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

Commodity Credit Corporation

7 CFR Part 1427

Upland Cotton Marketing Certificate Provisions

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The purpose of this interim rule is to adopt, with certain changes, the proposed rule published in the Federal Register on June 18, 1991 (56 FR 27902), in order to implement the upland cotton first handler and user marketing certificate programs as required by section 103B(a)(5) (B) and (E) of the Agricultural Act of 1949, as amended ("the 1949 Act"). Because of the comments received in response to the proposed rule and the substantive changes made in this interim rule from the proposed rule, public comments are being requested on these regulations. Expedited clearance by the Office of Management and Budget ("OMB") of form CCC–1044, Upland Cotton First Handler Agreement (attachment 1) and form CCC–1045, Upland Cotton Domestic User/Exporter Agreement (attachment 2) is being requested by CCC.

DATES: Effective August 1, 1991. Comments must be received on or before September 20, 1991, in order to be assured of consideration.

ADDRESSES: Submit comments to: Director, Commodity Analysis Division, USDA–ASCS, room 3741–S, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Charles V. Cunningham, Leader, Fibers Group, Commodity Analysis Division, USDA–ASCS, room 3756–S, P.O. Box 2415, Washington, DC 20013 or call (202) 447–7954. The Final Regulatory Impact Analysis describing the options considered in developing this interim rule is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under USDA procedures implementing Executive Order 12291 and Departmental Regulation 1512–1 and has been designated as "nonmajor". It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, State or local governments or geographical regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The titles and numbers of the federal assistance programs, as found in the catalogue of Federal Domestic Assistance, to which this interim rule applies are:

Titles	No.
Commodity Loans and Purchases	10.051
Cotton Production Stabilization	10.052

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule since the Commodity Credit Corporation ("CCC") is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of these determinations.

It has been determined by environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

These programs/activities are not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

The information collection requirements contained in these regulations have been approved by OMB under the provisions of 44 U.S.C. chapter 35, and assigned OMB No. 0560–0136. OMB approval for the information collections contained in these rules expires September 20, 1991; however, a request for a 3-year extension from OMB has been submitted. Expedited clearance by OMB is being requested for form CCC–1044, Upland Cotton First Handler Agreement and form CCC–1045, Upland Cotton Domestic User/Exporter Agreement, forms required by this rule.

Public reporting burden for the information collections contained in these regulations is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, room 404–W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project, (OMB No. 0560–0136) Washington, DC 20503.

Since the 1949 Act provides that the upland cotton first handler and user marketing certificate programs be implemented August 1, 1991, it has been determined that this interim rule should be effective on such date. However, comments are requested with respect to the provisions of this interim rule. In order to be assured of consideration, such comments must be received by September 20, 1991.

Statutory Background

The Flood, Agriculture, Conservation, and Trade Act of 1990 ("the 1990 Act") amended the 1949 Act to provide that, if during the period beginning August 1, 1991, and ending July 31, 1996, CCC determines that the prevailing world market price for upland cotton, adjusted to United States quality and location ("adjusted world price") is less than the current loan repayment rate for a crop of upland cotton and that the cotton loan program and the loan deficiency payment program have failed to make domestically produced upland cotton competitive on the world market, then CCC shall make payments, in the form of commodity certificates, to eligible first handlers of upland cotton who have entered into an agreement with CCC to

participate in the first handler marketing certificate program.

The 1990 Act also amended the 1949 Act by adding new provisions to provide that, if during the period beginning August 1, 1991, and ending July 31, 1996, CCC determines that, for any consecutive 4-week period, the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling one and three thirty-seconds inch ("M 1 3/32 inch") cotton, delivered C.I.F. (cost, insurance and freight) northern Europe ("U.S. Northern Europe price") exceeds the Friday through Thursday average price quotation for the five lowest-price growths of the growths quoted for M 1 3/32 inch cotton, delivered C.I.F. northern Europe ("Northern Europe price"), by more than 1.25 cents per pound each week, then CCC shall make payments, in the form of commodity certificates, to eligible domestic users and exporters of upland cotton on documented sales made in the week following such 4-week period.

This interim rule amends 7 CFR part 1427 to set forth the terms and conditions of the upland cotton first handler marketing certificate program and the upland cotton user marketing certificate program.

Discussion of Comments

Seventy-two letters were timely received in response to the proposed rule published on June 18, 1991, requesting public comments on the proposed regulations for implementing the upland cotton first handler and user marketing certificate programs. Responses were received from 29 gins, 28 textile manufacturers, 3 cotton by-product companies, one cotton merchandising firm, one producer marketing cooperative, one member of Congress, one individual, 3 ginners associations, one State agricultural association, one general cotton organization, one shippers association, one textile manufacturers association, and one cotton by-products association. Responses were received from persons located in 14 States and the District of Columbia.

The majority of comments dealt with the following issues:

1. Whether gin motes, rebaled samples ("loose"), and Below Grade ("BG") cotton should be eligible to earn payments under the marketing certificate programs, and, if gin motes are included, what type of gin motes should be eligible and what the payment rate should be.

2. The requirement contained in the proposed rule that the payment rate for domestic users under the user marketing certificate program be determined based upon the payment rate in effect during the week in which the written contract for purchase of the cotton by the domestic user is entered into.

Gin Motes, Loose and BG Cotton

Under the proposed rule, gin motes that have had a substantial volume of the non-lint content removed and which have been baled ("reprocessed gin motes"), loose and BG cotton would be eligible for payment under the first handler marketing certificate program. With respect to the user marketing certificate program, the proposed rule included BG cotton as eligible for payment but excluded gin motes and loose from payment eligibility.

Forty respondents commented on gin motes. Thirty-two of the respondents recommended that gin motes be included in the first handler marketing certificate program, six recommended they be included in the user marketing certificate program, and one recommended they be included in the farm program. One respondent recommended that gin motes, loose and BG cotton be included in the first handler and user marketing certificate programs only if textile mill wastes are also included. Reasons cited for including gin motes were:

(1) Sale of motes helps to reduce ginning costs to producers;

(2) If BG cotton is included without including gin motes, the price of gin motes will be artificially deflated, possibly to a level below the break-even cost of processing; and

(3) Marketing of gin motes substantially decreases gin waste, thereby reducing the burden to the environment.

Thirty-three respondents recommended that gin motes which have been cleaned with conventional seed cotton cleaning or saw lint cleaning devices that have removed a substantial volume of the non-lint content be eligible. One respondent recommended that only gin motes which have passed through at least one set of cleaning saws, with a substantial amount of dirt removed and suitable for spinning, papermaking and other allied textile usage without further processing be eligible ("reginned gin motes").

Three respondents recommended that the payment rate for gin motes be established at a percentage of the payment rate for baled lint cotton. The proposed rule provided that payment rates for eligible cotton other than baled lint under the first handler marketing certificate program shall be based on a percentage of the basic rate for baled lint, exclusive of course count adjustment, as specified in the Upland Cotton First Handler Agreement.

User Marketing Certificate Program

Under the proposed rule, eligible upland cotton under the user marketing certificate program would be considered purchased by the domestic user or sold for export by the exporter on the date the contract for purchase or sale is confirmed in writing. The payment rate for both domestic users and exporters would be based upon the payment rate in effect during the week in which the written contract was entered into.

Thirty-one respondents commented on the user marketing certificate program proposal to base the payment rate on the date of the written contract. All the respondents opposed the proposal as it relates to "on call" contracts by domestic users. Seventeen respondents opposed the proposal but offered no specific alternatives. Seven respondents recommended that the payment rate or "on call" contacts by domestic users be determined on the date the domestic user fixes the price of the "on call" contract. Two respondents recommended that the domestic user be permitted to fix the payment rate for "on call" contracts on the date of sale of textile goods. Three respondents recommended that the payment rate be fixed on the date of delivery of the cotton.

Two respondents recommended that the payment rate be determined on the date of consumption of the cotton. Reasons cited for not basing the payment rate for "on call" contracts by domestic users on the date of the written contract were that it would:

(1) Severely disrupt the normal buying practices of domestic users;

(2) Reduce forward contracting;

(3) Increase "hand-to-mouth" buying;

(4) Encourage buying decisions based on certificate values rather than market signals;

(5) Create a competitive disadvantage for long-term buyers;

(6) Not accomplish the objective of making U.S. cotton available to domestic users at the price level of foreign cotton;

(7) Penalize domestic users who have already contracted 1991 crop cotton;

(8) Increase administrative costs; and

(9) Favor exporters over domestic users.

Three respondents recommended that exporters not be eligible for user marketing certificates. Nine respondents were opposed to the proposal that new crop cotton contracted prior to the date on which Northern Europe forward

prices are available would be ineligible for user marketing certificates.

Other Comments

Several other recommendations related to the user marketing certificate program were received from two respondents, as follows:

One respondent recommended that;

1. The final regulations contain a cancel/replacement policy for sales. The respondent feels that this is a key element of the program to prevent abuse.

2. The cancel/replacement policy contain a provision for sales earning no payment, and the requirement to replace canceled sales should carry forward into successive crop years. Not requiring evidence of shipment for sales earning no payment could allow a firm to renegotiate a previous sale at no payment rate during a week in which a payment rate is in effect for the sole purpose of earning payments. The firm could report the renegotiation as a new sale, and then carry the old sale on its books indefinitely.

3. Optional origin contracts, under which a firm may sell cotton of a foreign growth with the option to substitute United States cotton, be registered with USDA, and that U.S. cotton tendered on such contracts not be eligible for payment.

4. Section 1427.107(a)(2)(iv) (B) and (C) be modified to not require establishing different payment rates for old and new crop cotton tendered on contracts for delivery after September 30. Subparagraph (B) penalizes the delivery of new crop cotton on an old crop contract for delivery after September 30. If the availability of old crop cotton is not adequate to fulfill deliveries after September 30, one should not be penalized because such commitments are satisfied with new crop cotton. Similarly, subparagraph (C) penalizes the delivery of old crop cotton on a new crop contract after September 30. Penalizing old crop cotton in past years has often led to excessive CCC forfeitures. If old crop cotton is still available to ship against a contract after September 30, it should receive equal treatment for payment purposes regardless of the contract terms.

5. When the contract does not specify the crop year, the payment rate should be based on the lower of the payment rate based on current prices or the payment rate based on forward prices except when old or new crop is delivered on a contract for delivery after September 30, each should receive the same payment rate.

6. Sales of 1990 crop cotton made after August 1, 1991, be eligible for payments. As of the week ending June 19, 1991, about 480,000 bales of 1990 crop cotton remained outstanding under loan. Every crop of cotton has some undesirable remnants which remain unmerchandised at the end of the season, no matter how high prices rise or how tight the level of ending stocks. History has shown that this cotton often ends up in CCC inventory, particularly if the tight year is followed by a big crop. Providing a payment for future crops while denying one for older crops promotes forfeitures.

The other respondent recommended that:

1. Certificates be issued for the full value, unless otherwise requested. Restricting the certificate value increases the handling and bookkeeping involved.

2. The program be effective August 1, 1991, as stated in the legislation. This would mean that the first week would be the week ending Thursday, August 1, and the fourth week would end August 22. If U.S. cotton is noncompetitive for these 4 weeks, certificates could be available beginning August 23, 1991.

Discussion of Changes

Changes in this interim rule from the proposed rule are based upon the public comments received. In addition, CCC made numerous editorial and other changes for clarity and to improve the effectiveness of the marketing certificate programs. The discussion of changes that follow is organized in the same sequence as the interim rule.

Subpart—Upland Cotton First Handler Marketing Certificate Program Regulations

Section 1427.52 Definitions

To clarify the issues with respect to gin motes, new definitions for raw (unprocessed) motes, semi-processed motes and reginned (processed) motes and a definition of modified seed cotton cleaning equipment were added and the definition of reprocessed gin motes was deleted.

A definition of the term "person" was also added.

Section 1427.53 Eligible Upland Cotton

Semi-processed motes were added and reprocessed gin motes were deleted from the list of eligible cotton and raw (unprocessed) motes, reginned (processed) motes and textile mill wastes were added to the list of ineligible cotton for first handler marketing certificates.

Subpart—Upland Cotton User Marketing Certificate Program Regulations

Section 1427.102 Definitions

As a result of the comments opposing the proposal to base the user marketing certificate payment rate for domestic users on the date a written contract to purchase cotton is entered into, CCC determined that the payment rate for domestic users shall be determined on the date the cotton is consumed by the domestic user and that the date of consumption shall be considered to be the date of bale opening, regardless of the crop year of production. To implement these changes, new definitions of bale opening, consumption and cotton product were added and the definitions of old crop cotton and new crop cotton were deleted.

CCC determined that optional origin export contracts should be included in the contract cancel/replacement provisions which are being added as a new § 1427.109 to this interim rule. A definition of optional origin export contracts was added to the interim rule.

CCC adopted the proposal that reginned motes and loose be included as eligible cotton under the user marketing certificate program to prevent these products from being at a competitive price disadvantage with lower grade and BG cotton that earn payments. Because user marketing certificate payments are made to domestic users and exporters and not to intermediate handlers, CCC determined that only reginned motes will be eligible for user marketing certificates. Since a definition of "reginned motes" was added to § 1427.52 of the interim rule, such definition was deleted from this section of the interim rule.

Section 1427.103 Eligible Upland Cotton

CCC determined that upland cotton which was obtained with a commodity certificate from CCC inventory offered for certificate exchange in a catalog published by the ASCS Kansas City Commodity Office (KCCO), would be ineligible for user marketing certificates because such cotton would have been obtained with the certificate at the adjusted world price, therefore, no additional payment is necessary to make such cotton competitive. CCC did not adopt the recommendation to include textile mill wastes as eligible cotton because any payment due would have been made on the baled lint from which the mill wastes were derived. In accordance with these decisions and the decision by CCC to include reginned

motes and loose as eligible cotton and to base the payment rate for domestic users on the date of consumption rather than the date of the written contract, § 1427.103 was rewritten to incorporate these decisions.

Section 1427.104 Eligible Domestic Users and Exporters

To incorporate the decision to base the payment rate for domestic users on the date of consumption, § 1427.104 was rewritten.

Section 1427.107 Payment Rate

CCC determined that the proposed procedure for determining the user marketing certificate payment rate for exporters was unnecessarily cumbersome and, in some cases, would unjustly penalize exporters, thereby creating a possibility of reducing, rather than increasing, exports of United States cotton. To prevent this and to incorporate the decisions by CCC to base the payment rate for domestic users on the date of consumption regardless of the crop year of production and to include reginned motes and loose as eligible cotton, § 1427.107 was rewritten.

Section 1427.109 Contract Cancellations

In accordance with the recommendation of one respondent to include a cancel/replacement policy for sales in the final rule, a new § 1427.109 was added to this interim rule to include such policy. CCC had intended that a cancel/replacement policy be included in the Upland Cotton Domestic User/Exporter Agreement but agrees with the respondent that such policy is a key element of the program to prevent abuse and should be included in the interim rule.

Basis for Interim Rule

Because of the substantive nature of the changes made by CCC in response to the comments received, it has been determined that additional comments on these changes would aid in the implementation of these regulations. Accordingly, this interim rule is effective as of August 1, 1991, but comments are still requested with respect to the entire rule.

List of Subjects in 7 CFR Part 1427

Cotton, Loan programs (agriculture), Price support programs, Warehouses, Marketing certificate programs.

Accordingly, 7 CFR part 1427, is amended by this interim rule as follows:

PART 1427—COTTON

1. The authority citation for 7 CFR part 1427 is revised to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1425, 1444, and 1444–2; 15 U.S.C. 714b and 714c.

2. The subpart heading and text for §§ 1427.50 through 1427.55 are revised and §§ 1427.56 through 1427.58 are added to the subpart as set forth below.

3. Subpart—Upland Cotton User Marketing Certificate Program Regulations (§§ 1427.100 through 1427.109) is added as set forth below.

Subpart—Upland Cotton First Handler Marketing Certificate Program Regulations

Sec.

1427.50 Applicability.
1427.51 Administration.
1427.52 Definitions.
1427.53 Eligible upland cotton.
1427.54 Eligible first handlers.
1427.55 Upland cotton first handler agreement.
1427.56 Commodity certificates.
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1427.58 Payment.

Subpart—Upland Cotton User Marketing Certificate Program Regulations

Sec.

1427.100 Applicability.
1427.101 Administration.
1427.102 Definitions.
1427.103 Eligible upland cotton.
1427.104 Eligible first handlers.
1427.105 Upland Cotton Domestic User/Exporter Agreement.
1427.106 Commodity certificates.
1427.107 Payment rate.
1427.108 Payment.
1427.109 Contract cancellations.

Subpart—Upland Cotton First Handler Marketing Certificate Program Regulations

§ 1427.50 Applicability.

(a) The regulations of this subpart are applicable during the period beginning August 1, 1991, and ending July 31, 1996. These regulations set forth the terms and conditions under which the Commodity Credit Corporation ("CCC") shall make payments, in the form of commodity certificates to eligible first handlers of upland cotton who have entered into an Upland Cotton First Handler Agreement with CCC to participate in the first handler marketing certificate program, in accordance with section 103B(a)(5)(B) of the Agricultural Act of 1949, as amended.

(b) If, during the period beginning August 1, 1991, and ending July 31, 1996, CCC determines that the adjusted world price for upland cotton determined in accordance with § 1427.25 is less than the loan repayment rate for a crop of upland cotton determined in accordance with § 1427.19(c) and that the cotton loan program implemented in accordance with § 1427.8 and that the loan deficiency payment program implemented in accordance with § 1427.23, have failed to make domestically produced upland cotton competitive on the world market, then CCC shall make payments in accordance with the provisions of this subpart to eligible first handlers of upland cotton.

(c) Additional terms and conditions are set forth in the Upland Cotton First Handler Agreement which must be executed by the first handler in order to receive such payments.

(d) Forms which are used in administering the first handler marketing certificate program shall be prescribed by CCC.

§ 1427.51 Administration.

(a) The first handler marketing certificate program shall be administered under the general supervision of the Executive Vice President, CCC (Administrator, ASCS), or a designee, and shall be carried out in the field by ASCS's Kansas City Commodity Office (KCCO) and Kansas City Management Office (KCMO).

(b) The KCCO and KCMO, and representatives and employees thereof, do not have the authority to modify or waive any of the provisions of the regulations of this subpart.

