interstate from a test poultry house, test flock, infected poultry house, or infected flock without further restriction under this subpart; *except that,* if the restricted eggs are destined for use as a protein or mineral supplement in animal feed, the eggs may be moved interstate only for pasteurization. Other eggs may be moved interstate from a test poultry house, test flock, infected poultry house, or infected flock only for pasteurization at an egg products plant inspected by the Agricultural Marketing Service in accordance with 7 CFR part 59, or for hard cooking at an egg products plant operating under the Agricultural Marketing Service Voluntary Egg Products Inspection Service in accordance with 7 CFR part 55, or directly to a port for export from the United States. Such eggs may only be moved if:

(1) A permit has been obtained for the interstate movement or export in accordance with § 82.35 of this subpart, and

(2) The eggs are moved in a completely enclosed compartment of a vehicle that has had a seal applied to it by a Federal or State representative [4] immediately prior to movement.

Such eggs may not be unloaded during transit. For eggs moved to an egg products plant, a Federal or State representative shall break the vehicle's seal at the plant. If the Federal or State representative finds that the cargo compartment of the vehicle is contaminated with material from broken eggs, or other material or litter that could spread *Salmonella,* he or she shall order the operator of the vehicle to clean and disinfect the compartment in accordance with § 71.7 of this chapter

[4] The location of Federal or State representatives can be obtained by writing to the Administrator, c/o Sheep, Goat, Equine, and Poultry Diseases Staff, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

prior to the time the vehicle leaves the premises of the egg products plant.

(b) Live chickens may be moved interstate from a test poultry house, test flock, infected poultry house, or infected flock only if:

(1) A permit has been obtained for the interstate movement in accordance with § 82.35 of this subpart;

(2) The chickens are moved interstate to a Federally inspected slaughtering establishment;

(3) The chickens are slaughtered within 24 hours of arrival at the Federally inspected slaughtering establishment; and

(4) The wheels and exposed surfaces of the vehicle used to move the chickens are cleaned and disinfected in accordance with § 71.7 of this chapter after the chickens are unloaded and prior to the time the vehicle leaves the premises of the slaughtering establishment.

(c) Cages, coops, containers, troughs, and other equipment may be moved interstate from a test poultry house, test flock, infected poultry house, or infected flock only if:

(1) A permit has been obtained for the interstate movement in accordance with § 82.35 of this subpart;

(2) The equipment is made of hard plastic or metal,

(3) The equipment has been cleaned and disinfected in accordance with § 71.7 of this chapter,

(4) The equipment was inspected by a Federal or State representative after it was cleaned but before it was disinfected, and then was disinfected in the presence of a Federal or State representative; and

(5) The wheels and exposed surfaces of the vehicle used to move the equipment are free of manure at the time the equipment leaves the premises of the test or infected poultry house.

(d) Manure may be moved interstate from a test poultry house, test flock, infected poultry house, or infected flock only if: A permit has been obtained for the interstate movement in accordance with § 82.35 of this subpart; the wheels and exposed surfaces of the vehicle used to move the manure are free of manure at the time the manure leaves the premises of the flock; and the manure is moved interstate for one of the following purposes:

(1) Burial,

(2) Spreading and turning under on fields not used for grazing or poultry production; or

(3) Composting in a covered compost heap for a period of at least one month.

§ 82.34 Interstate movement of hatching eggs and newly-hatched chicks.

No hatching eggs or newly-hatched chicks from egg-type chicken breeding flocks may be moved interstate unless they are classified "U.S. Sanitation Monitored" under the National Poultry Improvement Plan (NPIP), or meet the requirements of a State classification plan determined by the Administrator to be equivalent to the NPIP, in accordance with § 145.23(d) of this chapter. Flocks which meet this requirement are designated Certified *Salmonella enteritidis* serotype *enteritidis* Tested Free Flocks.

§ 82.35 Issuance of permits.

Permits required by this part may be obtained by the owner of poultry or other items, or the agent of the owner, by applying in writing to a Federal representative.[5] The application shall specify the following: The name and mailing address of the owner of the poultry or other items to be moved, or the name and address of the agent of the owner; the name and mailing address of the person who will receive the poultry or other items; the street addresses of both the origin and destination of the shipment; the number and types of poultry and other items to be moved; and the reason for their movement. An application for a permit to move eggs for export in accordance with § 82.33(a) of this subpart must also include a written statement signed by the exporter stating that the proposed exportation meets the requirements of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 *et seq.*).

§ 82.36 Denial and withdrawal of permits.

(a) *Denial.* If a Federal representative denies a request for a permit, he or she will send the applicant a written notice of the denial, explaining why the permit was denied.

(b) *Withdrawal.* If a Federal representative determines that the holder of a permit is violating either the regulations or a condition specified in the permit, he or she may withdraw the permit by notifying the holder of the permit of its withdrawal, orally or in writing. If the notice was oral, a written notice of the withdrawal, explaining why the permit was withdrawn, will follow.

(c) *Appeals.* Denial or withdrawal of a permit may be appealed in writing to the Administrator within 10 days after receipt of the written notice of denial or withdrawal. The appeal must tell the Administrator what material facts are in dispute. A hearing will be held with respect to any disputed material facts, in accordance with rules of practice which shall be adopted by the Administrator for the proceeding; however, the withdrawal or denial shall continue in effect pending the completion of the proceeding, and any judicial review thereof, unless otherwise ordered by the Administrator.

§ 82.37 Cleaning, washing, and disinfection of depopulated infected poultry houses.

If any infected poultry house is depopulated [6], the poultry house shall be cleaned, washed, and disinfected as follows between the time the poultry house is depopulated and the time the new birds arrive at the premises. All manure and litter must be removed from the house to an isolated area where there is no opportunity for dissemination of disease organisms; all surfaces in the house (except dirt floors) must be scrubbed with hot, soapy water and rinsed; and all surfaces in the house must be sprayed in accordance with the label directions with a disinfectant which is registered by the U.S. Environmental Protection Agency as germicidal, and which is effective against *Salmonella enteritidis* serotype *enteritidis*.[7] The owner or person in control of the infected poultry house must request a Federal or State representative to inspect the poultry house after it is disinfected but before it is restocked with new chickens, and cleaning, washing, and disinfection shall not be considered completed until the Federal or State representative determines the procedures have been properly performed.

§ 82.38 Monitoring other poultry houses on premises containing infected poultry houses; monitoring poultry houses released from infected poultry house status.

(a) This paragraph applies to any poultry house that is in test poultry house status at any time when any other poultry house on the same premises is in infected poultry house status. If any such test poultry house is released from test poultry house status in accordance with § 82.32(b)(2) of this subpart, the poultry in the former test poultry house

[5] See Footnote 4 to § 82.33 of this part.

[6] Upon request of the flock owner, APHIS will conduct environmental testing for *Salmonellae* of depopulated poultry houses between the time they are disinfected and the time they are restocked.