(c) No provision or delegation herein the KCCO or KCMO shall preclude the Executive Vice President, CCC, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by KCCO or KCMO.

(d) The Executive Vice President, CCC, or a designee, may authorize KCCO or KCMO to waive or modify deadlines and other program requirements in cases where lateness or failure to meet such other requirements do not affect adversely the operation of the first handler marketing certificate program.

(e) A representative of CCC may execute first handler marketing certificate payment applications, Upland Cotton First Handlers Agreements and related documents only under the terms and conditions determined and announced by CCC.

(f) Certificate payment applications, Upland Cotton First Handler Agreements and related documents not executed in accordance with the terms and conditions determined and announced by CCC, including any purported execution prior to the date

authorized by CCC, shall be null and void.

§ 1427.52 Definitions.

The definitions set forth in this section shall be applicable for all purposes of program administration. The terms defined in § 1427.3 of this part and part 1413 of this chapter shall also be applicable.

Baled lint means cotton which has passed through the ginning process and has been baled.

Loose means samples removed from bales of upland cotton for classification purposes which have been rebaled.

Modified seed cotton cleaning equipment means incline, airline or impact seed cotton cleaners which have been modified to remove the smaller trash material normally present in raw (unprocessed) motes.

Person means an individual, corporation, partnership, association, or other business entity.

Raw (unprocessed) motes means lint cleaner waste resulting from the ginning process.

Reginned (processed) motes means semi-processed motes which have been further cleaned through multiple stages of modified seed cotton cleaning and one or more stages of lint cleaning equipment (sawtooth lint cleaning) by the gin, an intermediate processor or an end user, which are of a quality suitable, without further processing, for spinning, paper making or other traditional manufacturing uses, and which have been rebaled, unless converted to an end use in a continuous manufacturing process by the end user who further cleaned the semi-processed motes.

Semi-processed motes means raw motes processed at the gin through one stage of modified seed cotton cleaning equipment, which have been baled.

§ 1427.53 Eligible upland cotton.

(a) For the purposes of this subpart, eligible upland cotton is domestically produced 1991 or subsequent crop upland cotton which meets the requirements of paragraphs (b) and (c) of this section.

(b) Eligible upland cotton must be either—

(1) Baled lint which is not pledged as collateral for a price support loan;

(2) Baled lint which has been pledged as collateral for a price support loan but which has been redeemed with cash;

(3) Baled lint which has been classified by USDA's Agricultural Marketing Service as Below Grade;

(4) Loose; or

(5) Semi-processed motes.

(c) Eligible upland cotton must not be:

(1) Cotton with respect to which a payment, in accordance with the provisions of this subpart, has been made available;

(2) Cotton which was obtained through the exchange of a commodity certificate for cotton which had been pledged as collateral for a price support loan or from CCC inventory in accordance with the provisions of part 1470 of this chapter;

(3) Domestically produced cotton which has been exported and then reimported into the United States;

(4) Raw (unprocessed) motes;

(5) Reginned (processed) motes; or

(6) Textile mill wastes.

§ 1427.54 Eligible first handlers.

(a) For the purposes of this subpart, the following persons shall be considered to be eligible first handlers:

(1) A person regularly engaged in buying or selling eligible upland cotton who has entered into an agreement with CCC to participate in the first handler marketing certificate program;

(2) A producer of upland cotton who sells directly to domestic textile mills or for export or who tenders upland cotton on a New York Futures Exchange number 2 contract and who has entered into an agreement with CCC to participate in the first handler marketing certificate program; and

(3) A cooperative marketing association, approved in accordance with part 1425 of this chapter, that acquires the upland cotton production of its members and that has entered into an agreement with CCC to participate in the first handler marketing certificate program.

(b) Applications for payment in accordance with this subpart must contain documentation required by the provisions of the Upland Cotton First Handler Agreement and instructions issued by CCC.

§ 1427.55 Upland cotton first handler agreement.

(a) Payments in accordance with this subpart shall be made available to eligible first handlers who have entered into an Upland Cotton First Handler Agreement with CCC and who have complied with the terms and conditions set forth in this subpart, the Upland Cotton First Handler Agreement and instructions issued by CCC.

(b) Upland Cotton First Handler Agreements may be obtained from Cotton Branch, CRD, Kansas City Commodity Office, P.O. Box 419205, Kansas City, Missouri 64141–6205. In order to participate in the program authorized by this subpart, first handlers must execute the Upland Cotton First Handler Agreement and forward an original and two copies to KCCO.

§ 1427.56 Commodity certificates.

Payments in accordance with this subpart shall be made available in the form of commodity certificates issued in accordance with part 1470 of this chapter.

§ 1427.57 Payment rate.

The payment rate for the purposes of calculating payments made available in accordance with this subpart shall be based upon the difference between the adjusted world price for upland cotton determined in accordance with § 1427.25 and the loan repayment rate determined in accordance with § 1427.19 and the Upland Cotton First Handler Agreement. A coarse count adjustment shall be applied in accordance with § 1427.25(f) and the Upland Cotton First Handler Agreement. Payment rates for Below Grade, loose and semi-processed motes shall be based on a percentage of the basic rate for baled lint, exclusive of coarse count adjustment, as specified in the Upland Cotton First Handler Agreement.

§ 1427.58 Payment.

(a) Payments in accordance with this subpart shall be determined by multiplying:

(1) The payment rate, determined in accordance with § 1427.57, by

(2) The net weight (gross weight minus the weight of bagging and ties), determined as specified in the Upland Cotton First Handler Agreement, of eligible upland cotton that is purchased by an eligible first handler for either domestic consumption or export during a period in which a payment rate is established.

(b) Eligible upland cotton will be considered to be purchased by the first handler on the date title to the cotton passes to the first handler, as determined by CCC.

(c) Payments in accordance with this subpart shall be made available upon application for payment and submission of supporting documentation, as required by the provisions of the Upland Cotton First Handler Agreement and instructions issued by CCC.

Subpart—Upland Cotton User Marketing Certificate Program Regulations

§ 1427.100 Applicability.

(a) The regulations of this subpart are applicable during the period beginning August 1, 1991 and ending July 31, 1996. These regulations set forth the terms and conditions under which the

Commodity Credit Corporation ("CCC") shall make payments in the form of commodity certificates to eligible domestic users and exporters of upland cotton who have entered into an Upland Cotton Domestic User/Exporter Agreement with CCC to participate in the upland cotton user marketing certificate program, in accordance with section 103B(a)(5)(E) of the Agricultural Act of 1949, as amended.

(b) If, during the period beginning August 1, 1991, and ending July 31, 1996, CCC determines that, for any consecutive 4-week period, the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling one and three thirty-seconds inch ("M 1 3/32 inch") cotton, delivered C.I.F. (cost, insurance and freight) northern Europe ("U.S. Northern Europe price") exceeds the Friday through Thursday average price quotation for the five lowest-priced growths, as quoted for M 1 3/32 inch cotton, delivered C.I.F. northern Europe ("Northern Europe price") by more than 1.25 cents per pound, then CCC shall make payments in accordance with the provisions of this subpart to eligible domestic users and exporters of upland cotton.

(c) Additional terms and conditions are set forth in the Upland Cotton Domestic User/Exporter Agreement which must be executed by the domestic user or exporter in order to receive such payments.

(d) Forms which are used in administering the upland cotton user marketing certificate program shall be prescribed by CCC.

§ 1427.101 Administration.

(a) The upland cotton user marketing certificate program shall be administered under the general supervision of the Executive Vice President, CCC (Administrator, ASCS), or a designee, and shall be carried out in the field by ASCS's Kansas City Commodity Office (KCCO) and Kansas City Management Office (KCMO).

(b) The KCCO and KCMO, and representatives and employees thereof, do not have the authority to modify or waive any of the provisions of the regulations of this subpart.

(c) No provision or delegation herein to KCCO or KCMO shall preclude the Executive Vice President, CCC, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by KCCO or KCMO.

(d) The Executive Vice President, CCC, or a designee, may authorize KCCO or KCMO to waive or modify deadlines and other program requirements in cases where lateness or failure to meet such other requirements do not affect adversely the operation of the upland cotton user marketing certificate program.

(e) A representative of CCC may execute upland cotton user marketing certificate payment applications, Upland Cotton Domestic User/Exporter Agreements and related documents only under the terms and conditions determined and announced by CCC.

(f) Certificate payment applications, Upland Cotton Domestic User/Exporter Agreements and related documents not executed in accordance with the terms and conditions determined and announced by CCC, including any purported execution prior to the date authorized by CCC, shall be null and void.

§ 1427.102 Definitions.

The definitions set forth in this section shall be applicable for all purposes of program administration. The terms defined in §§ 1427.3 and 1427.52 of this part and part 1413 of this chapter shall also be applicable.

Bale opening means the removal of the bagging and ties from a bale of eligible upland cotton in the normal opening area, immediately prior to use, by a manufacturer in a building or collection of buildings where the cotton in the bale will be used in the continuous process of manufacturing raw cotton into cotton products in the United States.

Consumption means, the use of eligible cotton by a domestic user in the manufacture in the United States of cotton products.

Cotton product means any product containing cotton fibers that result from the use of a bale of cotton in manufacturing.

Current shipment price means, during the period in which two daily price quotations are available for the growth quoted for M 1 3/32 inch cotton, C.I.F. northern Europe, the price quotation for cotton for shipment no later than August/September of the current calendar year.

Forward shipment price means, during the period in which two daily price quotations are available for the growths quoted for M 1 3/32 inch cotton, C.I.F. northern Europe, the price quotation for cotton for shipment no earlier than October/November of the current calendar year.

Northern Europe current price means the average for the preceding Friday through Thursday of the current shipment prices for the five lowest-priced growths of the growths quoted for M 1 3/32 inch cotton, C.I.F. northern Europe.

Northern Europe forward price means the average for the preceding Friday through Thursday of the forward shipment prices for the five lowest-priced growths of the growths quoted for M 1 3/32 inch cotton, C.I.F. northern Europe.

Northern Europe price means, during the period in which only one daily price quotation is available for the growth quoted for M 1 3/32 inch cotton, C.I.F. northern Europe, the average of the price quotations for the preceding Friday through Thursday of the five lowest-priced growths of the growths quoted for M 1 3/32 inch cotton, C.I.F. northern Europe.

Optional origin export contract means a contract under which an exporter may sell cotton produced in a foreign country with the option to substitute cotton produced in the United States.

U.S. Northern Europe current price means the average for the preceding Friday through Thursday of the current shipment prices for the lowest-priced United States growth as quoted for M 1 3/32 inch cotton, C.I.F. northern Europe.

U.S. Northern Europe forward price means the average for the preceding Friday through Thursday of the forward shipment prices for the lowest-priced United States growth as quoted for M 1 3/32 inch cotton, C.I.F. northern Europe.

U.S. Northern Europe price means, during the period in which only one daily price quotation is available for the United States growths quoted for M 1 3/32 inch cotton, C.I.F. northern Europe, the average of the price quotations for the preceding Friday through Thursday of the lowest-priced United States growth as quoted for M 1 3/32 inch cotton, C.I.F. northern Europe.

§ 1427.103 Eligible upland cotton.

(a) For the purposes of this subpart, eligible upland cotton is domestically produced baled upland cotton which is—

(1) Opened by an eligible domestic user on or after August 1, 1991, and on or before July 31, 1996, during a Friday through Thursday period immediately following a week in which a payment rate, determined in accordance with § 1427.107, is in effect, and which meets the requirements of paragraphs (b) and (c) of this section; or

(2) Sold for export by an eligible exporter under a written contract entered into on or after August 1, 1991, and on or before July 31, 1996, during a Friday through Thursday period immediately following a week in which a payment rate, determined in

accordance with § 1427.107, is in effect and which is exported by the eligible exporter by not later than September 30, 1996, and which meets the requirements of paragraphs (b) and (c) of this section.

(b) Eligible upland cotton must be either—

(1) Baled lint, including baled lint classified by USDA's Agricultural Marketing Service as Below Grade;

(2) Loose; or

(3) Reginned (processed) motes.

(c) Eligible upland cotton must not be—

(1) Cotton with respect to which a payment, in accordance with the provisions of this subpart, has been made available;

(2) Cotton which was obtained with a commodity certificate, in accordance with the provisions of part 1470 of this chapter, from CCC inventory offered for certificate exchange in a catalog published by KCCO.

(3) Imported cotton;

(4) Raw (unprocessed) motes;

(5) Semi-processed motes; or

(6) Textile mill wastes.

§ 1427.104 Eligible domestic users and exporters

(a) For the purposes of this subpart, the following persons shall be considered to be eligible domestic users and exporters of upland cotton:

(1) A person regularly engaged in the business of opening bales of eligible upland cotton for the purpose of manufacturing such cotton into cotton products in the United States ("domestic user"), who has entered into an agreement with CCC to participate in the upland cotton user marketing certificate program; or

(2) A person, including a producer or a cooperative marketing association approved in accordance with part 1425 of this chapter, regularly engaged in selling eligible upland cotton for exportation from the United States ("exporter"), who has entered into an agreement with CCC to participate in the upland cotton user marketing certificate program.

(b) Applications for payment in accordance with this subpart must contain documentation required by the provisions of the Upland Cotton Domestic User/Exporter Agreement and instructions issued by CCC.

§ 1427.105 Upland Cotton Domestic User/Exporter Agreement

(a) Payments in accordance with this subpart shall be made available to eligible domestic users and exporters who have entered into an Upland Cotton Domestic User/Exporter Agreement with CCC and who have complied with the terms and conditions set forth in this subpart, the Upland Cotton Domestic User/Exporter Agreement and instructions issued by CCC.

(b) Upland Cotton Domestic User/Exporter Agreements may be obtained from Cotton Branch, CRD, Kansas City Commodity Office, P.O. Box 419205, Kansas City, Missouri 64141–6205. In order to participate in the program authorized by this subpart, domestic users and exporters must execute the Upland Cotton Domestic User/Exporter Agreement and forward an original and two copies to KCCO.

§ 1427.106 Commodity certificates.

Payments in accordance with this subpart shall be made available in the form of commodity certificates issued in accordance with part 1470 of this chapter.

§ 1427.107 Payment rate.

(a) The payment rate for the purposes of calculating payments made available in accordance with this subpart shall be determined by CCC as follows:

(1) For domestic users—

(i) For bales opened between August 1 of the calendar year and the week prior to the week in which the Northern Europe current price and the Northern Europe forward price first become available, the payment rate shall be the difference, in the fourth week of a consecutive 4-week period in which the U.S. Northern Europe price exceeded the Northern Europe price each week by more than 1.25 cents per pound, between the U. Northern Europe price minus 1.25 cents per pound, and the Northern Europe price.

(ii) For bales opened between the week the Northern Europe current price and the Northern Europe forward price first become available and July 31, the payment rate shall be the difference, in the fourth week of a consecutive 4-week period in which the U.S. Northern Europe current price exceeded the Northern Europe current price each week by more than 1.25 cents per pound, between the U.S. Northern Europe current price minus 1.25 cents per pound, and the Northern Europe current price.

(iii) For bales opened prior to August 30, 1991, the payment rate shall be zero.

(2) For exporters—

(i) For contracts entered into during the period between August 1 and the week prior to the week in which the Northern Europe current price and the Northern Europe forward price first become available which specify shipment of the cotton by not later than September 30 following such contract period, the payment rate shall be the difference, in the fourth week of a consecutive 4-week period in which the U.S. Northern Europe price exceeded the Northern Europe price each week by more than 1.25 cents per pound, between the U.S. Northern Europe price minus 1.25 cents per pound, and the Northern Europe price.

(ii) For contracts entered into during the period between August 1 and the week in which the Northern Europe current price and the Northern Europe forward price have been available for 4 weeks which specify shipment of the cotton after September 30 following such contract period, the payment rate shall be zero.

(iii) For contracts entered into during the period between the week the Northern Europe current price and the Northern Europe forward price first become available and July 31 which specify shipment of the cotton by not later than September 30 of such year, the payment rate shall be the difference, in the fourth week of a consecutive 4-week period in which the U.S. Northern Europe current price exceeded the Northern Europe current price each week by more than 1.25 cents per pound, between the U.S. Northern Europe current price minus 1.25 cents per pound and the Northern Europe current price.

(iv) For contracts entered into during the period between the week after both the Northern Europe current price and the Northern Europe forward price have been available for four weeks and July 31 which specify shipment of the cotton after September 30 of such year, the payment rate shall be the difference, in the fourth week of a consecutive 4-week period in which the U.S Northern Europe forward price exceeded the Northern Europe forward price each week by more than 1.25 cents per pound, between the U.S. Northern Europe forward price minus 1.25 cents per pound, and the Northern Europe forward price.

(v) For contracts entered into prior to August 30, 1991, the payment rate shall be zero.

(b) Notwithstanding the provisions of paragraph (a) of this section, whenever a 4–week period contains a combination of Northern Europe prices only for one to three weeks and Northern Europe current prices and North Europe forward prices only for one to three weeks such as occurs in the spring when the Northern Europe price is succeeded by the Northern Europe current price and the Northern Europe forward price ("spring transition period"), and at the start of a new marketing year when the Northern Europe current price and the Northern Europe forward price are

succeeded by the Northern Europe price ("marketing year transition"):

(1) Under paragraphs (a)(1)(i) and (a)(2)(i) of this section, during the marketing year transition period, the Northern Europe forward price and the U.S. Northern Europe forward price in combination with the Northern Europe price and the U.S. Northern Europe price shall be taken into consideration during such 4-week periods to determine whether a payment is to be issued.

(2) Under paragraphs (a)(1)(ii) and (a)(2)(iii) of this section, during the spring transition period, the Northern Europe current price and the U.S. Northern Europe current price in combination with the Northern Europe price and the U.S. Northern Europe price shall be taken into consideration during such 4-week periods to determine whether a payment is to be issued.

(c) Notwithstanding any other provision of this section, with respect to contracts that specify shipment of the cotton by not later than September 30—

(1) If shipment is completed by October 31 of such year, the payment rate shall be the payment rate established for the contract;

(2) If shipment is not completed by October 31 of such year, the payment rate shall be zero.

(3) If shipment is not completed by December 31 of such year, the exporter shall pay liquidated damages to CCC in an amount determined by multiplying:

(i) The amount that the highest payment rate paid between the date the original contract was entered into and December 31, exceeds the payment rate established for the original contract, by

(ii) The quantity of cotton not shipped.

(d) For the purposes of this subpart—

(1) With respect to the determination of the U.S. Northern Europe price, the U.S. Northern Europe current price, the U.S. Northern Europe forward price, the Northern Europe price, the Northern Europe current price and the Northern Europe forward price—

(i) If daily quotes are not available for one or more days of the 5-day period, the available quotes during the period will be used.

(ii) If no daily quotes are available for the entire 5-day period for either or both the U.S. Northern Europe price and the Northern Europe price during the period when only one daily price quotation is available for each growth quoted for M1 3/32 inch cotton, delivered C.I.F. northern Europe; or the U.S. Northern Europe current price and the Northern Europe current price; or the U.S. Northern Europe forward price and the Northern Europe forward price, that week will not be taken into consideration, in which case CCC may establish a payment rate at a level it determines to be appropriate, taking into consideration the payment rate determined in accordance with paragraph (a) of this section for the latest available week.

(2) With respect to the determination of the U.S. Northern Europe price, the U.S. Northern Europe current price, and the U.S. Northern Europe forward price, if a quote for either the U.S. Memphis territory or the California/Arizona territory as quoted for M1 3/32 inch cotton, delivered C.I.F. northern Europe, is not available for each or any day of the 5-day period, the available quote will be used.

(e) Payment rates for Below Grade, loose and reginned motes shall be based on a percentage of the basic rate for baled lint, as specified in the Upland Cotton Domestic User/Exporter Agreement.

§ 1427.108 Payment.

(a) Payments in accordance with this subpart shall be determined by multiplying:

(1) The payment rate, determined in accordance with § 1427.107, by

(2) The net weight (gross weight minus the weight of bagging and ties) determined in accordance with paragraph (b) of this section, of eligible upland cotton bales that are opened by an eligible domestic user or sold for export by an eligible exporter during the Friday through Thursday period following a week in which a payment rate is established .

(b) For the purposes of this subpart, the net weight shall be determined based upon:

(1) For domestic users, the weight on which settlement for payment of the cotton was based ("landed mill weight");

(2) For reginned motes processed by an end user who converted such motes, without rebaling, to an end use in a continuous manufacturing process, the net weight of the reginned motes after final cleaning;

(3) For exporters, the shipping warehouse weight or the gin weight if the cotton was not placed in a warehouse, of the eligible cotton unless the exporter obtains and pays the cost of having all the bales in the shipment reweighted by a licensed weigher and furnishes a copy of the certified reweights.

(c) For the purposes of this subpart, eligible upland cotton will be considered—

(1) Purchased by the domestic users on the date the bale is opened in preparation for consumption; and

(2) Sold by the exporter on the date the contract for sale is confirmed in writing.

(d) Payments in accordance with this subpart shall be made available upon application for payment and submission of supporting documentation, including proof of purchases and consumption of eligible cotton by the domestic user or proof of export of eligible cotton by the exporter, as required by the provisions of the Upland Cotton Domestic User/Exporter Agreement and instructions issued by CCC.

§ 1427.109 Contract cancellations.

(a) For the purposes of this subpart, except as provided in paragraph (e) of this section, any contract entered into by an exporter that is canceled or amended to reduce the contract quantity shall be replaced by the exporter with a subsequent contract ("replacement contract") designated by the exporter at the time a copy of the replacement contract is submitted to CCC, as specified in the Upland Cotton Domestic User/Exporter Agreement ("the Agreement"). Optional origin export contracts that are canceled/amended must be replaced with either an optional origin export contract or a contract to export United States cotton. The replacement contract shall specify shipment of the cotton by not later than September 30 following the shipment date specified in the original contract, except if the cancellation/amendment of a contract that specified shipment by not later than September 30 occurs after September 1, the replacement contract shall be entered into within 30 days after the cancellation/amendment and shipment shall be completed within 30 days after the replacement contract is entered into, but in no event may shipment be completed later than December 31. The provisions of this paragraph shall apply to—

(1) All undelivered (open) export contracts (including optional origin export contracts) outstanding as of the later of the date the Agreement was executed by the exporter or August 29, 1991;

(2) Any export contracts that were canceled, or amended to reduce the contract quantity, between the later of June 18, 1991, or 75 days prior to the date the Agreement was executed by the exporter and the later of the date the Agreement was executed by the exporter or August 29, 1991, which are not replaced by the later of the date the Agreement was executed by the exporter or August 29, 1991; and

(3) All new export contracts entered into by the exporter on or after August 30, 1991, and on or before July 31, 1996.

(b) Notwithstanding the provisions of § 1427.107, the payment rate for a replacement contract shall be the lesser of the payment rate in effect on the date of the original contract or the payment rate in effect on the date of the replacement contract.

(c) If shipment of the cotton on any replacement contract is—

(1) Completed by October 31, the payment rate shall be the payment rate determined in accordance with paragraph (b) of this section;

(2) Not completed by October 31, the payment rate shall be zero;

(3) Not completed, or a replacement contract is not designated by the exporter, by December 31, the exporter shall pay liquidated damages to CCC in an amount determined by multiplying:

(i) The amount that the highest payment rate paid between the date the original contract was entered into and December 31, exceeds the payment rate determined in accordance with paragraph (b) of this section, by

(ii) The quantity of cotton not shipped.

(d) Notwithstanding the provisions of paragraphs (a) through (c) of this section, with respect to optional origin export contracts, shipment of foreign cotton will fulfill the shipment requirements but such cotton will be ineligible for payments.

(e) The provisions of paragraphs (a) through (d) of this section will not apply if CCC determines, based upon a written request and justification by the exporter, that a contract cancellation, amendment, or failure to export is due to reasons beyond the control of the exporter.

Signed at Washington, DC, on August 15, 1991.

Keith D. Bjerke,

Executive Vice President, Commodity Credit Corporation.

Note: Attachments 1 and 2 will not appear in the Code of Federal Regulations.

Attachment 1

CCC–1044 See last page for Privacy Act Statement. (08–01–91)

Form Approved OMB No. 0560–0136

U.S. DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

First Handler Agreement No. _____
(To be assigned by CCC)

Upland Cotton First Handler Agreement

THIS AGREEMENT, made and entered into by and between Commodity Credit Corporation, a corporate agency of the United States, (hereinafter called "CCC") and

_____
(Name of First Handler)

_____
(Mailing Address)

(hereinafter called "First Handler") is for the purpose of authorizing the First Handler to participate in the First Handler Marketing Certificate Program as authorized by the Agricultural Act of 1949, as amended by the Food, Agriculture, Conservation, and Trade Act of 1990 (the Act).

CCC desires, subject to the terms and conditions set out herein, to make payments in the form of commodity certificates (hereinafter called "certificates") available to first handlers of upland cotton who are participating in the First Handler Marketing Certificate Program, and the First Handler desires to participate in such program.

CCC and the First Handler agree as follows:

Section 1. General

CCC will, in accordance with the terms and conditions of this Agreement, regulations promulgated by CCC, and instructions issued by CCC, make payments available, in the form of certificates, during the period beginning August 1, 1991, and ending July 31, 1996, to First Handlers in an amount based upon the quantity of eligible upland cotton which was purchased by the First Handler for either domestic use or export during any seven day period, beginning at 12:01 a.m. Friday and ending at midnight the following Thursday, in which the prevailing world market price, adjusted to United States quality and location (hereinafter called the "adjusted world price") is less than the loan repayment rate determined in accordance with the upland cotton price support loan program. Certificates will be issued to the First Handler in a monetary amount determined by multiplying the net pounds of each bale of eligible upland cotton purchased during the seven day period stated above by the payment rate in effect for that period.

Section 2. Eligible First Handlers

For the purposes of this Agreement, the following persons who have entered into this Agreement with CCC to participate in the program shall be considered to be eligible First Handlers of upland cotton:

(a) A person regularly engaged in buying or selling eligible upland cotton.

(b) A producer of upland cotton who sells directly to domestic textile mills or for export or who tenders upland cotton on a New York Futures Exchange number 2 contract.

(c) A cooperative marketing association, approved in accordance with 7 CFR part 1425.

Section 3. Date of Purchase

(a) Except as provided in paragraphs (b) and (c) of this Section, eligible upland cotton will be considered to be purchased by the First Handler on the date title to the cotton passes to the First Handler, as determined by CCC.

(b) For the purposes of this Agreement, if the First Handler is a cotton cooperative approved in accordance with 7 CFR part 1425, eligible upland cotton shall be considered to have been purchased by the cooperative—

(1) On the date that eligible cotton which is pledged as collateral for a price support loan is redeemed with cash by the cooperative by paying the loan amount and applicable charges and interest;

(2) On the date that a loan deficiency payment with respect to such cotton is requested by the cooperative; or

(3) If the cotton is not pledged as loan collateral or a loan deficiency payment is not requested with respect to such cotton, on the date that the cotton is delivered to the cooperative for marketing.

(c) For the purposes of this Agreement, if the First Handler is a producer selling upland cotton directly to domestic textile mills or for export, eligible upland cotton shall be considered to have been purchased by the producer—

(1) On the date that eligible cotton which is pledged as collateral for a price support loan is redeemed with cash by the producer by paying the loan amount and applicable charges and interest;

(2) On the date that a loan deficiency payment with respect to such cotton is requested by the producer; or

(3) If the cotton is not pledged as loan collateral or a loan deficiency payment is not requested with respect to such cotton, on the date that the cotton is sold by the producer or the date the cotton is tendered on a New York Futures Exchange number 2 contract.

Section 4. Eligible and Ineligible Cotton

(a) For the purposes of this Agreement and except as provided in paragraph (b) of this Section, eligible cotton shall be domestically produced 1991 and subsequent crop upland cotton—

(1) Baled lint which has not been pledged as collateral for a price support loan, on which a gin bale tag is affixed or, if a gin bale tag is not available, on which a warehouse receipt bale tag is affixed;

(2) Baled lint which has been pledged as collateral for a price support loan but which has been redeemed with cash, on which a gin bale tag is affixed or, if a gin bale tag is not available, on which a warehouse receipt bale tag is affixed;

(3) Samples removed from bales of upland cotton for classification purposes which have been rebaled (hereinafter called "loose");

(4) Baled lint classified by USDA's Agricultural Marketing Service (AMS) as Below Grade; and

(5) Motes processed at the gin through one stage of modified seed cotton cleaning equipment which have been baled (hereinafter called "semi-processed motes").

(b) Certificates shall not be made available with respect to:

(1) Upland cotton which has previously earned a certificate under the First Handler Marketing Certificate Program;

(2) Upland cotton obtained through the exchange of a certificate for cotton which had been pledged as collateral for a CCC price support loan or from CCC inventory;

(3) 1990 or prior crop upland cotton;

(4) Imported cotton;

(5) Domestically produced upland cotton which has been exported and then re-imported into the United States;

(6) Extra long staple cotton;
(7) Raw (unprocessed) or reginned (processed) motes; and
(8) Textile mill wastes.

Section 5. Determining the Quantity of Eligible Upland Cotton

The quantity of eligible upland cotton with respect to which a payment is made available in accordance with this Agreement shall be determined based upon the net weight of each bale of eligible cotton (gross weight minus the weight of the bagging and ties). The net bale weight shall be determined based upon—

(a) The bale weight on which settlement for payment of the cotton by the First Handler was made; or,

(b) In the case of cotton cooperatives or producers qualifying as First Handlers:

(1) The bale weight on which a price support loan or loan deficiency payment was made on cotton eligible for price support loan; or

(2) For cotton cooperatives, the bale weight of cotton that was delivered to the cooperative for marketing if the cotton was not pledged as loan collateral or a loan deficiency payment was not requested with respect to such cotton; or

(3) For producers, the bale weight on which settlement for payment was made if the cotton was not pledged as loan collateral or a loan deficiency payment was not requested with respect to such cotton.

Section 6. Payment Rates

Certificates issued to First Handlers in accordance with this Agreement shall be based upon the following payment rates:

(a) For baled lint supported by an official classification issued by AMS, the payment rate for each quality of cotton will equal the difference between the loan repayment rate and the adjusted world price in effect for the week in which the purchase was made. The adjusted world price is announced for Strict Low Middling (SLM) 1 1/16 inch (micronaire 3.5 through 3.6 and 4.3 through 4.9, strength 24 through 25 grams per tex) cotton at average U.S. location (hereinafter called the "base quality"). The adjusted world price for the base quality will be further adjusted to reflect other qualities based upon the Schedules of Premiums and Discounts for Grade and Staple, micronaire and strength and location differentials applicable to each warehouse location as announced under the current crop-year upland cotton price support loan program and, for eligible bales, the additional adjustment for coarse count cotton in effect for the week in which the purchase was made. In no event, however, may the sum of total adjustments result in an adjusted world price for any quality of cotton of less than 5 cents per pound. If the cotton is not stored in a CCC approved warehouse, the location differential will be determined by CCC based on gin location.

(b) For baled lint not supported by an official classification issued by AMS, the payment rate will be the rate that would apply for Strict Middling (SM) 1 3/32 inch (micronaire 3.5 through 3.6 and 4.3 through 4.9, strength 24 through 25 grams per tex) cotton for the warehouse location where the cotton is stored.

(c) For loose, the payment rate will be 90 percent of the rate that would apply for Low Middling (LM) 3 1/32 inch (micronaire 3.5 through 3.6 and 4.3 through 4.9, strength 24 through 25 grams per tex) cotton, exclusive of any coarse count adjustment.

(d) For Below Grade, the payment rate will be 70 percent of the rate that would apply for Strict Good Ordinary Spotted (SGO Sp) 1 inch (micronaire 3.5 through 3.6 and 4.3 through 4.9, strength 24 through 25 grams per tex) cotton, exclusive of any coarse count adjustment.

(e) For semi-processed motes, the payment rate will be 20 percent of the rate that would apply for SGO Sp 1 inch (micronaire 3.5 through 3.6 and 4.3 through 4.9, strength 24 through 25 grams per tex) cotton, exclusive of any coarse count adjustment.

Section 7. Application for Payment

(a) In order to receive a certificate under this Agreement, the First Handler must submit an application for payment to CCC. Such application must be prepared in accordance with instructions issued by CCC, must include documentation acceptable to CCC evidencing the purchase of eligible cotton by the First Handler (such as copies of purchase contracts, invoices, or loan repayment documents) and must be delivered or postmarked:

(1) For baled lint supported by an official AMS classification, or on which an official classification is not issued by AMS, loose, Below Grade, and semi-processed motes, within seven days following the last day of the week for which payment is claimed; or

(2) For baled lint purchased prior to receipt of the official AMS classification or baled lint on which the official classification has not otherwise been received from AMS, within seven days after the official AMS classification is received by the First Handler.

(b) An original and one copy of the application for payment, together with the supporting documentation, shall be submitted to: Fiscal Division, ASCS Kansas City Commodity Office, P.O. Box 419205, Kansas City, Missouri 64141–6205.

Section 8. Notification to Subsequent Buyer

The First Handler shall notify the subsequent buyer of the cotton, in writing, that a First Handler certificate has been issued with respect to the cotton. Failure to do so may result in termination of the Agreement by CCC.

Section 9. Financial Security

CCC may require a First Handler to furnish a cash deposit, bond, letter of credit, or other security acceptable to CCC prior to issuance of a certificate.

Section 10. Issuance of Certificates

After receipt of the application for payment, together with required supporting documents, CCC will issue certificates in an amount determined by multiplying the per pound payment rate determined in accordance with Section 6 of this Agreement times the net pounds determined in accordance with Section 5 of this Agreement.

Section 11. Use of Certificates

In accordance with 7 CFR part 1470, certificates received as payments under the provisions of this Agreement, prior to the expiration date stated on the certificate, may be (1) transferred to any other person, (2) exchanged for such CCC-owned commodities as are made available by CCC, (3) used to receive such commodities pledged as collateral for CCC loans, as are authorized by CCC, or (4) exchanged for cash on or after the date in Block D of the certificate.

Section 12. Excessive Payment

If the First Handler receives a certificate as payment in excess of the payment entitled to in accordance with this Agreement, the First Handler shall refund to CCC an amount equal to the excess payment, plus interest thereon, as determined by CCC.

Section 13. Scheme or Device; Liquidated Damages

(a) If the First Handler is determined by CCC to have knowingly (1) adopted any scheme or device which violates this Agreement, (2) made any fraudulent representation, or (3) misrepresented any fact affecting a determination under this Agreement, the First Handler shall pay to CCC an amount equal to the sum of the face value of certificates received as a part of such action, plus liquidated damages equal to 25 percent of such amount. In addition, CCC may, at its discretion, terminate the Agreement.

(b) The provisions of subparagraph (a) of this section shall be applicable in addition to any liability under criminal and civil fraud statutes, including 18 U.S.C. 286, 287, 371, 641, and 1001; 15 U.S.C. 714m; and 31 U.S.C. 3729.

Section 14. Records

For a period of 3 years from the issue date shown on the certificate, the First Handler shall keep records which affected certificate payment amounts and furnish such information and reports relating to this Agreement as may be requested by CCC. Such records shall be available at all reasonable times for an audit or inspection by authorized representatives of CCC, the United States Department of Agriculture, or the Comptroller General of the United States.

Section 15. Contingent Fees

The First Handler warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the First Handler for the purpose of securing business. For breach or violation of this warranty, CCC shall have the right to annul this agreement without liability or in its discretion to deduct from the funds due the First Handler the full amount of such commission, percentage, brokerage, or contingent fee.

Section 16. Member Delegate

No Member or Delegate of Congress or Resident Commissioner shall be admitted to

any share or part of this Agreement or to any benefit to arise therefrom, except that this provision shall not be construed to extend to their interest in any incorporated company, if the agreement be for the general benefit of such company, nor shall it be construed to extend to any benefit which may accrue to such official in his capacity as a farmer.

Section 17. Incorporation by Reference

The following regulations are incorporated by reference as part of this Agreement:

7 CFR Part 780, Appeal Regulations.
7 CFR Part 1403, Debt Settlement Policies and Procedures.
7 CFR Part 1427, Cotton.
7 CFR Part 1470, Commodity Certificates and In-Kind Payments, and Other Forms of Payment.