[7] A list of some disinfectant solutions registered by the U.S. Environmental Protection Agency as germicidal that are effective against *Salmonella enteritidis* serotype *enteritidis* may be obtained by writing to the Administrator, c/o Sheep, Goat, Equine, and Poultry Diseases Staff, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

will be tested a third time with the blood and internal organ tests required by § 82.32 (c) and (d) of this subpart, within 45 to 60 days following the date the house was released from test house status. If this blood and internal organ monitoring test has positive results, the poultry house will be determined to be an infected poultry house in accordance with § 82.32 (c) and (d) of this subpart.

(b) All other poultry houses on a premises containing an infected poultry house, except any test poultry house, shall undergo monitoring tests as follows from the date the flock owner is notified of the determination of an infected house until 120 days after the date infected house status is removed from all poultry houses on the premises. A Federal representative or State representative shall collect manure and egg transport machinery samples from each house in accordance wth § 82.32(b) of this subpart, at intervals of not less than 45 days and not more than 60 days. If the samples from any house test positive in accordance with § 82.32(d) of this subpart, that house shall be determined to be a test poultry house in accordance with § 82.32(b) of this subpart.

(c) The poultry in any infected poultry house that is released from infected poultry house status in accordance with § 82.32(e) of this subpart must be tested a third time with the blood and internal organ test required by § 82.32(c) of this subpart, within 45 to 60 days following the date the house was released from infected poultry house status. If this blood and internal organ monitoring test has positive results, the poultry house will be determined to be an infected poultry house in accordance with § 82.32(c) of this subpart.

Done in Washington, DC, this 24th day of January 1991.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91–2071 Filed 1–29–91; 8:45am]

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Federal Register

Wednesday
January 30, 1991

Part VI

Environmental Protection Agency

40 CFR Part 85

Performance Warranty Regulations and the Voluntary Aftermarket Part Certification Program; Supplemental Proposed Alternative Test Procedure; Supplemental Notice of Proposed Rulemaking

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 85

[AMS-FRL-3826-2]

Performance Warranty Regulations and the Voluntary Aftermarket Part Certification Program; Supplemental Proposed Alternative Test Procedure

AGENCY: Environmetal Protection Agency.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: This Supplemental Notice of Proposed Rulemaking (SNPRM) provides an additional alternative test procedure, to be considered for adoption, either as a replacement for or in addition to the alternative test procedure proposed in the Notice of Proposed Rulemaking (54 FR 32598) published on August 8, 1989 (the NPRM). The Environmental Protection Agency (EPA) has received sufficient comments on the NPRM to analyze it adequately and the comment period is closed on that proposal. This SNPRM only solicits comments on the new alternative test presented herein.

The NPRM proposed that an aftermarket part manufacturer wishing to certify its part may, at the manufacturer's option, test its part using the first 505 seconds of the Federal Test Procedure (the cold 505 test) in lieu of the Federal Test Procedure (FTP). Certain restrictions on the use of this alternative test were specified in the NPRM. The NPRM also proposed cold 505 emission standards that would ensure that parts certifying using the cold 505 test procedure would also be capable of certifying using the FTP.

This SNPRM proposes that the cold 505 test procedure be allowed as an alternative test procedure only under those circumstances where the FTP can be used for back-to-back testing in the current regulations (40 CFR part 85, subpart V).

DATES: Public comments on the SNPRM must be submitted on or before April 1, 1991. A hearing will be held on March 1, 1991, if requested by February 20, 1991.

ADDRESSES: Comments on the SNPRM may be submitted to the U.S. Environmental Protection Agency, Central Docket Section, room 4, South Conference Center (LE-131), Waterside Mall, 401 M Street SW., Washington, DC 20460, Attn: Docket No. A-88-31.

FOR FURTHER INFORMATION CONTACT: Linc Wehrly, Certification Division, U.S. Environmental Protection Agency, 2565 Plymouth Rd., Ann Arbor, MI 48105 (313) 668-4286.

SUPPLEMENTARY INFORMATION:

I. Background

The NPRM published on August 8, 1989 (54 FR 32598) proposed the use of the cold 505 test as an alternative test procedure for certification of aftermarket parts. Proposed cold 505 standards were set at levels such that a vehicle equipped with an aftermarket part that passed the proposed cold 505 test procedure requirements would also be capable of passing the FTP requirements.

Comments to the NPRM were received from several manufacturers and associations. While the majority of comments can be effectively dealt with by the EPA without further input, the Agency felt that one particular observation made by the Motor Vehicle Manufacturers Association (MVMA) and the Specialty Equipment Market Association (SEMA) warranted an additional proposal and request for comment.

Both MVMA and SEMA pointed out that, due to the stringency of the initially proposed standards, it might be very difficult to obtain in-use vehicles capable of meeting the proposed standards. Under the original proposal, in-use vehicles are to be used as test vehicles in order to demonstrate compliance with the aftermarket part installed.

SEMA requested the NPRM be amended to allow back-to-back testing with the cold 505 test, and that "realistic allowances" be established for the level of maximum emission increase acceptable with the part installed.

II. Discussion

A. Certification Procedure

Back-to-back emission testing consists of the aftermarket part manufacturer performing a baseline cold 505 emission test with the test vehicle in the original equipment manufacturer (OEM) configuration, followed by a second cold 505 emission test performed with the aftermarket part installed. To obtain certification, the increase in emissions between the baseline test and the test with the part installed must be less than or equal to a maximum level. This maximum level of emission increase is selected such that any properly maintained vehicle represented by the test vehicle could be expected to tolerate the increase and still remain in compliance with emission standards. Hereafter, this difference in emissions calculated from back-to-back test results will be referred to as the "allowable emission margin".

In the current regulations (40 CFR part 85, subpart V), EPA allows back-to-back testing with the FTP. For the option being considered in this supplemental NPRM, all of the requirements and procedures established in the current regulations pertaining to back-to-back testing with the FTP will also apply. These include parts eligibility, test vehicle selection, and test vehicle baseline emissions representativeness.

B. The Allowable Emission Margins

EPA is considering two options for determining the appropriate allowable emission margins for back-to-back testing with the cold 505 test procedure.

In the current regulations, back-to-back testing is evaluated using certification emission margins as the allowable emission margins. Certification emission margins for a certified engine family are the difference between the EPA emission standards and the average of the projected useful life FTP emission levels of that engine family's emission data. These emission levels are determined during vehicle certification.

Certification margins can be calculated directly from EPA's certification database for each engine family. In the current aftermarket part certification regulations, the certification emission margins used to demonstrate part compliance are the smallest margin of all the engine families on which the part will be used. This assures EPA that the certified part will not cause any of the vehicles on which the part is installed to exceed in-use emission standards.