Section 18. Term of Agreement

This Agreement will continue in force until it is terminated in writing by CCC or the First Handler, or by amendment to or by termination or expiration of authorizing legislation. If the Agreement is terminated by CCC in accordance with section 13, the First Handler shall be barred from participation in the First Handler Marketing Certificate Program for a period of not less than 1 year from the date of termination.

First Handler

The First Handler has submitted this Agreement, in triplicate, by a duly authorized officer as of the _____ day of _____, 19_{xxxx}.

Name

Taxpayer ID No.

Authorized Signature Date

Title

Commodity Credit Corporation

This Agreement is executed by CCC and shall be effective as of the _____ day of _____, 19____.

On Behalf of CCC

Note: The following statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. 552a), and the Paperwork Reduction Act of 1980. The Agricultural Act of 1949, as amended, and regulations at 7 CFR 1427 authorize this agreement and other collections of information required for participation in the First Handler Marketing Certificate Program. The information will be used to determine eligibility to receive payment and to determine payment amounts. Providing this information is voluntary; however, without it, participation in the program will be denied. This information may be furnished to other USDA agencies, IRS, Department of Justice, or other State and Federal Law enforcement agencies, and in response to orders of a court magistrate or administrative tribunal.

Public reporting burden for this form CCC-1044, and any application for payment, if applicable, is estimated to average 30 minutes per response. This burden estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Agriculture, Clearance Officer, OIRM, room 404-W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB No. 0560-0136), Washington, DC 20503. Return this form to the Kansas City Commodity Office, P.O. Box 419205, Kansas City, Missouri 64141-6205.

This program will be conducted on a nondiscriminatory basis without regard to race, color, religion, national origin, age, sex, marital status, or handicap.

Attachment 2

CCC-1045 See last page for Privacy Act Statement. (08-01-91)

Form Approved OMB No. 0560-0136

U.S. DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Domestic User/Exporter Agreement No. ——
(To be assigned by CCC)

Upland Cotton Domestic User/Exporter Agreement

THIS AGREEMENT, made and entered into by and between Commodity Credit Corporation, a corporate agency of the United States, (hereinafter called "CCC") and

(Name of Domestic User or Exporter)

(Mailing Address)

(hereinafter called "Domestic User or Exporter") is for the purpose of authorizing the Domestic User or Exporter to participate in the Upland Cotton User Marketing Certificate Program as authorized by the Agricultural Act of 1949, as amended by the Food, Agriculture, Conservation, and Trade Act of 1990 (the Act).

CCC desires, subject to the terms and conditions set out herein, to make payments in the form of commodity certificates (hereinafter called "certificates") available to domestic users and exporters of upland cotton who are participating in the Upland Cotton User Marketing Certificate Program, and the Domestic User or Exporter desires to participate in such program.

CCC and the Domestic User or Exporter agree as follows:

Section 1. General

CCC will, in accordance with the terms and conditions of this Agreement, regulations promulgated by CCC, and instructions issued by CCC, make payments available, in the form of certificates, to domestic users or exporters during the period beginning August 1, 1991, and ending July 31, 1996, whenever for any consecutive 4-week period, the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling one and three-thirty seconds inch ("M 1 3/32 inch") cotton, delivered C.I.F. (cost, insurance and freight) northern Europe (hereinafter called "U.S. Northern Europe price") exceeds the Friday through Thursday average price quotation for the five lowest-priced growths, as quoted for M 1 3/32 inch cotton, delivered C.I.F. northern Europe (hereinafter called "Northern Europe price") by more than 1.25 cents per pound. The certificate payment rate shall be based on the amount of the difference, reduced by 1.25 cents per pound, in such prices during the fourth week of the consecutive 4-week period. Certificates will be issued to Domestic Users or Exporters in a monetary amount determined by multiplying the net pounds of eligible cotton purchased by domestic users or sold by exporters during the Friday through Thursday period immediately following the consecutive 4-week period by the payment rate in effect for that period.

Section 2. Eligible Domestic Users and Exporters

For the purposes of this Agreement, the following persons, who have entered into this Agreement with CCC to participate in the program, shall be considered to be eligible domestic users and exporters of upland cotton:

(a) Domestic User is a person regularly engaged in purchasing eligible upland cotton for the purpose of manufacturing such cotton into cotton products in the United States.

(b) Exporter is a person, including producers or cooperative marketing associations approved in accordance with 7 CFR part 1425, regularly engaged in selling eligible upland cotton for exportation from the United States.

Section 3. Date of Purchase/Sale

For the purposes of this Agreement, eligible upland cotton will be considered:

(a) Purchased by the Domestic User on the date the bagging and ties are removed from the bale in the normal opening area, immediately prior to use, by the Domestic User in a building or collection of buildings where the cotton in the bale will be used in the continuous process of manufacturing the cotton into cotton products (hereinafter called "opened"); or

(b) Sold by the Exporter on the date the contract for sale is confirmed in writing.

Section 4. Eligible and Ineligible Cotton

(a) For the purposes of this Agreement, eligible cotton shall be domestically produced baled upland cotton which is:

(1) Opened by an eligible Domestic User on or after August 1, 1991, and on or before July 31, 1996, during a Friday through Thursday period immediately following a week in which a payment rate, determined in accordance with section 6 of this Agreement, is in effect, and which meets the requirements of paragraphs (b) and (c) of this section;

(2) Sold for export by an eligible Exporter under a written contract entered into on or after August 1, 1991, and on or before July 31, 1996, during a Friday through Thursday period immediately following a week in which a payment rate, determined in accordance with section 6 of this Agreement is in effect, and which is exported by not later than September 30, 1996, and which

meets the requirements of paragraphs (b) and (c) of this section.

(b) Eligible upland cotton must be either:

(1) Baled lint, including baled lint classified by USDA's Agricultural Marketing Service (AMS) as Below Grade (hereinafter called "BG's");

(2) Samples removed from bales of upland cotton for classification purposes which have been rebaled (hereinafter called "loose"); or

(3) Reginned motes, defined as semi-processed motes which have been further cleaned through multiple stages of modified seed cotton cleaning and one or more stages of lint cleaning equipment (sawtooth lint cleaning) by the gin, an intermediate processor or an end user, which are of a quality suitable, without further processing, for spinning, papermaking or other traditional manufacturing uses, and which have been rebaled, unless converted to an end use in a continuous manufacturing process by the end user who further cleaned the semi-processed motes.

(c) Certificates shall not be made available with respect to:

(1) Upland cotton which has previously earned a certificate under the Upland Cotton User Marketing Certificate Program;

(2) Upland cotton obtained with a certificate from CCC inventory;

(3) Lint cleaner waste resulting from the ginning process (hereinafter called "raw motes");

(4) Raw motes processed at the gin through one stage of modified seed cotton cleaning equipment (hereinafter called "semi-processed motes");

(5) Imported cotton;

(6) Textile mill wastes; or

(7) Extra long staple cotton.

Section 5. Determining the Quantity of Eligible Upland Cotton

(a) The quantity of eligible upland cotton with respect to which a payment is made available in accordance with this Agreement shall be determined based upon the net weight of each bale of eligible cotton (gross weight minus the weight of the bagging and ties). The net bale weight shall be determined based upon—

(1) For Domestic Users, the net pounds as shown on the purchase invoice on which settlement for payment was made, supported by weight sheets including a detailed list of bale numbers;

(2) For reginned motes processed by an end user who converted such motes, without rebaling, to an end use in a continuous manufacturing process, the net weight of the reginned motes after final cleaning, supported by the bale numbers and net weights of the bales of semi-processed motes purchased by the end user;

(3) For Exporters, the net pounds as shown on the supporting weight/tag lists showing the warehouse receipt weights of the shipping warehouse or gin weights if the cotton was not placed in a warehouse, or the re-weights certified by a licensed weigher.

(b) For determining compliance of exported quantity to the contract quantity, CCC may provide a contract quantity tolerance in the operational instructions issued to exporters.

Section 6. Payment Rate

(a) The payment rate for the purposes of calculating payments made available in accordance with this Agreement shall be based upon the difference between the applicable U.S. Northern Europe price, U.S. Northern Europe current price or U.S. Northern Europe forward price, minus 1.25 cents per pound, and the applicable Northern Europe price, Northern Europe current price or Northern Europe forward price during the fourth week of a consecutive 4-week period in which the applicable U.S. Northern Europe price, U.S. Northern Europe current price or U.S. Northern Europe forward price exceeded the applicable Northern Europe price, Northern Europe current price or Northern Europe forward price each week by more than 1.25 cents per pound. For exporters, two payment rates will be established during the period in which both current and forward prices are available, one based on current prices, and the other based on forward prices. (The terms used in this section are defined in 7 CFR part 1427.102).

(b) The payment rate for baled lint (except BG's) shall be determined as follows:

(1) For Domestic Users:

For bales opened—	The payment rate shall be
Prior to August 30, 1991	Zero.
Between August 1 (August 30 for 1991) and the week prior to the week in which the Northern Europe current price and the Northern Europe forward price first become available.	The difference in the fourth week between the U.S. Northern Europe price, minus 1.25 cents, and the Northern Europe price.[1]
Between the week the Northern Europe current price and the Northern Europe forward price become available, and July 31.	The difference in the fourth week between the U.S. Northern Europe current price, minus 1.25 cents, and the Northern Europe current price.[2]

[1] During the first 3 weeks after the Northern Europe price becomes available following August 1, the consecutive 4-week period will include weeks in which only Northern Europe current prices and Northern Europe forward prices are available and weeks in which only Northern Europe prices are available. In determining whether a payment is triggered during such 4-week period, the Northern Europe forward prices and the U.S. Northern Europe forward prices will be used in combination with the Northern Europe prices and the U.S. Northern Europe prices.

[2] During the first 3 weeks after the Northern Europe current prices and the Northern Europe forward prices first become available, the consecutive 4-week period will include weeks in which only Northern Europe prices are available and weeks in which only Northern Europe current prices and Northern Europe forward prices are available. In determining whether a payment is triggered during such 4-week period, the Northern Europe prices and the U.S. Northern Europe prices will be used in combination with the Northern Europe current prices and the U.S. Northern Europe current prices.

(2) For Exporters:

For contracts entered into—	And the contracts call for shipment—	The payment rate shall be
Prior to August 30, 1991	Anytime	Zero.
During the period between August 1 (August 30 for 1991) and the week prior to the week in which the Northern Europe current price and the Northern Europe forward price first become available.	By not later than September 30 following such contract period.[1]	The difference in the fourth week between the U.S. Northern Europe price, minus 1.25 cents, and the Northern Europe price.[2]
During the period between August 1 (August 30 for 1991) and the week in which the Northern Europe current price and the Northern Europe forward price have been available for 4 weeks.	After September 30 following such contract period	Zero.
During the period between the week the northern Europe current price and the Northern Europe forward price first become available, and July 31.	By not later than September 30 of such year [1]	The difference in the fourth week between the U.S. Northern Europe current price, minus 1.25 cents, and the Northern Europe current price.[3]
During the period between the week after both the Northern Europe current price and the Northern Europe forward price have been available for 4 weeks, and July 31.	After September 30 of such year	The difference in the fourth week between the U.S. Northern Europe forward price, minus 1.25 cents, and the Northern Europe forward price.

[1] The Exporter will have until October 31 to complete the exportation and receive the full payment rate. If shipment is completed between November 1 and December 31, the payment rate will be zero. If shipment is not completed by December 31, the exporter will be required to pay CCC liquidated damages in an amounted determined by multiplying the amount that the highest payment rate paid between the date of the original contract and December 31 exceeds the payment rate for the original contract, times the quantity of cotton not shipped.

[2] During the first 3 weeks after the Northern Europe price becomes available following August 1, the consecutive 4-week period will include weeks in which only Northern Europe current prices and Northern Europe forward prices are available and weeks in which only Northern Europe prices are available. In determining whether a payment is triggered during such 4-week period, the Northern Europe forward prices and the U.S. Northern Europe forward prices will be used in combination with the Northern Europe prices and the U.S. Northern Europe prices.

[3] During the first 3 weeks after the Northern Europe current prices and the Northern Europe forward prices first become available, the consecutive 4-week period will include weeks in which only Northern Europe prices are available and weeks in which only Northern Europe current prices and Northern Europe forward prices are available. In determining whether a payment is triggered during such 4-week period, the Northern Europe prices and the U.S. Northern Europe prices will be used in combination with the Northern Europe current prices and the U.S. Northern Europe current prices.

(c) The payment rate for loose, BG's and reginned motes will be:

(1) For loose, 75 percent of the applicable payment rate for baled lint;

(2) For BG's, 65 percent of the applicable payment rate for baled lint;

(3) For reginned motes which have been rebaled, 40 percent of the applicable payment rate for baled lint; and

(4) For reginned motes processed by an end user who converted such motes, without rebaling, to an end use in a continuous manufacturing process, 40 percent of the payment rate in effect for baled lint on the date such motes were processed by the end user.

(d) The payment rate for baled lint will be announced each Thursday afternoon and will apply to all bale openings by Domestic Users and export sales contracts entered into by Exporters between 12:01 a.m. Friday through Midnight of the following Thursday.

(e) All qualities of eligible upland cotton baled lint (except BG's) will earn the same per pound payment rate.

Section 7. Submission of Domestic User Acquisitions/Export Sale Contracts

(a) Domestic User Acquisitions

(1) Domestic Users who have executed this Agreement must report to CCC the number of bales they have in inventory (separately for baled lint, BG's, loose and reginned motes) as of the later of the close of business (COB) on the date this Agreement is executed by the Domestic User or COB August 29, 1991. The report must be submitted by the later of COB of the day following the date this Agreement is executed by the Domestic User or August 30, 1991; and

(2) After the later of the date this Agreement is executed by the Domestic User or August 30, 1991, Domestic Users must report to CCC, by COB each Friday, the number of bales received by the Domestic User (separately for baled lint, BG's, loose and reginned motes) during the preceding Friday/Thursday period, together with supporting documents, as specified in instructions issued by CCC.

(b) Export Sale Contracts

(1) Exporters who have executed this Agreement must submit to CCC, by the later of COB of the day following the date this Agreement is executed by the Exporter or August 30, 1991; a copy of all—

(i) Undelivered (open) sale contracts (including optional origin contracts) outstanding as of COB on the later of the date this Agreement is executed by the Exporter or August 29, 1991; and

(ii) Contracts that were canceled between the later of June 18, 1991, or 75 days prior to the date this Agreement is executed by the Exporter and the later of COB of the date this Agreement is executed by the Exporter or August 29, 1991, which have not been replaced by the later of COB of the date this Agreement is executed by the Exporter or August 29, 1991; and

(2) After the later of the date this Agreement is executed by the Exporter or August 30, 1991, Exporters must submit to CCC by COB each Friday, a copy of all new contracts (including optional origin contracts), contract amendments, contract cancellations, and replacement contracts for canceled contracts entered into by the Exporter during the preceding Friday/Thursday period.

(c) If Friday is a holiday or other non-business day, the required Domestic User reports and Exporter contracts must be submitted to CCC by COB the next business day.

(d) Failure to submit required Domestic User reports and Exporter contracts by the due date may result, for cotton represented on such reports/contracts, in—

(1) For Domestic Users, a reduction in or loss of payments; and

(2) For Exporters, payment at the lesser of the payment rate in effect for the contract or the payment rate in effect on the date the contract is submitted to CCC.

(e) Submit all documents to: Fiscal Division, ASCS Kansas City Commodity Office, P.O. Box 419205, Kansas City, Missouri 64141–6205.

Section 8. Export Contract Cancellations

Export contract cancellations, or amendments to reduce contract quantities, must be submitted (postmarked) to CCC by the Friday following the cancellation date.

(a) Except as provided in paragraph (e) of this Section, any contract specified in paragraph (b) (1) and (2) of section 7 of this Agreement that is canceled, or amended to reduce the contract quantity, must be replaced by the Exporter with a subsequent contract (hereinafter called "replacement contract") designated by the Exporter at the time a copy of the replacement contract is submitted to CCC in accordance with section 7 of this Agreement. The replacement contract shall specify shipment of the cotton by not later than September 30 following the shipment date specified in the original contract, except if the cancellation/amendment of a contract that specified shipment by not later than September 30 occurs after September 1, the replacement contract must be entered into within 30 days after the cancellation/amendment and shipment must be completed within 30 days after the replacement contract is entered into, but in no event may shipment be completed later than December 31. Optional origin contracts must be replaced with either another optional origin contract or a U.S. origin contract.

(b) Notwithstanding the provisions of section 6 of this Agreement, the payment rate for a replacement contract will be the lesser of the payment rate in effect on the date of the original contract or the payment rate in effect on the date of the replacement contract.

(c) If shipment of the cotton on any replacement contract is:

(1) Completed by October 31, the payment rate will be the payment rate determined in accordance with paragraph (b) of this section;

(2) Not completed by October 31, the payment rate will be zero;

(3) Not completed, or a replacement contract is not designated by the Exporter, by December 31, the Exporter must pay liquidated damages to CCC in an amount determined by multiplying:

(i) The amount that the highest payment rate paid between the date the original contract was entered into and December 31 exceeds the payment rate determined in accordance with paragraph (b) of this section, by

(ii) The quantity of cotton not shipped.

(d) Notwithstanding the provisions of paragraphs (a) through (c) of this section, with respect to optional origin export contracts, shipment of foreign cotton will fulfill the shipment requirements but such cotton will be ineligible for payments.

(e) Notwithstanding the provisions of this section, no payment reduction or liquidated damages will be applied if CCC determines, based upon a written request and justification by the Exporter that a contract cancellation/amendment or failure to export is due to reasons beyond the control of the Exporter (such as exporter or importer bankruptcy, mill shutdowns, embargoes or military actions).

Section 9. Application for Payment

(a) In order to receive a certificate under this Agreement, the Domestic User or Exporter must submit an application for payment to CCC. Such application must be prepared in accordance with instructions issued by CCC and shall be submitted to CCC by Domestic Users on Friday following the Friday/Thursday week in which the bales were opened or by Exporters within 10 days after required export documents are available.

(b) An invoice must be prepared by the Domestic User or Exporter and submitted to CCC, showing for domestic consumption or for each export contract, the contract number, payment rate date, payment rate, quantity in net pounds, and computed payment amount together with:

(1) For Domestic Users, proof of consumption, consisting of net weight and detailed list of bale numbers identified to the type of cotton consumed; and

(2) For Exporters, proof of export consisting of a copy of the certified on board or intermodal bill of lading (truck delivery documents or rail bill of lading for exports to Mexico or Canada), weight sheets and detailed list of bale numbers, identified to the type of cotton exported, a copy of the exporter's bale invoice.

(c) No payment will be made for domestic consumption or for export contracts entered into during a week in which the payment rate is zero but Domestic Users and Exporters must submit, by COB Friday of such week, in accordance with instructions issued by CCC—

(1) For Domestic Users, a report of consumption that week; and

(2) For Exporters, a copy of all export contracts entered into that week.

(d) An original and one copy of the application for payment, together with the invoice and supporting documentation, shall be submitted to: Fiscal Division, ASCS Kansas City Commodity Office, P.O. Box 419205, Kansas City, Missouri 64141–6205.

Section 10. Notification of Resold Cotton

Domestic Users who resell cotton must notify CCC within 7 days to document disposition of cotton previously reported as received in accordance with section 7 of this Agreement. Failure to do so may result in a reduction in payments on a quantity of cotton equal to the quantity resold.

Section 11. Financial Security

CCC may require a Domestic User or Exporter to furnish a cash deposit, bond, letter of credit or other security acceptable to CCC prior to issuance of a certificate.

Section 12. Issuance of Certificates

After receipt of the application for payment, together with required supporting documents, CCC will issue certificates in an amount determined by multiplying the per pound payment rate determined in accordance with section 6 of this Agreement times the net pounds determined in accordance with section 5 of this Agreement.

Section 13. Use of Certificates

In accordance with 7 CFR part 1470, certificates received as payments under the provisions of this Agreement, prior to the expiration date stated on the certificate, may be (1) transferred to any other person, (2) exchanged for such CCC-owned commodities as are made available by CCC, (3) used to receive such commodities pledged as collateral for CCC loans, as are authorized by CCC, or (4) exchanged for cash on or after the date in Block D of the certificate.

Section 14. Excessive Payment

If the Domestic User or Exporter receives a certificate as payment in excess of the payment entitled to in accordance with this Agreement, the Domestic User or Exporter shall refund to CCC an amount equal to the excess payment, plus interest thereon, as determined by CCC.

Section 15. Scheme or Device; Liquidated Damages

(a) If the Domestic User or Exporter is determined by CCC to have knowingly (1) adopted any scheme or device which violates this Agreement, (2) made any fraudulent representation, (3) canceled export contracts and resold cotton to increase the payment rate, (4) failed to notify CCC of export contract cancellations, or (5) misrepresented any fact affecting a determination under this Agreement, the Domestic User or Exporter shall pay to CCC an amount equal to the sum of the face value of certificates received as a part of such action, plus liquidated damages equal to 25 percent of such amount. In addition, CCC may, at its discretion, terminate the Agreement.

(b) The provisions of subparagraph (a) of this section shall be applicable in addition to any liability under criminal and civil fraud statutes, including 18 U.S.C. 286, 287, 371, 641, and 1001; 15 U.S.C. 714m; and 31 U.S.C. 3729.

Section 16. Records.

For a period of 3 years from the issue date shown on the certificate, the Domestic User/Exporter shall keep records which affected certificate payment amounts and furnish such information and reports relating to this Agreement as may be requested by CCC. Such records shall be available at all reasonable times for an audit or inspection by authorized representatives of CCC, the United States Department of Agriculture, or the Comptroller General of the United States.

(a) Domestic User records must include a register of purchase contracts, amendments, and cancellations along with proof of receipt of the cotton by the Domestic User. Records of bale numbers and net weights, by type of cotton consumed during each Friday/Thursday period and a register of cotton resold must be maintained for CCC review.

(b) Exporter records must include a register of export sale contracts, amendments, and cancellations along with all related proof of exportation records.

Section 17. Contingent Fees

The Domestic User or Exporter warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Domestic User or Exporter for the purpose of securing business. For breach or violation of this warranty, CCC shall have the right to annul this Agreement without liability or in its discretion to deduct from the funds due the Domestic User or Exporter the full amount of such commission, percentage, brokerage or continent fee.

Section 18. Member Delegate

No Member or Delegate of Congress or Resident Commissioner shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom, except that this provision shall not be construed to extend to their interest in any incorporated company, if the agreement be for the general benefit of such company, nor shall it be construed to extend to any benefit which may accrue to such official in his capacity as a farmer.

Section 19. Incorporation by Reference

The following regulations are incorporated by reference as part of this Agreement:

7 CFR Part 780, Appeal Regulations.
7 CFR Part 1403, Debt Settlement Policies and Procedures.
7 CFR Part 1427, Cotton.
7 CFR Part 1470, Commodity Certificates and In-Kind Payments, and other Forms of Payment.

Section 20. Term of Agreement

This Agreement will continue in force until it is terminated in writing by CCC or the Domestic User or Exporter, or by amendment to or by termination or expiration of authorizing legislation. If the Agreement is terminated by CCC in accordance with section 15, the Domestic User or Exporter shall be barred from participation in the Upland Cotton User Marketing Certificate Program for a period of not less than 1 year from the date of termination.

Section 21. Delay in Agreement Availability

The Interim Rule on which this Agreement is based will be published in the **Federal Register** after the August 1, 1991, effective date of the Upland Cotton User Marketing Certificate Program. Notwithstanding the provisions of section 7 of this Agreement, Domestic Users and Exporters who sign and submit this Agreement to CCC within 3 weeks after the date the Interim Rule is published in the **Federal Register** will have all transactions processed as if the Agreement was executed on August 29, 1991. Agreements signed and submitted to CCC more than 3 weeks after the Interim Rule is published in the **Federal Register** will be effective on the date executed by CCC.

Section 22. Domestic User Locations

For Domestic Users, if this Agreement includes more than one separate facility operated by the Domestic User, list below the location, by City and State, of each facility included under this Agreement.

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Domestic User/Exporter

The Domestic User/Exporter has submitted this Agreement, in triplicate, by a duly authorized officer as of the _____ day of _____, 19____.

_____

Name

Taxpayer ID No.

Authorized Signature Date

Title

Commodity Credit Corporation

This Agreement is executed by CCC and shall be effective as of the _____ day of _____, 19_____.

CCC Contracting Officer

Note: The following statements are made in accordance with the Privacy Act of 1974 (5 USC 552a), and the Paperwork Reduction Act of 1980. The Agricultural Act of 1949, as amended, and regulations at 7 CFR 1427 authorize this agreement and other collections of information required for participation in the Upland Cotton User Marketing Certificate Program. The information will be used to determine eligibility to receive payment and to determine payment amounts. Providing this information is voluntary; however, without it, participation in the program will be denied.

This information may be furnished to other USDA agencies, IRS, Department of Justice, or other State and Federal Law enforcement agencies, and in response to orders of a court magistrate or administrative tribunal.

Public reporting burden for this form CCC-1045, weekly reports, and any application for payment, if applicable, is estimated to average 30 minutes per response. This burden estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Agriculture, Clearance Officer, OIRM, room 404-W, Washington, D.C. 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB No. 0560-0136), Washington, D.C. 20503. Return this form to the Kansas City Commodity Office, P.O. Box 419205, Kansas City, Missouri 64141-6205.

This program will be conducted on a nondiscriminatory basis without regard to race, color, religion, national origin, age, sex, marital status, or handicap.

[FR Doc. 91-19955 Filed 8-16-91; 3:16 pm]

BILLING CODE 3410-05-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 240

[INS No. 1445-91]

Four-Month Extension of Application Deadline for Temporary Protected Status for Salvadorans

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule implements section 244A of the Immigration and Nationality Act (Act), as amended by the Immigration Act of 1990 (IMMACT), Public Law 101-649, November 29, 1990, by providing for a four-month extension of the deadline for filing applications for Temporary Protected Status (TPS) by Salvadorans. This rule will provide Salvadorans with additional time to obtain employment authorization and protection from deportation during the period of TPS.

EFFECTIVE DATE: July 1, 1991.

FOR FURTHER INFORMATION CONTACT: Michael T. Jaromin, Senior Immigration Examiner, Immigration and Naturalization Service, room 5250, 425 I Street NW., Washington, DC, 20536, telephone (202) 514-5309.

SUPPLEMENTARY INFORMATION: On July 9, 1991, section 244A of the Immigration and Nationality Act was amended to provide for a four-month extension of the deadline for filing applications for Special Temporary Protected Status by Salvadorans, Public Law 102-65.

The Service's implementation of this rule as a final rule is based upon the "good cause" exception found at 5 U.S.C. 553(d). The reason and the necessity for immediate implementation of this final rule is that the four-month period began July 1, 1991.

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not a major rule within the meaning of section 1(b) of Equal Opportunity 12291, nor does this rule have Federalism implications warranting the preparation of a Federal Assessment in accordance with Equal Opportunity 12612.

List of Subjects in 8 CFR Part 240

Administrative practice and procedure, Immigration.

Accordingly, part 240, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 240—TEMPORARY PROTECTED STATUS FOR NATIONALS OF DESIGNATED STATES

1. The authority citation for part 240 continues to read as follows:

Authority: 8 U.S.C. 1103, 1254a, 1254a note.

2. Section 240.42 is amended by revising paragraph (d) to read as follows:

§ 240.42 Eligibility.

* * * * *

(d) Registers for Temporary Protected Status during the period from January 2, 1991 until October 31, 1991.

Dated: August 8, 1991.

Gene McNary,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 91-19965 Filed 8-20-91; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 317 and 319

[Docket No. 88-019F]

RIN 0583-AA92

Labeling of Frankfurters and Similar Products Containing Binders and Extenders

AGENCY: Food and Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the Federal meat inspection regulations by deleting specific labeling requirements for prominent disclosure of the use of certain binders and extenders that are foods or are derived from food ingredients in frankfurters and similar products. The amendment to the regulations is in response to a petition submitted by Protein Technologies International.

EFFECTIVE DATE: September 20, 1991.

FOR FURTHER INFORMATION CONTACT: Charles R. Edwards, Director, Food Ingredient Assessment Division, Regulatory Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250 (202) 205-0080.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has determined that this rule is not a major rule under Executive Order 12291. It would not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in export or domestic markets.

This final rule will eliminate prominent labeling that discloses the use of certain binders and extenders that are foods or are derived from food ingredients in frankfurters and similar products. This rule will ease regulatory requirements for certain segments of the industry and, thus, will provide a positive impact on the affected industry. Manufacturers may continue to use such labeling if they so choose.

Consumers will not be adversely affected since the presence of any such binders and extenders will still be listed

in the ingredients statement on the products label.

Effects on Small Entities

The Administrator, FSIS, has determined that this final rule will not have a significant economic impact on a substantial number of small entities. The rule will ease regulatory requirements for both large and small manufacturers producing frankfurters and similar products containing binders and extenders that are foods or are derived from food ingredients. Such manufacturers are no longer required to prominently label the use of such binders and extenders in these products, although they may continue to use such labeling if they so choose. Thus, the current stock of these labels, which contains prominent labeling of such binders and extenders, is not affected by this rule. Manufacturers frequently revise such labels and, therefore, may simply delete prominent labeling of such binders and extenders when they submit their revised labels for approval. No increase in labeling costs is expected.

Background

Current Regulations

Part 319 of the Federal meat inspection regulations allows the use of specific binders and extenders in frankfurters and similar products provided (1) their use is limited to the levels prescribed in § 318.7(c)(4) of the Federal meat inspection regulations (9 CFR 318.7(c)(4)), and (2) the presence of such ingredients is declared on the product's label in a prominent manner, contiguous to the name of the product as prescribed in § 317.8(b) (16) and (33) (9 CFR 317.8(b) (16) and (33)).

Such binders and extenders include cereal, vegetable starch, soy flour, soy protein concentrate, isolated soy protein, dried whey, and sodium caseinate, and are allowed in the following meat food products:

1. Sausage (9 CFR 319.140);
2. Breakfast sausage (9 CFR 319.143);
3. Frankfurters and similar products (9 CFR 319.160(e));
4. Cheesefurters and similar products (9 CFR 319.181);
5. Braunschweiger, liver sausage, and liverwurst (9 CFR 319.182); and
6. Bockwurst (9 CFR 319.281).

Section 318.7(c)(4) of the meat inspection regulations (9 CFR 318.7(c)(4)) identifies those binders and extenders that may be used in frankfurters and similar products. It also limits such use of those specific binders and extenders, singly or collectively, to 3.5 percent of the product formulation, except for isolated soy protein and sodium caseinate, which are limited to 2 percent of the formulation.

The poultry products inspection regulations allow the use of certain binders in poultry rolls (9 CFR 381.159(a)) at levels no more than 2 percent of the formulation for raw poultry rolls and no more than 3 percent of the formulation for cooked poultry rolls. Unlike the requirement for qualifying statements on frankfurters and similar meat food products, additional labeling for such poultry products is required only when the amount of the binder used exceeds these levels. In those cases, the presence of the binder must be declared on the labeling, in a prominent manner, contiguous to the name of the product.

The current labeling requirements placed on meat and poultry products containing binders and extenders are in addition to the requirement that all ingredients be listed in the ingredients statement on labels, in the descending order of predominance by weight (9 CFR 317.2(f)(1) and 381.118(a)).

Rulemaking on Added Water

On November 24, 1986, FSIS published in the **Federal Register** (51 FR 42239) a proposed rule to amend the standards of identity in the Federal meat inspection regulations for frankfurters and similar cooked sausages (9 CFR 319.180) and cheesefurters and similar meat food products (9 CFR 319.181). The proposal provided for a maximum combination of 40 percent of fat and added water in such meat food products and restricted the maximum fat content to no more than 30 percent of the finished product.

Among the several issues raised in comments to this proposal was the objection to the current regulatory requirement that the name of any binder or extender used in frankfurters and similar cooked sausages must prominently appear on the label contiguous to the product name. Commenters opposed this requirement primarily because no such requirement exists for nonbinder or nonextender ingredients, such as poultry products, mechanically separated (species), and flavoring materials, when used in cooked sausages. One commenter, Protein Technologies International (PTI), stated further that FSIS should eliminate the current use limitations on vegetable protein products used as binders, and credit the protein from soy products as "meat" protein in the calculation for added water. PTI based this recommendation partly on its belief that soy products are equivalent to meat from a protein quality standpoint.

On March 15, 1988, FSIS published a final rule on the above-mentioned proposal (53 FR 8425). In the preamble to the final rule, FSIS recognized the inconsistency of restrictions imposed on the use of vegetable protein products due to labeling requirements and product standards. However, such changes would have had broad policy implications well beyond the scope of that rulemaking. FSIS stated that it would consider a separate rulemaking regarding the current use limitations on vegetable protein products and the requirements for product name qualifiers when these products are used.

PTI Petition

On May 17, 1988, FSIS received a petition from PTI to amend the standards of identity for frankfurters and similar cooked sausage and cheesefurters and similar meat food products to eliminate use limitations and prominent labeling requirements for certain binders as prescribed in part 319 of the Federal meat inspection regulations. The petition also requested deletion of § 317.8(b)(16) of the Federal meat inspection regulations (9 CFR 317.8(b)(16)) which requires prominent labeling of binders used in standardized sausages.

The PTI petition contended that:

1. The use limitation on binders was imposed at a time when the standards were severely restrictive, and removal of the use limitation would allow food processors to produce nutritional products economically;
2. The prominent labeling requirement for binders is in addition to the requirement that the binder be included in the product label's ingredients statement and is, therefore, unnecessary and duplicative;
3. The ingredients statement provides complete information about the contents of all meat and poultry products; and
4. Prominent labeling is not required for products that contain ingredients such as poultry products, mechanically separated (species), or flavoring materials.

The petitioner further contended that while FSIS has maintained that its policy is to require descriptive labeling to advise consumers of certain "unexpected" ingredients in standardized products, its application of such policy has been inconsistent and often discriminatory. As an example, the petitioner argued that the typical consumer would not expect a standardized sausage to contain up to 15 percent raw or cooked poultry or up to 20 percent mechanically deboned product. Nonetheless, the Federal meat inspection regulations provide for the use of these ingredients in cooked

sausages provided their use is disclosed in the ingredients statement. No prominent labeling is required when either of these ingredients is used in standardized sausages.

On July 1, 1988, PTI submitted an amendment to the petition to also eliminate use limitations and prominent labeling for certain binders in sausage, breakfast sausage, bockwurst, and poultry rolls.

Advance Notice of Proposed Rulemaking

In response to the PTI petition, FSIS published an Advance Notice of Proposed Rulemaking in the **Federal Register** on August 24, 1988 (53 FR 32247), which included the text of the original petition and the amendment. The notice requested information and comments concerning the action requested by the petitioner and, in particular, answers to the following questions:

1. Would the labeling of meat and poultry food products containing any type of binders be false or misleading if the product's name did not include a qualifier disclosing the type of binder or the fact that binders had been added, but shows the presence of any binders in the ingredients statement?

2. Would the elimination of use limitations of certain binders, such as proposed by the petitioner, conflict with §§ 318.7(a)(2)(iii)(B) and 381.147(f)(2)(iii)(B) of the Federal meat and poultry products inspection regulations, respectively, which require that new substances be approved for use only at the lowest level necessary to achieve their intended effects?

3. Would use levels of binders in excess of those currently permitted by the regulations change the function of those ingredients such that they could no longer be considered as binders, but rather as meat or poultry product replacers?

4. Should an evaluation of the nutritional value of an ingredient be based solely on protein content and protein quality, or should FSIS consider a nutritional profile that also includes vitamins and minerals normally found in meat or poultry products in such comparisons?

FSIS received five comments. One comment was from an individual consumer, one comment from a State government, and three from industry representatives, including the petitioner.

The consumer objected to eliminating both the prominent labeling requirements and the use level restrictions because of her severe reactions to hidden additives. The State of Illinois also opposed the petition based on consumers' desire to avoid binders and extenders in their foods. The commenter further contended that as binders are allowed in dry form, they are equivalent to four times the meat protein content, but are low in nutritional value.

The Soy Protein Council agreed with revoking the labeling requirements for binders, but believed that binders used at higher levels could act more as meat replacers and that the use levels should be maintained.

Protein Technologies International (the petitioner) and a law firm representing the International Wheat Gluten Association supported the petition. Generally, they contend that special labeling for binders is unnecessary and unwarranted. The law firm further recommended approved use levels in accordance with good manufacturing practices.