The FTP consists of three unique driving cycles (cold start, warm stabilized and hot restart) that are individually weighted and added together to determine the overall FTP emission results. Cold 505 hydrocarbon (HC) and carbon monoxide (CO) emission results are typically higher than FTP results, since the cold 505 portion (bag 1) of the FTP test simulates in-use vehicle operation during cold start and engine warm-up conditions, where HC and CO emissions are typically higher than during warm, stabilized vehicle operation. Cold 505 emission results also have the lowest weighting of the three driving cycles. As a consequence, the composite FTP emission results are weighted more heavily towards the result of the stabilized and hot portions of the FTP, which are typically lower than the results of the cold 505 portion of the test. This procedure results in composite FTP emission results that are lower numerically than cold 505 results.

Since FTP results are typically lower than cold 505 results, no loss in program integrity should occur when using the cold 505 test for back-to-back testing, if the same certification emission margins used to evaluate FTP back-to-back emission differences are also used to evaluate cold 505 back-to-back emission differences. Since EPA expects cold 505 emission results to be higher than FTP results, it is likely that the emission differences between baseline testing and testing with the aftermarket part installed will be at least as great for the cold 505 test as it would be for the FTP. If an aftermarket part does not cause a test vehicle to exceed emissions by greater than the FTP certification emission margin, then the original certified vehicle with the aftermarket part installed should still meet FTP standards. Therefore, the use of certification emission margins with the cold 505 test to demonstrate part compliance, would be no less stringent than the current regulations (40 CFR part 85, subpart V). EPA solicits comments on the appropriateness of this approach to determine the allowable emission margins.

EPA is also considering an alternative to the use of certification margins. The alternative would use cold 505 emission margins that are proportional to the certification emission margins. The basis for this alternative is the fact that typical cold 505 emission levels are generally higher than the vehicle's full FTP emission levels. It may be that the use of certification emission margins is overly stringent when using the cold 505 test procedure. Consequently, it might be appropriate to use a cold 505 allowable emission margin that is proportionally larger than the comparable FTP certification emission margin.

To calculate the cold 505 emission margin, the certification vehicle emission margin is multiplied by the engine family proportionality constant. To obtain the proportionality constant, the cold 505 emission result of the certification test performed on each emission-data vehicle is divided by the corresponding certification test's composite FTP result. The average of all the proportionality constants calculated for each emission-data vehicle in the engine family is determined and this becomes the engine family proportionality constant.

EPA solicits comments on whether this approach is more appropriate than the use of certification emission margins to determine the allowable emission margins for certification based on cold 505 back-to-back testing.

Based on comments to this notice and EPA's further analysis, EPA anticipates selecting one of these options for determining the appropriate cold 505 allowable emissions margins.

III. Reporting and Recordkeeping Requirements

These proposed revisions to the existing regulations would impose no new reporting or recordkeeping requirements on aftermarket part manufacturers that choose to use the certification program, nor on vehicle manufacturers that are affected by part certification. Today's SNPRM would merely provide an alternative test procedure to be used for certification.

IV. Paperwork Reduction Act

Today's SNPRM is expected to have no effect on information collection requirements of the regulations which this notice proposes to amend. The Office of Management and Budget (OMB) has approved the information collection requirements for these regulations under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. and has assigned OMB control number 2060–0060.

The reporting burden for this collection of information is estimated to average 142 hours per response and includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be sent to: Chief, Information Policy Branch, PM–223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Paperwork Reduction Project (2060–0060), Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA."

V. Regulatory Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement for a regulatory impact analysis. The proposed regulation does not meet any of the conditions that trigger a designation of "major." The proposed rule would not have an annual effect on the economy of $100 million; it should not cause a major increase in costs or prices to consumers, individual industries, Federal, State, or local governments, or geographic areas; nor should there be any significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S. based enterprises to compete with foreign-based enterprises in domestic or export markets.

This action was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Comments from OMB to EPA, and any EPA response to those comments, are available for public inspection in the docket for this rulemaking; Docket No. A–88–31. The EPA's Central Docket Section (LE–131) is located at 401 M Street, SW., Washington, DC 20460.

VI. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., the EPA is required to determine whether a proposed regulation will have a significant impact on a substantial number of small entities so as to require a preliminary regulatory flexibility analysis.

I hereby certify that this proposed regulation will not have a significant adverse impact on a substantial number of small entities. This proposal, in part, responds to a request by the specialty equipment manufacturers for an alternative test procedure to the Federal Test Procedure (FTP) currently required for certification of certain parts. The specialty equipment manufacturers believe that the proposed revisions will reduce their burden to certify aftermarket parts.

List of Subjects in 40 CFR Part 85

Imports, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements, Research, Warranties.

Authority: 42 U.S.C. 7521, 7522, 7524, 7525, 7541, 7542, 7546, and 7601(a).

Dated: January 23, 1991.

William K. Reilly,

Administrator.

APPENDIX—EXPLANATION OF SPECIFIC CHANGES

Section	Change	Reason
1. Part 85 Authority.	None.	
2. Section 85.2113(n).	Add paragraph to define "Cold 505 emission margin".	Clarification.

APPENDIX—EXPLANATION OF SPECIFIC CHANGES—Continued

Section	Change	Reason
3. Section 85.2114(d)(3)(d)(3)(iii)(A)-(iii)(B).	Revise paragraph to address certification using back-to-back testing with the Cold 505 Emissions Test Procedures..	To discuss aftermarket part certification using back-to-back testing with the Cold 505 Emissions Test Procedure.

For the reasons set forth in the preamble, 40 CFR part 85 is proposed to be amended as follows:

PART 85—[AMENDED]

1. The authority citation for part 85 will continue to read as follows:

Authority: Sections 202, 203, 205, 206, 207, 208, 212, and 301(a) of the Clean Air Act, as amended; 42 U.S.C. 7521, 7522, 7524, 7525, 7541, 7542, 7546, and 7501(a), unless otherwise noted.

2. Section 85.2113 is amended by adding new paragraph (n) to read as follows:

§ 85.2113 Definitions.

* * * * *

(n) *Cold 505 emission margin* for a certified engine family means an emission margin proportional to the certification vehicle emission margin. To calculate the proportionality constant, the cold 505 emission result of the certification test performed on each emission-data vehicle is divided by that certification test's composite federal test procedure result. The average of all the proportionality constants calculated for each emission-data vehicle in the engine family is determined, and this becomes the engine family proportionality constant. To calculate the cold 505 emission margin, multiply the certification vehicle emission margin by the engine family proportionality constant.

3. Section 85.2114 is amended by revising paragraph (d)(3)(iii) to read as follows:

§ 85.2114 Basis of certification.

* * * * *

(d) * * *

(3) * * *

(iii) For parts demonstrated to not accelerate deterioration of existing emission related parts during normal operation:

(A) If parts cause no noticeable change in driveability, performance, and/or fuel economy when the part fails, the certification exhaust emission test vehicle need not be the same vehicle as that used for durability demonstration.