Second Amended Petition

On November 9, 1988, PTI sent another request to amend the original petition. In the second amendment, the petitioner requested that the Agency only initiate rulemaking to remove the requirements for prominent labeling of binders, and to disregard, at this time, the request to remove use limitations on binders.

The petitioner believed that the matter of use limitations may be more complex and involve more policy analysis than consideration of the prominent labeling issue alone. In addition, PTI stated their desire to avoid delays that could be associated with resolution of the issues involved with removing use limitations.

At PTI's request, FSIS disregarded the portion of PTI's original petition concerning use levels. No change to current use levels for binders or extenders used in frankfurters and similar products and poultry rolls is made at this time.

Proposed Rule

FSIS determined that PTI presented a reasonable case that current labeling policies unfairly discriminate against those using binders, e.g., isolated soy protein, dried whey, and vegetable starch. In addition, FSIS believed that, with respect to frankfurters and similar meat food products, the current labeling policy requiring qualifiers for extenders used in such products is also discriminatory. These policies place those using binders and extenders at a competitive disadvantage compared to those using other similar ingredients and should be removed from the regulations. As required by current regulations, any use of a binder or extender would be listed in its order of predominance in the product's ingredients statement. Consumers can rely on the ingredients statement for complete information on ingredients contained in all products, and such information enables those consumers who wish to avoid certain ingredients to do so.

Accordingly, on March 22, 1991, FSIS published a proposed rule in the **Federal Register** (56 FR 12126) to eliminate the requirement that the use of binders and extenders be prominently displayed on the product label when used in a meat food product. FSIS did not propose to eliminate the requirement that the use of binders or extenders be prominently displayed on the product label when used in poultry rolls above stated levels. The poultry regulations clearly provide that binders may be used in poultry rolls without prominent labeling when used at 2 percent in raw poultry rolls or 3 percent in cooked poultry rolls. However, the regulations further provide that if the use exceeds the stated amounts, prominent labeling is required. FSIS believes that the use of binders or extenders at levels above 2 percent in raw poultry rolls and 3 percent in cooked poultry rolls should continue to require a label qualifier because the use of such substances above these levels changes the basic characteristics of the poultry rolls.

Interested persons were given until April 22, 1991, in which to comment on the proposed rule. Prior to closure of the comment period, FSIS received requests to extend the comment period to allow additional time for information to be gathered and submitted. FSIS reopened the comment period for another 15 days (56 FR 21335).

Discussion of Comments

FSIS received 16 comments in response to the proposed rule—6 comments from trade associations, 8 comments from industry members, and 2 comments from law firms. Overall, 14 commenters were in full support of the proposal. One commenter requested that if the level of binders and extenders exceeds the allowable amount presently described in the regulation, then the product name has to be qualified as containing the binders and extenders. The standards that have been set by FSIS limit the allowable level of binders and extenders. If more than the allowable level is used, the product can no longer be called a frankfurter or similar name.

One commenter objected to eliminating the present requirement that binders and extenders added to cooked sausages be declared in the common or usual name of the cooked sausage. The

commenter stated that eliminating the requirement prevents consumers from easily identifying those products that contain added binders and extenders. The commenter further stated that promulgation of the proposed amendment may facilitate the economic adulteration of cooked sausages. FSIS believes that eliminating the qualifying phrase does not deprive consumers of the ability to easily identify products containing binders and extenders, because the presence of binders and extenders is indicated in the ingredients statement. Today's consumer is relying upon the ingredients statement as a source of information on the composition of the food product. The meat and poultry regulations already provide for the use of binders and extenders in certain food products. The use of these binders and extenders at permitted levels is to improve the texture of the products and does not affect the products' nutritional value.

Final Rule

For the reasons discussed in the preamble, FSIS is amending 9 CFR parts 317 and 319 of the Federal meat inspection regulations to read as follows:

List of Subjects

9 CFR Part 317

Meat inspection, Food labeling.

9 CFR Part 319

Meat inspection, Standards of identity.

PART 317—LABELING, MARKING DEVICES, AND CONTAINERS

1. The authority citation for part 317 continues to read as follows:

Authority: 21 U.S.C. 457, 601–695; 9 CFR 2.17, 2.55.

§ 317.8 [Amended]

2. Paragraphs (b) (16) and (33) of § 317.8 are removed and reserved.

PART 319—DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION

3. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 1901–1906; 21 U.S.C. 601–695, 7 CFR 2.17, 2.55.

4. Paragraph (e) of § 319.180 is revised to read as follows:

§ 319.180 Frankfurter, frank, furter, hotdog, wiener, vienna, bologna, garlic bologna, knockwurst, and similar products.

* * * * *

(e) One or more of the binders and extenders as provided in § 318.7(c)(4) of this subchapter may be used in cooked sausage otherwise complying with paragraph (a) or (b) of this section. When any such substance is added to these products, the substance shall be designated in the ingredients statement by its common or usual name in order of predominance.

* * * * *

5. Section 319.181 is amended by revising the fourth sentence to read as follows:

§ 319.181 Cheesefurters and similar products.

* * * . When any such substance is added to these products, the substance shall be designated in the ingredients statement by its common or usual name in order of predominance. * * *

6. Paragraph (b)(9) of § 319.281 is revised to read as follows:

§ 319.281 Bockwurst.

* * * * *

(b) * * *

(9) Binders and extenders may be added as provided in § 318.7(c)(4) of this subchapter. When any such substance is added to bockwurst, the substance shall be designated in the ingredients statement by its common or usual name in order of predominance.

* * * * *

Done at Washington, DC, on: August 6, 1991.

Lester M. Crawford,

Administrator, Food Safety and Inspection Service.

[FR Doc. 91–19996 Filed 8–20–91; 8:45 am]

BILLING CODE 3410-DM-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 20, 21, and 73

RIN 3150–AE01

Change in Commercial Telephone Number for Region V

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to indicate a change in the commercial telephone number for the NRC's Region V Office located in Walnut Creek, California. These amendments are necessary to inform the public of these administrative changes to NRC regulations.

EFFECTIVE DATE: September 2, 1991.

FOR FURTHER INFORMATION CONTACT: David L. Meyer, Chief, Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–492–7086.

SUPPLEMENTARY INFORMATION: The commercial telephone number for the NRC's Region V Office will be changed, effective September 2, 1991. This notice is being published to inform the public of the change in the commercial telephone number.

Because these amendments deal with agency practice and procedure, the notice and comment provisions of the Administrative Procedure Act do not apply under 5 U.S.C. 553(b)(A). Good cause exists to dispense with the usual 30-day delay in the effective date because the amendments are of a minor and administrative nature concerning a change in a telephone number.

Environmental Impact: Categorical Exclusion

The NRC has determined that this rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et seq.).

List of Subjects

10 CFR Part 20

Byproduct material, Criminal penalty, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Special nuclear material, Source material, Waste treatment and disposal.

10 CFR Part 21

Nuclear power plants and reactors, Penalty, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 73

Criminal penalty, Hazardous materials—Transportation, Incorporation by reference, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 20, 21 and 73.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

1. The authority citation for part 20 continues to read in part as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841). * * *

Appendix D to §§ 20.1–20.601 [Amended]

2. In appendix D to §§ 20.1–20.601, the commercial telephone number for the NRC Region V Office (Walnut Creek, CA) is changed from "415–975–0200" to "510–975–0200."

Appendix D to §§ 20.1001–20.2401 [Amended]

3. In appendix D to §§ 20.1001–20.2401, the commercial telephone number for the NRC Region V Office (Walnut Creek, CA) is changed from "415–975–0200" "510–975–0200."

PART 21—REPORTING OF DEFECTS AND NONCOMPLIANCE

4. The authority citation for part 21 continues to read in part as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).* * *

§ 21.2 [Amended]

5. In footnote 1 to § 21.2, the commercial telephone number for the NRC Region V Office (San Francisco) is changed from "415–975–0200" to "510–975–0200."

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

6. The authority citation for part 73 continues to read in part as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841). * * *

Appendix A [Amended]

7. In appendix A, the commercial telephone number for the NRC Region V Office (Walnut Creek, CA) is changed from "415–975–0200" to "510–975–0200."

Dated at Rockville, Maryland, this 9th day of August 1991.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 91–20028 Filed 8–20–91; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91–NM–175–AD; Amendment 39–8021; AD 91–18–18]

Airworthiness Directives; McDonnell Douglas Model DC–9 and C–9 (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9 and C–9 (Military) series airplanes, which requires inspections of the fuselage left-hand skin panel to detect cracks and repair, if necessary, and the reporting of certain inspection results. This amendment is prompted by reports of fatigue cracking of the fuselage left-hand skin panel at multiple sites on six airplanes. This condition, if not corrected, could lead to rapid decompression of the pressurized fuselage.

DATES: Effective August 21, 1991. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 21, 1991.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90846–0001, Attention: Business Unit Manager, Technical Publications, C1–HDR (54–60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. David Y.J. Hsu, Aerospace Engineer, Airframe Branch, ANM–120L; Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (213) 988–5323.

SUPPLEMENTARY INFORMATION: Since July 13, 1991, two operators have reported 6 incidents of multiple site damage (MSD) on Model DC–9–30 series airplanes' fuselages left-hand skin panels, between stations 160 and 200 at longeron 22L. On one airplane, additional cracks were found on longerons 23L, 24L, and 25L between the Stations 160 and 200. The number of landings accumulated on these 6 airplanes range form 58,362 to 74,788, and their flight times range from 59,145 to 62,063 flight hours. Preliminary metallurgical laboratory findings have attributed the cracks to metal fatigue at multiple sites. This condition, if not corrected, could lead to a 2-bay fuselage skin crack at a location directly below a principle structural element (PSE). Having a 2-bay fuselage skin crack is considered significant, because this is a type of structural failure where fast fracture may not be arrested, and can cause rapid decompression of the pressurized fuselage.

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin A53–251, dated August 9, 1991, which describes procedures for high frequency eddy current (HFEC) inspections of the fuselage skin at longeron 22L between stations 160 and 200.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires repetitive inspections of the fuselage left-hand skin panel, in accordance with the service bulletin previously described. Repair of cracks is required prior to further flight, and must be approved by the FAA. In addition, operators must submit a report of their initial inspection findings, and of any findings of any adjacent fuselage skin and longeron cracks detected during any subsequent other inspections.

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

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

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under

DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

91–18–18. McDonnell Douglas: Amendment 39–8021. Docket No. 91–NM–175–AD.

Applicability: Model DC–9–10, –20, –30, –40, –50, and C–9 (Military) series airplanes, certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent rapid decompression of the pressurized fuselage, accomplish the following:

(a) For airplanes that have accumulated 55,000 landings or more as of the effective date of this AD, within 15 calendar days after the effective date of this AD, and thereafter at intervals not to exceed 1,500 landings, perform high frequency eddy current (HFEC) inspections to detect cracks of the fuselage left-hand skin panel at longeron 22L, between stations 160 and 200, in accordance with McDonnell Douglas Alert Service Bulletin A53–251, dated August 9, 1991.

(b) For airplanes that have accumulated less than 55,000 landings as of the effective date of this AD, within 45 calendar days after the effective date of this AD, or prior to the accumulation of 40,000 landings, whichever occurs later, and thereafter at intervals not to exceed 1,500 landings, perform high frequency eddy current (HFEC) inspections to detect cracks of the fuselage left-hand skin panel at longeron 22L, between stations 160 and 200, in accordance with McDonnell Douglas Alert Service Bulletin A53–251, dated August 9, 1991.

(c) If the fuselage skin attachments are obscured from exterior coatings of paint, prior to the accomplishment of the high frequency eddy current (HFEC) inspections required by paragraph (a) or (b) of this AD, chemically remove the obscuring coatings of paint.

(d) If cracks are found as a result of the inspections required by paragraph (a) or (b) of this AD, before further flight, repair in a manner approved by the Manager of the Los Angeles Aircraft Certification Office (ACO).

(e) Within 10 calendar days after the accomplishment of the initial inspections required by paragraph (a) or (b) of this AD, submit a report of both positive and negative findings of the initial inspection to the Manager of the Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate, at 3229 East Spring Street, Long Beach, California 90806–2425, or Fax to (213) 988–5210. The information collection requirements contained in this regulation have been approved by the Office of Management and Budget OMB under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB Control Number 2120–0056.

(f) If other cracks, as specified in McDonnell Douglas Alert Service Bulletin A53–251, dated August 9, 1991, are found on any adjacent longerons or fuselage skin panels as a result of any other inspection of those areas, within 10 calendar days after those inspections, report all positive findings to the Manager of the Los Angeles ACO. The information collection requirements contained in this regulation have been aproved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB Control Number 2120–0056.

(g) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Los Angeles ACO.

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

(i) The inspection requirements shall be done in accordance with McDonnell Douglas Alert Service Bulletin A53–251, dated August 9, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90846–0001, Attention: Business Unit Manager, Technical Publications, C1–HDR (54–60). Copies may be inspected at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California, or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

This amendment (39–8021 AD 91–18–18) becomes effective on August 21, 1991.

Issued in Renton, Washington, on August 14, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–20120 Filed 8–20–91; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 141

[Docket No. RM91–14–000; Order No. 534]

Rescission of Regulations Pertaining to Utility Requirement to Report on Form No. EIA–767

Issued: August 2, 1991.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending part 141 of its regulations by deleting section 141.59 (18 CFR 141.59) in its entirety. Section 141.59 requires utilities with steam-electric generating plants with capacities of 100 megawatts or more to file certain plant operating data annually with the Commission on Form No. EIA–767, Steam-Electric Plant Operation and Design Report. The Commission does not require the data in the level of detail, or in the annual, and in some cases monthly, format, currently reported on Form No. EIA–767. Also, much of the information can be obtained in the detail desired from other existing sources.

EFFECTIVE DATE: This final rule is effective August 2, 1991.

FOR FURTHER INFORMATION CONTACT: Hugh Stewart (for technical information), Office of Electric Power Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20424 (202) 208–0795.

Andre Goodson (for legal information), Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20424 (202) 208–2167.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Commission's Public Reference Room,

room 3104, 941 North Capitol St., NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to use 300, 1200 or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this final rule will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, LaDorn Systems Corporation, also located in Room 3104, 941 North Capitol St., NE., Washington, DC 20426.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is amending part 141 of its regulations by rescinding as unnecessary § 141.59, which requires utilities with steam-electric generating capacities of 100 megawatts or more to file certain plant operating data annually with the Commission on Form No. EIA–767, Steam-Electric Plant Operation and Design Report.[1] The data are no longer required by the Commission in the level of detail, or in the annual, and in some cases monthly, format currently reported on Form No. EIA–767.[2] Also, much of the information can be obtained in the detail desired from other existing sources.

II. Background

Form No. EIA–767, Steam-Electric Plant Operating and Design Report, is filed by electric utilities that operate or plan to operate steam-electric plants in the United States, where the total energy capacity of the existing or planned steam-electric units is 100 megawatts or more.[3] Form No. EIA–767 is not a Commission form. Rather, it is a form which is jointly sponsored by the four agencies which utilize the data collected, *i.e.*, the Commission, the Environmental Protection Agency (EPA), the Bureau of Economic Analysis of the Department of Commerce (BEA), and three adjunct offices within the Department of Energy (DOE)—the Energy Information Administration (EIA), the Office of Fossil Energy, and the Office of Policy, Planning and Analysis.[4] EIA coordinates the collection of information in Form No. EIA–767 under authority provided by section 13(b) of the Federal Energy Administration Act (FEAA) of 1974.[5] EIA also coordinates the request for clearance of the Office of Management and Budget (OMB) to collect the data required under the Paperwork Reduction Act of 1980.[6]

The Commission includes Form No. EIA–767 in its regulations as part of an effort to set forth in its regulations the data which it collects and utilizes. The Commission utilizes the data collected on the form in cases where fuel costs, fuel acquisition practices or operating efficiency of power plants is at issue. The form is also a source of data for the Commission's biennial review of fuel adjustment clauses mandated by section 205(f) of the Federal Power Act.[7]

Presently, only 18 percent of all data collected on Form No. EIA–767 is sponsored by the Commission. The remaining data requirements are allocated among DOE (54 percent), EPA (27 percent), and BEA (1 percent). The Form No. EIA–767 data currently sponsored by the Commission fall into two categories. The first category consists of data sponsored solely by the Commission. That data will still be filed on Form No. EIA–767 but with EPA and DOE's Office of Policy, Planning and Analysis assuming sponsorship. The second category is comprised of data sponsored jointly by the Commission, BEA, DOE and EPA. Assuming the continued sponsorship of BEA, DOE and EPA, this information will still be filed annually on Form No. EIA–767 in compliance with respective DOE and EPA regulations.[8]

III. Discussion

A. Form No. EIA–767 Data Currently Sponsored Solely by the Commission

The Form No. EIA–767 data sponsored solely by the Commission involve annual utility forecasts of future fossil-fuel requirements. The responses are recorded on page 3 of the form, under Part I, Schedule 1, Plant Information. In addition to providing 5- and 10-year rolling forecasts of the quantities of coal, oil and gas required by each plant, the responses also show the fuel quality (*i.e.*, the heating value and sulfur content for coal and oil, and the heating value for gas), the state from which projected coal supplies will originate, and the portion of the future coal demand currently committed to contract.

Throughout a large part of the 1970s, fuel markets were characterized by price instability and uncertainty, particularly in regard to the reliability and adequacy of oil and gas supplies. Also, during this period utilities were forecasting their future load requirements to increase at rates significantly higher than current expectations. Some industry analysts were concerned that utilities would have difficulty obtaining reliable fuel supplies in sufficient quantities to meet the expected load growth. The 5- and 10-year fossil fuel projections reported on Form No. EIA–767 allowed the Commission to make broad assessments on the likely impact of changing fuel supply patterns on utility fuel costs by tracking changes in the quantities and the type of fuel contemplated for future use.

Conditions in fuel markets have changed dramatically. More recently, fuel markets have been characterized by over-supply and declining prices. Also, utility expansion plans filed with the North American Electric Reliability Council (NERC) show a decline in the construction of new base-load generating capacity of the type that account for the fuel projections reported on Form No. EIA–767. The plans filed with NERC indicate that an increasingly greater share of the industry's future load requirements will likely be met by non-traditional generators, *i.e.*, independent power producers and qualifying facilities. These changing circumstances have significantly reduced, if not eliminated entirely, the necessity for the board assessments that the Commission developed using this data. In short, as a general proposition the Commission no longer needs the data. However, to the extent that the Commission finds that it still needs some form of projected data to carry out

[1] 18 CFR 141.59 (1990).