(*1*) *Compliance Demonstration Method 1:* Upon completion of aging, one Federal Test Procedure test shall be performed with the aged aftermarket part installed on a test vehicle that has just completed one Federal Test Procedure test in the original equipment configuration (i.e., before the aftermarket part or system is installed). If more than one test is performed either before or after the aftermarket part is installed, then an equivalent number of tests must be performed in both configurations. The results of all tests performed before the part is installed shall be averaged and the results of all tests performed after the part is installed shall be averaged for each emission constituent. The difference in Federal Test Procedure emission results betwen the tests on the vehicle with the aged aftermarket part installed and the tests on the vehicle in the original equipment configuration shall be less than or equal to the certification vehicle emission margin of any and all ot the certification test vehicles from the various configurations for which the aftermarket part is being certified.

(*2*) *Compliance Demonstration Method 2:* As an alternative to method 1, upon completion of aging, one cold 505 test procedure shall be performed with the aged aftermarket part installed on a test vehicle that has just completed one cold 505 test in the original equipment configuration (i.e., before the aftermarket part or system is installed). If more than one test is performed either before or after the aftermarket part is installed, then an equivalent number of tests must be performed in both configurations. The results of all tests performed before the part is installed shall be averaged and the results of all tests performed after the part is installed shall be averaged for each emission constituent. The difference in cold 505 emission results between the tests on the vehicle with the aged aftermarket part installed and the tests on the vehicle in original equipment configuration shall be less than or equal to the certification vehicle emission margin (the cold 505 emission margin) of any and all of the certification test vehicles from the various configurations for which the aftermarket part is being certified.

(*3*) *Compliance Demonstration Method 3:* As an alternative to method 1 or 2, the aged aftermarket part shall be installed on a test vehicle with an accumulated mileage of 4,000 miles or more and the vehicle shall be tested using the cold 505 emission test procedure. If more than one emission test is performed, than all test results shall be averaged for each emission constituent. To determine compliance, each emission constituent from the cold 505 emission test result (or average emission constituent value from multiple emission test results) shall be multiplied by the exhaust emission deterioration factor determined by the original vehicle manufacturer during certification testing of the engine family. The resulting values shall be less than or equal to the appropriate standards of paragraph (d)(6) of this section.

(B) For parts demonstrated to cause a noticeable change in vehicle driveability, performance, and/or fuel economy when the part fails, no durability aging of the part is required before certification emission testing.

(*1*) *Compliance Demonstration Method 1:* One Federal Test Procedure test shall be performed with the aftermarket part installed on a test vehicle that has just completed one Federal Test procedure test in the original equipment configuration (i.e., before the aftermarket part or system is installed). If more than one test is performed either before or after the aftermarket part is installed, then an equivalent number of tests must be performed in both configurations. The results of all tests performed before the part is installed shall be averaged and the results of all tests performed after the part is installed shall be averaged for each emission constituent. The difference in Federal Test Procedure emission results between the tests on the vehicle with the aged aftermarket part installed and the tests on the vehicle in the original equipment configuration shall be less than or equal to the certification vehicle emission margin of any and all of the certification test vehicles from the various configurations for which the aftermarket part is being certified.

(*2*) *Compliance Demonstration Method 2:* As an alternative to method 1, one cold 505 test procedure shall be performed with the aftermarket part installed on a test vehicle that has just completed one cold 505 test in the original equipment configuration (i.e., before the aftermarket part or system is installed). If more than one test is performed either before or after the aftermarket part is installed, then an equivalent number of tests must be performed in both configurations. The results of all tests performed before the part is installed shall be averaged and the results of all tests performed after the part is installed shall be averaged for each emission constituent. The

difference in cold 505 emission results between the tests on the vehicle with the aftermarket part installed and the tests on the vehicle in original equipment configuration shall be less than or equal to the certification vehicle emission margin (the cold 505 emission margin) of any and all of the certification test vehicles from the various configurations for which the aftermarket part is being certified.

(3) *Compliance Demonstration Method 3:* As an alternative to method 1 or 2, the aftermarket part shall be installed on a test vehicle with an accumulated mileage of 4,000 miles or more and the vehicle shall be tested using the cold 505 test procedure. If more than one emission test is performed, then all test results shall be averaged for each emission constituent. To determine compliance, each emission constituent from the cold 505 emission test result (or average emission constituent value from multiple emission test results) shall be multipled by the exhaust emission deterioration factor determined by the original vehicle manufacturer during certification testing of the engine family. The resulting values shall be less than or equal to the appropriate standards of paragraph (d)(6) of this section.

* * * * *

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federal register

Wednesday
January 30, 1991

Part VII

Environmental Protection Agency

40 CFR Parts 22 and 142
Safe Drinking Water Act; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 22 and 142

[WH-FRL-3752-9]

Safe Drinking Water Act; Administrative Enforcement Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice sets forth the procedures EPA will follow to implement section 1414(g) of the Safe Drinking Water Act (SDWA), 42 U.S.C. 300g–3(g). This section, among other things, provides the Administrator with authority to issue compliance orders to violators of part B (applicable to public water suppliers) and section 1445 of the SDWA (applicable to public water suppliers and underground injectors), 42 U.S.C. 300g and 42 U.S.C. 300j–4, and to administratively enforce such orders (following adjudication) by the assessment of a penalty up to $5,000. Section 1414(g)(3), 42 U.S.C. 300g–3(g)(3). Section 1414(g) compliance orders may not take effect until after "notice and opportunity for public hearing and, in the case of a State having primary enforcement responsibility for public water systems in that State, until after the Administrator has provided the State with an opportunity to confer with the Administrator regarding the proposed order." 42 U.S.C. 300–3(g)(2). Section 1414(g) penalty assessments for the violation of compliance orders may not take effect until there has been "notice and opportunity for a hearing on the record in accordance with section 554 of title 5 of the United States Code." Section 1414(g)(3)(B) of the SDWA.

EFFECTIVE DATE: The requirements contained in this rule will take effect March 1, 1991. In accordance with 40 CFR 23.7, this regulation will be considered final Agency action for the purposes of judicial review at 1 p.m. eastern time on February 13, 1991.

ADDRESSES: Public comments, supporting documents, and the public docket for this rulemaking are available for review during normal business hours at the Environmental Protection Agency, room 1003 East Tower, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Craig Damron, State Programs Division, Office of Drinking Water [WH–550E], Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, telephone (202) 382–5556.

SUPPLEMENTARY INFORMATION:

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I. Statutory Authority

The June 19, 1986 amendments to the SDWA added a new subsection 1414(g) which, among other things, authorized the Administrator to issue orders requiring compliance with any requirement of part B or with section 1445. Section 1414(g) states that an order may not become effective until there has been "notice and opportunity for public hearing and, in the case of a State having primary enforcement responsibility for public water systems in that State, until after the Administrator has provided the State with the opportunity to confer with the Administrator regarding the proposed order." Section 1414(g)(2) of the SDWA, 42 U.S.C. 300g–3(g)(2). EPA was also authorized to administratively assess a penalty of up to $5,000 for a violation of a compliance order, after an adjudicatory hearing in accord with the Administrative Procedure Act. Section 1414(g)(3)(B) of the SDWA, 42 U.S.C. 300g–3(g)(3)(B). As noted by EPA in its proposal of July 12, 1989, at 54 FR 29517, underground injection control (UIC) violations of section 1445 of the SDWA are also governed by today's rulemaking; however, this rule does not require the Administrator to confer with a public water supply primacy State concerning a UIC violator of section 1445.

II. Background

A. Statutory and Regulatory Background

The Safe Drinking Water Act was adopted on December 16, 1974 (Pub. L. 93–523) and amended in 1977 (Pub. L. 96–63), in 1980 (Pub. L. 96–502), and in 1986 (Pub. L. 99–339). The statute was enacted to protect the quality of drinking water supplies throughout the United States by establishing, among other programs, the Public Water System Supervision (PWSS) and UIC programs. The PWSS program establishes drinking water quality standards, and sets forth duties for owners and operators of public water systems; the UIC program protects groundwater by regulating the injection of fluids into the ground.

In 1974, Congress enacted section 1414 of the SDWA, 42 U.S.C. 300g–3, as the enforcement provision for PWSS violators. Until the 1986 amendments to the statute, section 1414 provided only judicial remedies. In 1986, Congress added subsection 1414(g), which authorized EPA to issue compliance orders to violators of part B (PWSS) or section 1445 (PWSS and UIC records and inspections) of the SDWA.

On January 20, 1987, in response to the 1986 amendments, EPA issued guidance to govern the issuance of, among other matters, compliance orders under section 1414(g). On July 12, 1989, the Agency proposed changes to 40 CFR parts 22 (Consolidated Rules of Practice Governing Administrative Assessment of Penalties and Revocation or Suspension of Permits) and 142 to codify and improve upon its 1987 PWSS administrative order guidance. Today, after consideration of the comments received on its proposal, the Agency issues a final rule.

B. Public Comments on the Proposal

The Agency requested comments on its July 12, 1989, proposal. A summary of the major comments and the Agency's response to the issues they raise are presented in the following section. The Agency's detailed response to the comments received is presented in the document "Response to Comments Received on the proposed PWSS Administrative Enforcement Regulations of July 12, 1989," which is available in the public docket for this rulemaking.

EPA received eleven sets of written comments on the proposed rule. Four written comments were received from States and local governments, two written comments were received from private industry, two from water departments, two from public or professional organizations, and one comment was received from a federal agency. The Agency held a public hearing on the proposed rule on August 15, 1989, in Washington, DC. One individual, representing a professional organization, made an oral statement.

III. Response to Comments

Several commenters questioned the procedures EPA proposed to follow in issuing section 1414(g) compliance orders. Their comments are premised on the erroneous assumption that these compliance orders affect constitutionally protected liberty or property interests. For example, three commenters objected to proposed 40 CFR 142.206(c)(2) which would allow members of the public to present information relevant to whether the recipient of the proposed order had violated any regulation, schedule or

requirement of part B or section 1445 of the SDWA whether or not the violation was referenced in the Agency's proposed compliance order. In the view of one commenter, such a provision would infringe on the public water supplier's "constitutional right to notice of the charges against it." While agreeing that section 1414(g) hearings should be "informal, information-gathering, nonadjudicatory hearings," another commenter commented at length on the procedural issues such as the use of evidentiary presumptions and the allocation of the burden of proof in these hearings. Finally, one commenter analyzed the rule in terms of the procedural safeguards necessary for "informal adjudication."

These commenters misunderstand the nature of the rule. Compliance orders do not constitute a final adjudication of a party's liability for violating the SDWA but merely restate the party's preexisting duty to comply with the statute. Liability for violating SDWA requirements is determined in federal district court civil actions under section 1414(b). The Preamble to the proposed rule clearly stressed the informational nature of the hearing that may result in issuance of a section 1414(g) order.

> The procedures proposed for section 1414(g)(2) compliance orders provide an opportunity for informal, information-gathering, nonadjudicatory hearings prior to issuance of the orders * * * (The orders) will require compliance with existing duties under the SDWA, but will not alter those existing duties or obligations or create new obligations. The hearing and resulting compliance order will not be determinative of the underlying statutory rights and responsibilities, and therefore are not subject to preenforcement judicial review. [Emphasis added.] [1]

What process is constitutionally due the party responding to an administrative action depends on the nature of the action. Procedural due process imposes constraints on governmental decisions that deprive individuals of liberty or property interests. *Mathews* v. *Eldridge*, 424 U.S. 319, 332 (1976). Here, the procedures EPA has adopted for section 1414(g) hearings are appropriate and fully comport with Constitutional requirements. Because a section 1414(g) hearing will result, at most, only in an order to comply with SDWA requirements—a preexisting duty—there is no liberty or property interest at stake in these hearings.

Under *Mathews*, "(a) claim to a predeprivation hearing as a matter of constituional right rests on the proposition that full relief cannot be obtained at a postdeprivation hearing." 424 U.S. at 331. Here, issuance of a final section 1414(g) compliance order will not deprive a party of any liberty or property interest. Moreover, even if such a deprivation did occur, the party's right to review of the findings of a section 1414(g) compliance order in any subsequent enforcement proceeding, enables EPA, as a matter of constitutional law, to issue such orders after less than an evidentiary, trial-type hearing. Consequently, the analysis provided by one commenter regarding necessary procedural standards for "informal adjudications" is not germane to the nonadjudicatory rule EPA promulgates today.

The compliance order's requirement to comply with the law is a binding, enforceable obligation. A violator of a section 1414(g) compliance order is subject to penalties for violation of the order itself in an action under section 1414(g)(3). In such an action, the relevant inquiry is whether the order was lawfully issued on the basis of the information held by EPA at the time, and whether the party complied with the order. The Agency does not have to demonstrate that the basis for the order was correct in light of any later-developed information. However, in a federal district court action under section 1414(b) for violation of the underlying statutory requirements, liability for violation of the underlying requirements of the Act can be established only after a full evidentiary hearing. Moreover, the findings of the compliance order, arrived at without an evidentiary, trial-type hearing are not *res judicata* or otherwise binding in such a proceeding.[2]

EPA also received comments that allowing third parties to attend public hearings under section 1414(g) and introduce additional allegations concerning violations by the party of the SDWA could result in a "gripe session," "unmanageable" hearings raising the specter of "witch hunts," or "unnecessarily expos(e) the alleged violator to harrassment and adverse publicity." EPA believes that it will be able to manage any hearing under section 1414(g) so that the purpose of the hearing, to determine the conduct of the party in relation to its legal obligations under part B and section 1445 of the SDWA, will be served. In that regard, the Agency notes that the Hearing Officer has unlimited discretion in determining the "forms and procedures of the public hearing." 40 CFR 142.206(b). One of the primary responsibilities of a Hearing Officer is to maintain order at the hearing.