[2] All of the data on Form No. EIA–767 that is currently sponsored in whole or in part by the Commission will continue to be reported on the form but will be sponsored by other agencies.

[3] The form provides the Commission with information on the type and amount of fuel used in boilers at steam-electric generating plants, the electricity generated by each boiler and the air quality control equipment at each such plant.

[4] The cost of the Form No. EIA–767 data collection program is pro-rated among the four participants, based on the number of data elements sponsored by each agency relative to the total number of data elements requested on the form. In cases where the same data are sponsored by more than one agency, costs are shared equally by each sponsor.

[5] 15 U.S.C. 772(b) (1988).

[6] 44 U.S.C. 3501 (1988).

[7] 16 U.S.C. 824d(f) (1988).

[8] A memorandum dated June 27, 1991, from the Director of EIA's Electric Power Division to the Director, Division of Opinions and Systems Analysis of the Commission's Office of Electric Power Regulations states that, after withdrawal of sponsorship by the Commission, the sponsorship of data previously sponsored by the Commission would be reapportioned among the remaining agencies that currently sponsor data on Form No. EIA–767.

its regulatory responsibilities in the future, the Commission can obtain such data through its FERC Form No. 580 biennial reviews.[9]

B. Form No. EIA–767 Data Currently Sponsored Jointly by the Commission, DOE and EPA

The Commission also jointly sponsors, with DOE and EPA, certain boiler-generator unit operating data. This information shows: (i) A unit's design capability to burn different fuels; (ii) the monthly quantities of fuel consumed and energy generated during the reporting year; and (iii) selected design and operating characteristics for the auxiliary air pollution control equipment associated with each generating unit, *e.g.*, electrostatic precipitators or mechanical collectors for fly ash removal, and flue gas desulfurization (FGD) systems to control sulfur dioxide emissions. These jointly sponsored data elements are discussed in more detail below.

1. Generating Unit Alternate Fuel Capability (Page 8, Part III)

The Commission's use of the fuel conversion data has changed over the years. Initially, the information was used to monitor the industry's ability to maintain reliable electric service by switching to different fuels during periods of fuel supply disruption, *e.g.*, oil embargoes, strikes, curtailments of natural gas supplies. However, since the enactment of PURPA, the Commission has used the data primarily to assess the degree to which utilities having alternate fuel capability minimize their operating costs by switching to a less-expensive fuel when market conditions allow.

Typically, boiler-generator unit design parameters do not change. That is, units originally designed to burn different fuels on a sustained basis generally retain that ability throughout their operational lives. Thus, the boiler design data filed previously on Form No. EIA–767 will allow the Commission to monitor utility fuel use practices, as required under PURPA. Additional information on fuel switching, if needed, may be collected through the Commission's biennial review of utility fuel purchases and use in Docket No. IN79–6 on Form No. 580.

2. Monthly Fuel Use and Generation Data (Page 6, Part III and Page 9, Part IV)

As with boiler-generator unit design data, the Commission uses the Form No. EIA–767 fuel consumption and generation data in its biennial review of utility fuel purchases and use in Docket IN79–6. For example, unit heat rates—a measure of generating efficiency, expressed in terms of Btu's per kilowatthour—are computed from the monthly fuel and net generation data provided on Form No. EIA–767. The heat rates are then matched with fuel costs reported for the same plants on Form No. 423, Monthly Report of Cost And Quality of Fuels For Electric Plants, to derive estimates of unit production costs (cents per kilowatthour). An analysis of system generating efficiency is then made by comparing the production costs and capacity factors of various generating units.[10]

An evaluation of the historical monthly fuel consumption and generation data reported on Form No. EIA–767 show little, if any, seasonal effect on the operating efficiency of base-load generating units. Other non-seasonal factors, such as systemwide maintenance requirements and the diversity of generation, appear to have a greater influence on the operation of base-load generating units. In any event, annual operating data is sufficient for the Commission to determine if utilities are using fossil fuel resources efficiently, as mandated by PURPA. Therefore, no useful purpose is served by requiring utilities to continue to report this data on a monthly basis. The annual data necessary to determine generating unit efficiency can be obtained, if needed, on Form No. 580, when the Commission conducts its biennial review in Docket No. IN79–6.

3. Selected Operating Data for Pollution Control Equipment (Page 5, Part II; Page 12, Part VI; and Page 13, Part VII)

The remaining Form No. EIA–767 data jointly sponsored by the Commission and others pertain to the design and operation of the auxiliary pollution control equipment installed at fossil plants. Basically, this information supplements the boiler-generator unit operating data discussed in sections B.1 and B.2 above. Generating unit operating efficiencies (and, therefore, fuel costs) are affected, in varying degrees, by the design and operation of the associated pollution control equipment. Consequently, any assessment of the economic efficiencies of boiler-generator units must consider the design constraints of the pollution abatement equipment serving the unit.

Like boiler-generator units, pollution control equipment design parameters rarely change from the original specifications. And, like boiler design data, pollution control design data already in the Form No. EIA–767 files are adequate for the Commission to assess the impact of this equipment on plant operations. If needed, additional information on power plant boilers and pollution control equipment can be gathered on Form No. 580, during the biennial review in Docket No. IN79–6.

IV. Environmental Statement

Commission regulations require that an environmental assessment or an environmental impact statement must be prepared for any Commission action that may have a significant adverse effect on the human environment.[11] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment.[12] No environmental consideration is necessary for the promulgation of a rule that is clarifying, corrective, or procedural or that does not substantially change the effect of legislation or regulations being amended.[13] This final rule is procedural in nature. It merely deletes reporting requirements that the Commission has deemed no longer necessary. Accordingly, no environmental consideration is necessary.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) [14] requires rulemakings to either contain a description and analysis of the impact the rule will have on small entities or certify that the rule will not have a substantial economic impact on a substantial number of small entities. The final rule removes a reporting requirement for electric utilities; it does

[9] Section 208 of the Public Utility Regulatory Policies Act of 1978 (PURPA) amended section 205 of the Federal Power Act to require, among other things, that the Commission "review, with respect to each public utility, practices under any automatic adjustment clauses of such utility to ensure efficient use of resources (including economical purchase and use of fuel and electric energy) under such clauses." See 16 U.S.C. 824d(f) (1988). Pursuant to this statutory provision, a biennial review of utility fuel and energy purchases and use is conducted by the Commission in Docket No. IN79–6. In conjunction with that review, the Commission gathers extensive fuel-related information on FERC Form No. 580.

[10] The capacity factor, expressed as a percentage, reflects the extent that a generating unit actually operated and produced electric energy during the year relative to its total capability. Typically, the more economical, *i.e.*, lower cost units, operate at higher capacity factors.

[11] Regulations Implementing National Environmental Policy Act, 52 FR 47,897 (Dec. 17, 1987), FERC Stats. and Regs. ¶ 30,783 (1987).

[12] 18 CFR 380.4 (1990).

[13] 18 CFR 380.4(a)(2)(ii) (1990).

[14] 5 U.S.C. 601–612 (1988).

not establish any new reporting requirements. Further, the data that the Commission would no longer require to be filed could, if necessary, still be obtained from other existing sources. Consequently, the Commission certifies that this rule will not have "a significant economic impact on a substantial number of small entities."

VI. Information Collection Statement

The Office of Management and Budget's (OMB) regulations [15] require that OMB approve certain information collection requirements imposed by agency rule. This final rule deletes certain reporting requirements that the Commission deems unnecessary. The Commission is notifying the Office of Management and Budget that this reporting requirement is no longer required.

Interested persons can obtain information on the changes to Form No. EIA–767 in this rule by contacting the Federal Energy Regulatory Commission, 941 North Capitol St., NE., Washington, DC 20426 (Attention: Michael Miller, (202) 208–1415). Comments on the changes to Form No. EIA–767 in this rule can be sent to the Office of Information and Regulatory Affairs of OMB, New Executive Office Building, Washington, DC 20403 (Attention: Desk Officer for the Federal Energy Regulatory Commission).

VII. Administrative Findings and Effective Date

The Administrative Procedure Act (APA) [16] requires rulemakings to be published in the **Federal Register**. The APA also mandates that an opportunity for comment be provided when an agency promulgates regulations. Notice and comment are not required under the APA when the agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.[17] The Commission finds that notice and comment are unnecessary for this rulemaking. The Commission is merely deleting reporting requirements for data which the Commission no longer requires or which may be obtained from other existing sources.

This final rule is procedural in nature. It deletes a regulation no longer necessary, as discussed above. The Commission, therefore, finds good cause to make this rule effective immediately upon issuance.[18] This final rule is effective August 2, 1991.

List of Subjects in 18 CFR Part 141

Statements and reports.

In consideration of the foregoing, the Commission amends part 141, chapter I, title 18 of the Code of Federal Regulations as set forth below.

By the Commission.

Lois D. Cashell,

Secretary.

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

1. The authority citation for part 141 is revised to read as follows:

Authority: 42 U.S.C. 7101–7352; E.O. 12009, 3 CFR, 1978 Comp., p. 142; 31 U.S.C. 9701; 16 U.S.C. 791a–828c; 16 U.S.C. 2601–2645.

§ 141.59 [Removed]

2. Section 141.59 is removed in its entirety.

[FR Doc. 91–19946 Filed 8–20–91; 8:45 am]

BILLING CODE 6717–01–M

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18 CFR Part 141

[Docket No. RM91–15–000; Order No. 535]

Change of Name of Form No. EIA–714, Annual Electric Control and Planning Area Report

Issued: August 2, 1991.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its regulations on Form No. EIA–714, Annual Electric Control and Planning Area Report (18 CFR 141.51). The amendment involves changes to reflect that the Form will now be submitted to the Commission instead of to the Energy Information Administration (EIA).

The purpose of the change is to implement the transfer of responsibility for design and administration of the Form from the EIA to the Commission.

EFFECTIVE DATE: The final rule is effective August 2, 1991.

FOR FURTHER INFORMATION CONTACT:

William Booth (for technical information), Office of Electric Power Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20424, (202) 208–0849.

Ann E. Gorton (for legal information), Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20424, (202) 208–0231.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to use 300, 1200 or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this final rule will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is amending its regulations on Form No. EIA–714, Annual Electric Control and Planning Area Report (18 CFR 141.51). The amendment involves retitling the form to Form No. FERC–714, Annual Electric Control and Planning Area Report, to reflect the fact that the Commission has assumed from the Energy Information Administration (EIA) the responsibility for the design and administration of the Form. Accordingly, the Form shall hereafter be required to be filed with the Commission (instead of with the EIA), pursuant to instructions on the Form.

II. Background and Discussion

On December 6, 1990, the Commission issued a final rule [1] implementing certain amendments to Form No. EIA–714, Annual Electric Power System Report. The amendments required submission of data by control areas and by electric utilities that constitute a planning area and that have a peak load

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[15] 5 CFR 1320.13 (1990).

[16] 5 U.S.C. 551–559 (1988).

[17] 5 U.S.C. 553b(B) (1988).

[18] Therefore, beginning with the next annual filing of Form No. EIA–767—on May 1, 1992—none of the data on the form will be sponsored by the Commission.

[1] Modification of Regulations on Form No. EIA–714, Annual Electric Power System Report, Order No. 531, 55 FR 51278 (1990).

of greater than 200 MW. Consistent with the amendments, the name of the Form was changed to "Form No. EIA–714, Annual Electric Control and Planning Area Report."

Previously, the Commission's regulations had required reporting by individual electric utilities, not by control areas. In light of the fact that control areas are the basic operating units of the electric utility industry, the December 1990 final rule facilitated the collection of comprehensive, accurate, and consistent statistics on electric power industry operations.

III. Change

The Commission is changing the name of the Form from "Form No. EIA–714, Annual Electric Control and Planning Area Report", to "Form No. FERC–714, Annual Electric Control and Planning Area Report." This change reflects the fact that the responsibility for design and administration of the Form is transferred from the EIA to the Commission. The Form is now required to be filed with the Commission rather than with the EIA, in accordance with the instructions on the Form.

IV. Administrative Findings and Effective Date

The Administrative Procedure Act (APA) requires that a notice of proposed rulemaking be published in the **Federal Register** and that an opportunity for comment be provided when an agency promulgates regulations. The APA also sets forth exemptions to the notice and comment requirements if the rule is, *inter alia*, a rule of agency organization, procedure, or practice, or if the commission for good cause finds that notice and comment procedures thereon are impracticable, unnecessary, or contrary to the public interest.[2]

The purpose of this amendment is to reflect the requirement that the Form now be filed with the Commission instead of with the EIA. Accordingly, the Commission finds that the rule is one of agency organization, procedure, or practice and that notice and comment procedures are not required.

In addition, under the APA, a substantive rule does not become effective until 30 days after publication or service.[3] However, this rule is procedural, rather than substantive, and therefore may become effective immediately upon issuance.

List of Subjects in 18 CFR Part 141

Electric power, Reporting and recordkeeping requirements.

[2] 5 U.S.C. 553(b) (1988).

[3] 5 U.S.C. 553(d) (1988).

In consideration of the foregoing, the Commission amends part 141 in chapter I, title 18 of the Code of Federal Regulations, as set forth below.

By the Commission.

Lois D. Cashell,

Secretary.

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

1. The authority citation for part 141 continues to read as follows:

Authority: 42 U.S.C. 7101–7352; E.O. 12009, 3 CFR, 1978 Comp., p. 142; 31 U.S.C. 9701; 16 U.S.C. 791a–828c; 16 U.S.C. 2601–2645.

§ 141.51 [Amended]

In the heading and in paragraphs (a), (b) and (c), the words "EIA–714" are removed and the words "FERC–714" are inserted in their place. In paragraphs (a)(1) and (c), the words "Energy Information Administration" are removed and the words "Federal Energy Regulatory Commission" are inserted in their place. The final sentence of paragraph (b) is removed.

[FR Doc. 91–19947 Filed 8–20–91; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

RIN 0960–AC13

Supplemental Security Income for the Aged, Blind, and Disabled; Federal Administration of State Supplementary Payments to Individuals in Medicaid Facilities

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: These final regulations reflect section 12201(b) of Public Law 99–272 (the Consolidated Omnibus Budget Reconciliation Act of 1985, enacted April 7, 1986). Section 12201(b) permits Federal administration of optional State supplementary payments to individuals in medical facilities that receive title XIX (Medicaid) funds at a level exceeding 50 percent of the cost of their care (Medicaid facilities). Currently, the regulations prohibit Federal administration of optional State supplementary payments to a person who, throughout any month, is in a Medicaid facility. Under these regulations States will have the option of having the Social Security Administration (SSA) administer optional State supplementary payments to these individuals. States will be limited to one State supplementary payment level variation for residents of Medicaid facilities (Federal living arrangement "D").

EFFECTIVE DATE: August 21, 1991.

FOR FURTHER INFORMATION CONTACT: Phyllis E. Green, Legal Assistant, 3–B–1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, (301) 966–9822.

SUPPLEMENTARY INFORMATION: These final regulations affect the supplemental security income (SSI) program under title XVI of the Social Security Act (the Act), as amended. The purpose of the SSI program is to provide a minimum income level for aged, blind, and disabled people who do not have income or resources above levels specified in the Act. The Act also provides for State-funded supplementation programs. A State and SSA may agree, under section 1616 of the Act, to Federal administration of the State's supplementary payment program. The terms of administration are prescribed both in regulations and in written agreements we execute with each State for which we administer supplementary payments. To the extent that Medicaid eligibility is based on title XVI eligibility, these regulations will also affect the Medicaid program.

Currently, 20 CFR 416.2030 provides that a State may elect up to five federally administered optional supplementary payment level variations based on differences in living arrangements. Types of living arrangements for which variations may be allowed include arrangements such as:

a. An individual or couple living alone;

b. An individual living with an ineligible spouse;

c. Residence in a personal care facility; or,

d. Residence in a domiciliary or congregate care facility.

The current regulations at 20 CFR 416.2040(b) preclude eligibility for federally administered optional State supplementary payments for any individual who is, throughout any month, in a facility in which the Medicaid program pays for more than 50 percent of the cost of the individual's care (a Medicaid facility). On April 7, 1986, the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99–272) was enacted. Section 12201(b) of that Act permits any State with a federally administered optional supplementation program to modify its

supplementation agreement with the Secretary to allow Federal administration of an optional supplementary payment to any individual in a Medicaid facility.

To implement this legislative enactment, these final regulations allow the States to elect up to six federally administered optional supplementary payment level variations based on differences in living arrangements. These final regulations make it clear, however, that if a State elects a sixth payment level variation, one of these variations must apply only to individuals in Medicaid facilities (Federal living arrangement "D"). Furthermore, only one payment level variation applicable to individuals in Federal living arrangement "D" will be permitted.

In the past, there has been congressional interest in limiting the total number of payment level variations for federally administered State supplementary payments. In 1977, the Senate Finance Committee issued a report on the SSI program that found that "such variations should be the exception rather than the rule and * * * should be agreed to only when they would not materially affect either the cost or efficiency of the program's administration." (Staff of Senate Comm. on Finance, 95th Cong., 1st Sess., Report on the Supplemental Security Income Program, 70 (Comm. Print 1977).) The report concluded that when Congress enacted the SSI statute a "legislative policy decision * * * was made * * * to allow only the most simplified types of State supplementation." (*Id.* at 71.) Moreover, in amending that statute to allow for the Federal administration of State supplementary payments for individuals in Medicaid facilities, Congress was aware of the limitation on the number of payment variations and was reacting to the need for the Federal administration of this particular living arrangement variation and not to any need to increase the maximum number of payment variations which could be federally administered. We concluded that, when read with this legislative background, section 12201(b) of Public Law 99–272 could be reasonably interpreted to authorize only the most limited expansion of permissible variations. Consequently, in view of this legislative history, systems constraints and administrative and cost concerns associated with implementing other payment variations, only one payment level variation will be permitted for Federal living arrangement "D" cases.