It is important to note that these hearings are enforcement proceedings, brought on behalf of the public welfare and to uphold the law. The Agency does not agree with commenters who complain that they must be insulated from adverse publicity or public discontent which may arise as a result of the information-gathering that may take place at any such hearing. The SDWA itself promotes an informed public as a mainstay of ensuring the provision of safe drinking water. (SDWA section 1414(c) and EPA's public notification regulations 40 CFR 141.32). Finally, since EPA considers section 1414(g) hearings to improve its decisionmaking in compliance orders by increasing its information on the conduct of a party, it does not agree with those commenters who counsel the Administrator to shut off the flow of that information by eliminating or cutting back proposed 40 CFR 142.206(c)(2).

The Agency received two comments regarding proposed 40 CFR 142.205(b), which provided that for PWS primacy States, "the Administrator shall provide the State with the opportunity to confer regarding any proposed administrative compliance order" and also established the appropriate means for doing so. EPA does not agree with one commenter, a State agency, which suggested that EPA "must confer with the primacy state" both before issuing any notice or opportunity for public hearing and before issuing any administrative order. The language of the proposal tracks

[1] One commenter noted that section 1448 of the SDWA, 42 U.S.C. 300j–7, provides for review of orders of the Administrator under the Safe Drinking Water Act. The discussion in the preamble to the proposed rules concerns the applicability of preenforcement review as a matter of constitutional law.

[2] In this regard, an analogy may be helpful. The Administrator's issuance of a compliance order springs out of the executive branch's police powers not unlike, in a criminal context, the authority of a police officer to place an individual under arrest. If a police officer arrested an individual for suspicion of bank robbery, and that person later left police custody and was charged with breaking arrest, he would not be able to defend himself by claiming he had not robbed the bank. That would be irrelevant to the charge of disregarding of an executive exercise of police powers. The only defenses available would be that the police officer did not have proper cause for the arrest, that the officer had acted beyond his authority, or that the defendant had obeyed the order of arrest. In the case of a section 1414(g) order, a party could not escape liability by asserting the defense that he had complied with the underlying statutory requirement. He could, for example, assert that the order was improper because the information developed before its issuance in final form established compliance. As noted, a federal or administrative law judge is not bound by the findings in the compliance order.

section 1414(g)(2) of the SDWA, which states in relevant part that:

> [a]n order issued under this subsection shall not take effect until after notice and opportunity for public hearing and, in the case of a State having primary enforcement responsibility for public water systems in that State, until after the Administrator has provided the State with an opportunity to confer with the Administrator regarding the proposed order.

If the Agency agreed with this commenter, by requiring a conference (rather than the opportunity for a conference) it would cede to each primacy State a *de facto* veto authority over section 1414(g) enforcement actions; simply by avoiding such a conference the State would divest the Amdinistrator from taking an enforcement action. Secondly, this commenter is requesting two conferences, when Congress has indicated that only one is required by law. As noted in the preamble to the proposed regulation, the rule "is intended to implement the legislative intent favoring efficient and aggressive enforcement through use of section 1414(g) orders," and building in extra procedures, as suggested here, would undercut the legislative purposes behind section 1414(g).

The second commenter on this provision questioned whether a party would have access to information from any EPA and State primacy agency conference. EPA interprets the statutory consultation requirement to govern the federal relationship between two sovereigns, that is the primacy State and the United States. It does not vest any party (a recipient of a proposed order) defenses or rights in a section 1414(g) enforcement action. In other words, EPA is not required to share information from a State-EPA conference with the recipient of a proposed order.

EPA also received two comments regarding its manner of notifying parties of a section 1414(g) hearing: one commenter wanted municipal utilities to be notified in the same manner as corporations and the other commenter requested that the phrase "an appropriate corporate officer" in proposed 40 CFR 142.204(a) be interpreted to mean "a location manager (in the case of factories) (and) a school principal (in the case of school systems)." After examining the adequacy of proposed 40 CFR 142.204(a), and in response to comments, the Agency has decided to make this provision more explicit and inclusive. The provisions of the newly written subsection are to be liberally interpreted. The intent of the Agency is to promote appropriate notification, not to create highly intricate distinctions that determine who is an "appropriate" notice recipient. As promulgated § 142.204(a) will read:

> (a) The party. The Administrator shall provide a copy of a proposed compliance order to the party personally or by sending it to the party by certified mail, return receipt requested. The Administrator shall provide a copy of a proposed administrative compliance order to an appropriate person, such as the affected location or facility manager, or any other appropriate employee or agent of the party who in the ordinary course of business is authorized to sign for certified mail on behalf of the party. If the party is a federal agency, State, or State agency, or a local unit of government, the Administrator shall provide a copy of a proposed administrative order to its chief executive officer, or its authorized agent for receipt of certified mail. Notification of the party is complete upon acceptance of personal service or when the return receipt is signed. If personal service is ineffective and if certified mail is refused or unclaimed, the Administrator shall notify the party by another appropriate means. In such case, notification is complete upon the execution of substituted service.

In addition, as a result of EPA's examination of proposed 142.205, and in response to a comment on this subject requesting clarification of the fourteen day deadline of § 142.205(a), the following, more explicit language (indicated by capitals type) will be promulgated for 40 CFR 142.205:

> (a) The Administrator * * * (state) in a letter * * * that a public hearing shall be convened if the party or the State sends written notice of such request of the Administrator within fourteen days of the date OF RECEIPT OF THE PROPOSED ADMINISTRATIVE COMPLIANCE ORDER NOTICED UNDER § 142.204, or if the Administrator determines within fourteen days of RECEIPT of the date of notice the public has expressed a significant interest in the convening of a public hearing * * *
>
> (b) In the case of a State primary enforcement responsibility * * * the Administrator shall provide the State with an opportunity to confer * * * if the State requests such a conference within ten days of the date of RECEIPT OF the proposed compliance order NOTICED UNDER § 142.204.
>
> (c) For purposes of this section, RECEIPT OCCURS AT THE TIME OF PERSONAL SERVICE, OR THREE DAYS AFTER THE DATE OF MAILING OR OTHER MEANS OF SUBSTITUTED SERVICE, EXCEPT THAT IF NOTICE IS PROVIDED BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, RECEIPT OCCURS WHEN THE RETURN RECEIPT IS SIGNED. FOR PURPOSES OF COMPUTATION OF TIME, THE DAY OF MAILING, SATURDAYS, SUNDAYS, AND FEDERAL HOLIDAYS ARE EXCLUDED.

These changes clarify that any mailing period is added to the fourteen and ten day response deadlines imposed by 40 CFR 142.205 (a) and (b).

The Agency received several other comments on the proposed AO issuance process. One commenter believed that in § 142.206 the Agency should state that any hearing held pursuant to this rule shall be in an area where the Administrator can reasonably be assured of an effective public hearing. As stated previously, the Agency encourages public participation in hearings; however, EPA does not believe such a provision is necessary in the regulations. Our Regions have been informed in guidance as to the appropriate location for public hearings. We believe this is sufficient.

Another commenter believed that the Agency should establish a deadline for making decisions on whether to "issue, amend, or withdraw a proposed order" (40 CFR 142.207(c)) and suggested a time limit of 60 days. While the Agency agrees that there is a need to insure prompt closure on all enforcement cases, EPA does not believe it is appropriate to establish such a deadline by regulation as it could lead to some incorrect or ill advised decisions being made due to the regulatory deadline. The Agency does recognize the concern, however, and will continue to work to resolve all enforcement cases as expeditiously as practicable.

Another commenter suggested that EPA had not sufficiently streamlined the AO issuance process and suggested four (4) specific ways to improve the process. First, the commenter suggested that EPA establish a higher and more specific threshold which must be crossed before a hearing would be granted to a recipient of a proposed order. EPA does not believe that it is appropriate for two reasons. First, section 1414(g)(2) states that "an order issued under this subsection shall not take effect until after "notice and opportunity for public hearing." Significantly restricting the opportunity for hearing does not comport with the language of the statute. Secondly, as noted earlier, these hearings are informal and information gathering. The Agency believes it is important to allow all who wish to present information to the Agency to be allowed to do so. This will allow our orders to be based on the best information available.

Secondly, the commenter suggested that EPA establish a presumption that the government records which form the basis for the AO are there and that the defendant has the burden of proof to show that the records are not correct. This comment indicates a misunderstanding of the nature of the

hearing and of the compliance order. As discussed previously, compliance orders do not constitute an adjudication of a party's liability for violating the SDWA. Moreover, the hearings are informal, non-adjudicatory. As such, legal presumptions and burdens of proof are not relevant concerns.

Thirdly, the commenter suggested that EPA establish compliance deadlines for all types of violations. These would be used in all AOs. EPA's position is that an order should require compliance as expeditiously as practicable in all situations; however, we cannot, by regulation, establish compliance deadlines for all types of violations. Schedules must be determined on a case by case basis.

Finally, the commenter suggested that EPA recognize by rule that it cannot use extended compliance schedules in AOs to avoid the stringent requirements in the SDWA for issuing variances and exemptions. EPA does not intend to use AOs for this purpose; however, this is a matter which is more appropriately dealt with in guidance than by regulation.

Another commenter expressed some concern over the application of this rule to non transient, non-community water systems. In its enforcement actions, EPA considers the unique situations in each case. EPA will do the same with the non-transient, non-community water systems and does not believe it is necessary to define by rule who the "affected public" is in the case of non-transient, non-community water systems. There has been no confusion to date.

The Agency received no comments on its proposed changes to 40 CFR part 22, Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits. These changes, which amend part 22 to include the civil penalties assessed under section 1414(g)(3) of the SDWA, are promulgated in today's notice as proposed.

IV. Other Regulatory Requirements

A. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, an agency is required to prepare an initial regulatory flexibility analysis whenever it is required to publish a general notice of any new rule, unless the head of the agency certifies that the new rule will not have a significant impact on a substantial number of small entities. These new regulations require no additional reporting or other burdens by the regulated community. Therefore, the Administrator certifies that this regulation will not have a significant impact on a substantial number of small entities.

B. Executive Order 12291

Under Executive Order 12291, EPA must judge whether the new regulations are major and therefore subject to the requirement of a Regulatory Impact Analysis. As described above, these new rules do not impose additional burdens beyond those already prescribed by the SDWA amendments of 1986. They do not have an annual effect on the economy of $100 million or more, nor do they satisfy any of the other criteria listed in section 1(b) of the Executive Order. Therefore, these new regulations do not constitute major rulemaking. This regulation has been submitted to OMB for review as required by Executive Order 12291.

C. Paperwork Reduction Act

There are no information collection requirements contained in this rule, as defined by the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects

40 CFR part 22

Administrative practices and procedures, Appeals and administrative review.

40 CFR part 141

Administrative practice and procedures, Monitoring, reporting and recordkeeping requirements, Water supply.

Dated: January 23, 1991.

William K. Reilly,

Administrator.

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

PART 142—NATIONAL PRIMARY DRINKING WATER REGULATIONS IMPLEMENTATION

1. The authority citation for part 142 continues to read as follows:

Authority: 42 U.S.C. 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, and 300j–9.

2. A new subpart J is added to part 142 to read as follows:

Subpart J—Procedures for PWS Administrative Compliance Orders

Sec.

Subpart J—Procedures for PWS Administrative Compliance Orders

§ 142.201 Purpose.

This part prescribes procedures for notice and opportunity for public hearings, conferences with primary States and issuance of administrative compliance orders under section 1414(g) of the Safe Drinking Water Act, 42 U.S.C. 300g–3(g).

§ 142.202 Definitions.

(a) The term *Hearing Officer* means an Environmental Protection Agency employee who has been delegated by the Administrator the authority to preside over a public hearing held pursuant to section 1414(g)(2) of the Safe Drinking Water Act, 42 U.S.C. 300g–3(g)(2).

(b) The term *party* means any "person" or "supplier of water" as defined in section 1401 of the SDWA, 42 U.S.C. 300f, alleged to have violated any regulation implementation section 1412 of the SDWA, 42 U.S.C. 300g–1, any schedule or other requirement imposed pursuant to section 1415 or section 1416 of the SDWA, 42 U.S.C. 300g–4 and 300g–5, or section 1445 of the SDWA, 42 U.S.C. 300j–4, or any regulation implementing section 1445.

§ 142.203 Proposed administrative compliance orders.

If the Administrator finds that a party has violated a regulation, schedule, or other requirement of the SDWA referenced in § 142.202(b), the Administrator may prepare a proposed administrative compliance order that would require the party to comply with the regulation, schedule, or other requirement that is alleged to have been violated. Any such proposed administrative order shall state with reasonable specificity the nature of the violation, and may, if appropriate, specify a reasonable time for compliance.

§ 142.204 Notice of proposed administrative compliance orders.

The Administrator shall simultaneously provide a copy of any proposed administrative compliance order to:

(a) *The party.* The Administrator shall provide a copy of a proposed compliance order to the party personally or by sending it to the party by certified mail, return receipt requested. The Administrator shall provide a copy of a proposed administrative compliance order to an appropriate person, such as the affected location or facility manager, or any other appropriate employee or agent of the party who in the ordinary course of business is authorized to sign for certified mail on behalf of the party. If the party is a federal agency, State or State agency, or a local unit of government, the Administrator shall provide a copy of a proposed administrative order to its chief executive officer, or its authorized agent for receipt of certified mail. Notification of the party is complete upon acceptance of personal service or when the return receipt is signed. If personal service is ineffective and if certified mail is refused or unclaimed, the Administrator shall notify the party by another appropriate means. In such case, notification is complete upon the execution of substituted service.

(b) *The public.* The Administrator shall make publicly available each proposed administrative compliance order at the time of its proposal.

(c) *The State.* In the case of a State with primary enforcement responsibility for public water systems pursuant to section 1413(a) of the SDWA, 42 U.S.C. 300g–2(a), the Administrator shall provide notice under this subsection by sending a copy of each proposed administrative compliance order by certified mail, return receipt requested to the appropriate State agency of the State involved.

§ 142.205 Opportunity for public hearings; opportunity for State conferences.

(a) The Administrator shall provide the party, the public and the State an opportunity for a public hearing on any proposed administrative compliance order by stating in a letter accompanying each proposed administrative compliance order (or its copy) that a public hearing shall be convened if the party or the State sends written notice of such request to the Administrator within fourteen days of receipt of the proposed administrative compliance order noticed under § 142.204, or if the Administrator determines that within fourteen days of the date of notice the public has expressed a significant interest in the convening of a public hearing. Hearings will be held only for the purposes specified in § 142.206(a). All requests for hearings shall identify which of the purposes specified in § 142.206(a) is the basis for the request. The Administrator may extend the time allowed for submitting requests for good cause.

(b) In the case of a State with primary enforcement responsibility under section 1413(a) of the SDWA, the Administrator shall provide the State with an opportunity to confer regarding any proposed administrative compliance order to a public water supplier by stating in a letter accompanying each mailing of the proposed administrative compliance order sent to the State that such a conference shall be held between the State and the Administrator, if the State requests such a conference within ten days of the dates of receipt of proposed administrative compliance order noticed under § 142.204.

(c) For purposes of this subsection, receipt occurs at the time of personal service or three days after the date of mailing or other means of substituted service, except that if receipt is provided by certified mail, return receipt requested, notice occurs when the return receipt is signed. For the purpose of computation of time, the day of the mailing, Saturdays, Sundays, and federal holidays are excluded.

§ 142.206 Conduct of public hearings.

(a) The purpose of the public hearing shall be to determine whether a proposed administrative order:

(1) Has correctly stated the extent and nature of a party's violation of any regulation, schedule, or other requirement of the SDWA referenced in § 142.202(b) and

(2) Has provided, where appropriate, a reasonable time for the party to comply with applicable requirements of the SDWA and its implementing regulations.

(b) Prior to convening a public hearing under this subsection, the Administrator shall appoint a Hearing Officer. The Hearing Officer shall preside over any public hearing convened under this section. The Hearing Officer shall determine the form and procedures of the public hearing, and shall maintain complete and accurate record of the proceedings in written or other permanent form. The Hearing Officer shall provide the Administrator with the record of any public hearing conducted under this subsection.

(c) The party, any member of the public, or the State may present information to the Hearing Officer at the public hearing (or to the Administrator in writing before the date set for the public hearing) relevant to whether:

(1) The party has violated the applicable regulation, schedule, or other requirement referenced in the proposed administrative compliance order;

(2) The party has violated any other applicable regulation, schedule, or other requirement of the SDWA referenced in § 142.202(b); and

(3) The proposed order, where appropriate, provides a reasonable time for the party to comply with applicable requirements of the SDWA and its implementing regulations.

§ 142.207 Issuance, amendment or withdrawal of administrative compliance order.

(a) Based on the administrative record, the Administrator shall either issue the order as proposed, amend the proposed order or withdraw the proposed order.

(b) Any order issued shall require the party to comply with any applicable regulation, schedule, or other requirement of the SDWA referenced in § 142.202(b) and may establish a time or date for compliance which the Administrator determines is reasonable, based on the administrative record.

(c) The Administrator shall determine within a reasonable time whether to issue, amend or withdraw the proposed order and shall promptly notify in writing the party, all members of the public participating under § 142.206(c) and the State, in the case of a State with primary enforcement authority over public water systems pursuant to section 1413(a) of the SDWA, or in the case of a State participating under § 142.206(c).

§ 142.208 Administrative assessment of civil penalty for violation of administrative compliance order.

In the event the Administrator decides to seek a penalty under the authority provided in section 1414(g)(3)(B) of the SDWA, 42 U.S.C. 300g–3(g)(3)(B), for violation of, or failure or refusal to comply with, an order, the procedures provided in 40 CFR part 22 shall govern the assessment of such a penalty.

PART 22—CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES AND THE REVOCATION OR SUSPENSION OF PERMITS

3. The authority citation of part 22 is revised to read as follows:

Authority: Sec. 16 of the Toxic Substances Control Act, 15 U.S.C. 2615; secs. 211 and 301 of the Clean Air Act, 42 U.S.C. 7545 and 7601; secs. 14 and 15 of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136l and 136m; secs. 105 and 106 of the Marine Protection, Research and Sanctuaries Act, 33 U.S.C. 1415 and 1418; secs. 2002 and 3008 of the Solid Waste Disposal Act, 42 U.S.C. 6912 and 6928; sec. 501 of the Clean Water Act, 33

U.S.C. 1361; and, sec. 1414 of the Safe Drinking Water Act, 42 U.S.C. 300g–3.

4. Section 22.01 is amended by adding paragraph (a)(9) to read as follows:

§ 22.01 Scope of these rules.

(a) * * *

(9) The assessment of any civil penalty conducted under section 1414(g)(3)(B) of the Safe Drinking Water Act as amended (42 U.S.C. 300g–3(g)(3)(B)).

* * * * *

5. Section 22.42 is added to subpart H to read as follows:

§ 22.42 Supplemental rules of practice governing the administrative assessment of civil penalties for violations of compliance orders issued under Part B of the Safe Drinking Water Act.

(a) *Scope of these supplemental rules.* These supplemental rules of practice shall govern, in conjunction with the preceding Consolidated Rules of Practice (40 CFR part 22), all proceedings to assess a civil penalty under section 1414(g)(3)(B). Where inconsistencies exist between these supplemental rules and the Consolidated rules, these supplemental rules shall apply.

(b) *Definition of "person."* In addition to the terms set forth in 40 CFR 22.03(a) that define "person," for purposes of this section and proceedings under section 1414(g)(3)(B) of the Safe Drinking Water Act, the term person shall also include any officer, employee, or agent of any corporation, company or association.

(c) *Issuance of complaint.* If the Administrator determines that a person has violated any provision of a compliance order issued under section 1414(g)(1) of the Safe Drinking Water Act, 42 U.S.C. 300g–3(g)(1), he may institute a proceeding for the assessment of a civil penalty by issuing a complaint under the Act and this part.

(4) *Content of the complaint.* A complaint for the assessment of civil penalties under this part shall include specific reference to:

(1) Each provision of the compliance order issued under section 1414(g)(1) of the Act, 42 U.S.C. 300g–3(g)(1), which is alleged to have violated; and

(2) Each violation of a Safe Drinking Water Act regulation, schedule, or other requirement which served as the basis for the compliance order which is alleged to have been violated.

(e) *Scope of hearing.* Action of the Administrator with respect to which judicial review could have been obtained under section 1448 of the Safe Drinking Water Act, 42 U.S.C. 300j–7, shall not be subject to review in an administrative proceeding for the assessment of a civil penalty under section 1414(g)(3)(B) of the SDWA and this part.

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