Comments

These regulations were published as a notice of proposed rulemaking at 55 FR 37332 on September 11, 1990. A 60-day comment period was provided. We received no public comments. We are, therefore, adopting these rules as proposed.

Regulatory Procedures

Executive Order No. 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 because there will be no additional program costs. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect only individuals and States. Therefore, a regulatory flexibility analysis as provided in Public Law 96–354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

These regulations impose no additional reporting and recordkeeping requirements necessitating clearance by the Office of Management and Budget.

(Catalog of Federal Domestic Assistance Program No. 93.807, Supplemental Security Income)

List of Subjects in 20 CFR Part 416

Administrative Practice and Procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income.

Dated: May 15, 1991.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: July 24, 1991.

Louis W. Sullivan,

Secretary of Health and Human Services.

For the reasons set out in the preamble, part 416 of title 20 of the Code of Federal Regulations is amended as follows:

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart T—State Supplemental Provisions; Agreements; Payments

1. The authority citation for subpart T of part 416 continues to read as follows:

Authority: Secs. 1102, 1616, 1618, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1382e, 1382g, and 1383; sec. 212 of Pub. L. 93–66, 87 Stat. 155; sec. 401 of Pub. L. 92–603, 86 Stat. 1485; sec. 8 of Pub. L. 93–233, 87 Stat. 956; secs. 1 and 2 of Pub. L. 93–335, 88 Stat. 291.

2. In § 416.2030, paragraph (a)(2) is revised to read as follows:

§ 416.2030 Optional supplementation: Variations in payments.

(a) *Payment level.* * * *

(2) *Living arrangements.* In addition, a State may elect up to six variations in recognition of the different needs which result from various living arrangements. If a State elects six payment level variations based on differences in living arrangements, one of these six variations must apply only to individuals in Medicaid facilities, that is, facilities receiving title XIX payments with respect to such persons for the cost of their care (see § 416.211(b)(1)). In any event, States are limited to one payment level variation for residents of Medicaid facilities. Types of other living arrangements for which payment variations may be allowed include arrangements such as:

(i) Living alone;

(ii) Living with an ineligible spouse;

(iii) Personal care facility; or,

(iv) Domiciliary or congregate care facility.

* * * * *

§ 416.2040 [Amended]

3. In § 416.2040, paragraph (b) is removed and paragraph (c) is redesignated as paragraph (b).

[FR Doc. 91–20023 Filed 8–20–91; 8:45 am]

BILLING CODE 4190–29–M

Food and Drug Administration

21 CFR Part 178

[Docket No. 88F–0317]

Indirect Food Additives; Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of disodium decanedioate as a component of mineral oil-bentonite lubricants that may contact food. This action responds to a petition filed by the Ciba-Geigy Corp.

DATES: Effective August 21, 1991; written objections and requests for a hearing by September 20, 1991.

ADDRESSES: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration,

room 4–62, 5600 Fishers Lane, Rockville, MD 20857.

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

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of October 26, 1988 (53 FR 43272), FDA announced that a food additive petition (FAP 8B4102) had been filed by the Ciba-Geigy Corp., Three Skyline Dr., Hawthorne, NY 10532, proposing that § 178.3570 Lubricants with incidental food contact (21 CFR 178.3570) be amended to provide for the safe use of disodium decanedioate as a component of lubricants that may contact food. The Ciba-Geigy Corp. subsequently amended the petition to limit the use of disodium decanedioate as a component of mineral oil-bentonite lubricants that may contact food.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed use of the food additive disodium decanedioate is safe and that 21 CFR 178.3570 should be amended as set forth below.

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

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

Any person who will be adversely affected by this regulation may at any time on or before September 20, 1991, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

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

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

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

Authority: Secs. 201, 402, 409, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 376).

2. Section 178.3570 is amended in the table in paragraph (a)(3) by alphabetically adding a new entry under the headings "Substances" and "Limitations" to read as follows:

§ 178.3570 Lubricants with incidental food contact.

* * * * *

(a) * * *

(3) * * *

Substances	Limitations
* *	* * *
Disodium decanedioate (CAS Reg. No. 17265–14–4).	For use as a corrosion inhibitor or rust preventative in mineral oil-bentonite lubricants at a level not to exceed 2 percent by weight of the grease.
* *	* * *

* * * * *

Dated: August 13, 1991.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 91–19967 Filed 8–20–91; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 178

[Docket No. 88F–0274]

Indirect Food Additives; Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of sodium sec-alkyl (C_{10}–C_{18}) mono- and disulfonates in polystyrene and rubber-modified polystryene in contact with food. This action is in response to a petition filed by Hoechst-Celanese, Inc.

DATES: Effective August 21, 1991; written objections and requests for a hearing by September 20, 1991.

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

FOR FURTHER INFORMATION CONTACT: Edward J. Machuga, Center for Food Safety and Applied Nutrition (HFF–333), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of August 26, 1988 (53 FR 32698), FDA announced that a food additive petition (FAP 8B4097) had been filed by Hoechst-Celanese, Inc., Frankfurt, Germany, proposing that § 178.3130 Antistatic and/or antifogging agents in food-packaging materials (21 CFR 178.3130) and § 178.3400 Emulsifiers and/or surface-active agents (21 CFR 178.3400) be amended to provide for the safe use of sodium alkyl (C_{10}–C_{18}) mono- and disulfonates in polystyrene and rubber-modified polystyrene in contact with food. Data in the petition show that the alkyl groups of these mono- and disulfonate salts are secondary, branched alkyl groups. Therefore, the final rule refers to the additive as

sodium sec-alkyl (C_{10}–C_{18}) mono- and disulfonates.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive use is safe, and that 21 CFR 178.3130 and 178.3400 should be amended as set forth below.

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

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

Any person who will be adversely affected by this regulation may at any time on or before September 20, 1991 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

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

PART 173—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

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

Authority: Secs. 201, 402, 409, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 376).

2. Section 178.3130 is amended in paragraph (b) by alphabetically adding a new entry to the table to read as follows:

§ 178.3130 Antistatic and/or antifogging agents in food-packaging materials.

* * * * *

(b) * * *

List of substances	Limitations
* * * * *	
Sodium sec-alkyl mono- and disulfonates (alkyl group in the range of C_{10}-C_{18} with not less than 50 percent C_{14}-C_{16}).	As an antistatic agent at levels not to exceed 3.0 percent by weight of polystyrene or rubber-modified polystryene complying with § 177.1640(c) of this chapter under conditions of use B through H described in Table 2 of § 176.170(c) of this chapter.

3. Section 178.3400 is amended in paragraph (c) by alphabetically adding a new entry to the table to read as follows:

§ 178.3400 Emulsifiers and/or surface-active agents.

* * * * *

(c) * * *

List of substances	Limitations
* * * * *	
Sodium sec-alkyl mono- and disulfonates (alkyl group in the range of C_{10}-C_{18} with not less than 50 percent C_{14}-C_{16}).	As an emulsifier and/or surface-active agent at levels not to exceed 3.0 percent by weight of polystyrene or rubber-modified polystryene complying with § 177.1640(c) of this chapter under conditions of use B through H described in Table 2 of § 176.170(c) of this chapter.
* * * * *	

* * * * *

Dated: August 13, 1991.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 91–19966 Filed 8–20–91; 8:45 am]

BILLING CODE 4160–01–M

CENTRAL INTELLIGENCE AGENCY

32 CFR Part 1904

Procedures Governing Acceptance of Service of Process

AGENCY: Central Intelligence Agency.

ACTION: Final regulation.

SUMMARY: The Central Intelligence Agency (CIA) is publishing this regulation to inform the public of the CIA's procedures for acceptance of service of process in matters involving the CIA or its employees in their official, individual, or combined official and individual capacities. This regulation sets forth the CIA's procedures for acceptance of process in person or by registered or certified mail.

EFFECTIVE DATE: August 21, 1991.

FOR FURTHER INFORMATION CONTACT: W. George Jameson, Associate General Counsel, Central Intelligence Agency, Washington, DC 20505. Telephone (703) 874–3118.

SUPPLEMENTARY INFORMATION: This regulation is promulgated to further implement section 102(d)(3) of the National Security Act of 1947, 50 U.S.C. 403(d)(3), which provides that the Director of Central Intelligence shall be responsible for the protection of intelligence sources and methods from unauthorized disclosure, and section 6 of the CIA Act of 1949, 50 U.S.C. 403g, which provides that the CIA shall be exempted from the provisions of any law which requires the publication or disclosure of the organization, functions, names, official titles, salaries or numbers of personnel of the CIA.

List of Subjects in 32 CFR Part 1904

Central Intelligence Agency; Courts, Service of Process.

Accordingly, title 32 of the Code of Federal Regulations is amended by adding a new part 1904 as follows:

PART 1904—PROCEDURES GOVERNING ACCEPTANCE OF SERVICE OF PROCESS

Sec.
1904.1 Scope and purpose.
1904.2 Definitions.
1904.3 Procedures governing acceptance of service of process.
1904.4 Notification to CIA Office of General Counsel.
1904.5 Authority of General Counsel.

Authority: 50 U.S.C. 403g; 50 U.S.C. 403(d)(3); E.O. 12333 sections 1.8(h), 1.8(i), 3.2.

§ 1904.1 Scope and purpose.

(a) This part sets forth the limits of authority of CIA personnel to accept service of process on behalf of the CIA or any CIA employee.

(b) This part is intended to ensure the orderly execution of the Agency's affairs and not to impede any legal proceeding.

(c) CIA regulations concerning employee responses to demands for production of official information in proceedings before federal, state, or local government entities are set out in Part 1905 of this chapter.

§ 1904.2 Definitions.

(a) *Agency* or *CIA* means the Central Intelligence Agency and include all staff elements of the Director of Central Intelligence.

(b) *Process* means a summons, complaint, subpoena, or other official paper (except garnishment orders) issued in conjunction with a proceeding or hearing being conducted by a federal, state, or local governmental entity of competent jurisdiction.

(c) *Employee* means any CIA officer, any staff, contract, or other employee of CIA, any person including independent contractors associated with or acting for or on behalf of CIA, and any person formerly having such a relationship with CIA.

(d) *General Counsel* includes the Deputy General Counsel or Acting General Counsel.

§ 1904.3 Procedures governing acceptance of service of process.

(a) Service of Process Upon the CIA or a CIA Employee in An Official Capacity.

(1) *Personal service.* Unless otherwise expressly authorized by the General Counsel, or designee, personal service of process may be accepted only by attorneys of the Office of General Counsel at CIA Headquarters in Langley, Virginia.

(2) *Mail service.* Where service of process by registered or certified mail is authorized by law, unless expressly directed otherwise by the General Counsel or designee, such process may only be accepted by attorneys of the Office of General Counsel. Process by mail should be addressed as follows: Litigation Division, Office of General Counsel, Central Intelligence Agency, Washington, DC 20505.

(b) Service of Process Upon a CIA Employee Solely in An Individual Capacity.

(1) *General.* Consistent with section 6 of the CIA Act of 1949, as amended, 50 U.S.C. 403g, CIA will not provide the name or address of any current or former employee of CIA to individuals or entities seeking to serve process upon such employee solely in his or her individual capacity, even where the matter is related to CIA activities.

(2) *Personal Service.* Subject to the sole discretion of appropriate officials of the CIA, process servers generally will not be allowed to enter CIA facilities or premises for the purpose of serving process upon any CIA employee solely in his or her individual capacity. The Office of General Counsel is not authorized to accept service of process on behalf of a CIA employee—except the Director and Deputy Director of Central Intelligence—in his or her individual capacity.

(3) *Mail Service.* Unless otherwise expressly authorized by the General Counsel, or designee, CIA personnel are not authorized to accept or forward mailed service of process directed to any CIA employee in his or her individual capacity. Any such process will be returned to the sender via appropriate postal channels.

(c) Service of Process Upon a CIA Employee in A Combined Official and Individual Capacity. Unless expressly directed otherwise by the General Counsel, or designee, any process to be served upon a CIA employee in his or her combined official and individual capacity, in person or by mail, can be accepted only by attorneys of the Office of General Counsel at CIA Headquarters in Langley, Virginia.

(d) The documents for which service is accepted in official capacity only shall be stamped "Service Accepted in Official Capacity Only." Acceptance of service of process shall not constitute an admission or waiver with respect to jurisdiction, propriety of service, improper venue, or any other defense in law or equity available under the laws or rules applicable to the service of process.

§ 1904.4 Notification to CIA Office of General Counsel.

A CIA employee who receives or has reason to expect service of process in an individual, official, or combined individual and official capacity, in a matter that may involve testimony or the furnishing of documents and that could reasonably be expected to involve Agency interests, shall promptly notify the Litigation Division, Office of General Counsel (703–874–3118). Such notification should be given prior to providing the requestor, counsel or other representative any Agency information, and prior to accepting service of process.

§ 1904.5 Authority of General Counsel.

Any questions concerning interpretation of this regulation shall be referred to the Office of General Counsel for resolution.

William H. Webster,
Director of Central Intelligence.

[FR Doc. 91–19926 Filed 8–20–91; 8:45 am]
BILLING CODE 6310–02–M

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32 CFR Part 1905

Regulations Governing the Production of Official Records or Disclosure of Official Information In Proceedings Before Federal, State, or Local Government Entities of Competent Jurisdiction

AGENCY: Central Intelligence Agency.

ACTION: Final regulation.

SUMMARY: The Central Intelligence Agency (CIA) is publishing this regulation to provide public notice of the policies and procedures that govern the responses of employees and former employees to demands for testimony or information concerning official CIA matters. This regulation sets forth the Agency's procedures for providing uniform and consistent responses to demands by courts and other entities of competent jurisdiction.

EFFECTIVE DATE: August 21, 1991.

FOR FURTHER INFORMATION CONTACT: W. George Jameson, Associate General Counsel, Central Intelligence Agency, Washington, DC 20505. Telephone (703) 874–3118.

SUPPLEMENTARY INFORMATION: This regulation is promulgated to further implement section 102(d)(3) of the National Security Act of 1947, 50 U.S.C. 403(d)(3), which provides that the Director of Central Intelligence (DCI) shall be responsible for the protection of intelligence sources and methods from unauthorized disclosure, section 6 of the CIA Act of 1949, 50 U.S.C. 403g, which provides that the CIA shall be exempted from the provisions of any law which requires the publication or disclosure of the organization, functions, names, official titles, salaries or numbers of personnel of the CIA; and applicable

CIA and DCI nondisclosure agreements. Also, this regulation is promulgated in accordance with *United States ex rel. Touhy* v. *Ragen*, 340 U.S. 462 (1951).

List of Subjects in 32 CFR Part 1905

Courts, government, employees.

Accordingly, title 32 of the Code of Federal Regulations is amended by adding a new part 1905 as follows:

PART 1905—PRODUCTION OF OFFICIAL RECORDS OR DISCLOSURE OF OFFICIAL INFORMATION IN PROCEEDINGS BEFORE FEDERAL, STATE OR LOCAL GOVERNMENTAL ENTITIES OF COMPETENT JURISDICTION

Sec.
1905.1 Scope and purpose.
1905.2 Definitions.
1905.3 General.
1905.4 Procedure for production.

Authority: 5 U.S.C. 403(d)(3); 50 U.S.C. 403g; United States ex rel. *Touhy* v. *Ragen*, 340 U.S. 462 (1951); E.O. 12333 §§ 1.8(i), 1.5(h), 3.2; E.O. 12356; U.S. v. Snepp, 444 U.S. 507 (1980).

§ 1905.1 Scope and purpose.

This part sets forth the policy and procedures with respect to the production or disclosure of (a) material contained in the files of CIA, (b) information relating to or based upon material contained in the files of CIA, and (c) information acquired by any person while such person was an employee of CIA as part of the performance of that person's official duties or because of that person's association with CIA.

§ 1905.2 Definitions.

For the purpose of this part:

(a) *CIA* or *Agency* means the Central Intelligence Agency and includes all staff elements of the Director of Central Intelligence.

(b) *Demand* means any subpoena, order, or other legal summons (except garnishment orders) that is issued by a federal, state, or local governmental entity of competent jurisdiction with the authority to require a response on a particular matter, or a request for appearance of an individual where a demand could issue.

(c) *Employee* means any officer, any staff, contract, or other employee of CIA; any person including independent contractors associated with or acting on behalf of CIA; and any person formerly having such a relationship with CIA.

(d) *Production* or *produce* means the disclosure of:

(1) Any material contained in the files of CIA; or

(2) Any information relating to material contained in the files of CIA, including but not limited to summaries of such information or material, or opinions based on such information or material; or

(3) Any information acquired by persons while such persons were employees of CIA as a part of the performance of their official duties or because of their official status or association with CIA;

in response to a demand upon an employee of CIA.

(e) *General Counsel* includes the Deputy General Counsel or Acting General Counsel.

§ 1905.3 General.

(a) No employee shall produce any materials or information in response to a demand without prior authorization as set forth in this part. This part applies to former employees to the extent consistent with applicable nondisclosure agreements.

(b) This part is intended only to provide procedures for responding to demands for production of documents or information, and is not intended to, does not, and may not be relied upon to, create any right or benefit, substantive or procedural, enforceable by any party against the United States.

§ 1905.4 Procedure for production.

(a) Whenever a demand for production is made upon an employee, the employee shall immediately notify the Litigation Division, Office of General Counsel, Central Intelligence Agency, Washington, DC 20505 (703/874–3118), which shall follow the procedures set forth in this section.

(b) The General Counsel of CIA and Deputy Directors or Heads of Independent Offices with responsibility for the information sought in the demand, or their designees, shall determine whether any information or materials may properly be produced in response to the demand, except that the Office of General Counsel may assert any and all legal defenses and objections to the demand available to CIA prior to the start of any search for information responsive to the demand. CIA may, in its sole discretion, decline to begin any search for information responsive to the demand until a final and non-appealable disposition of any such defenses and objections raised by CIA has been made by the entity or person that issued the demand.

(c) CIA officials shall consider the following factors, among others, in reaching a decision:

(1) Whether production is appropriate in light of any relevant privilege;

(2) Whether production is appropriate under the applicable rules of discovery or the procedures governing the case or matter in which the demand arose; and

(3) Whether any of the following circumstances apply:

(i) Disclosure would violate a statute, including but not limited to the Privacy Act of 1974, as amended, 5 U.S.C. 552a;

(ii) Disclosure would be inconsistent with the statutory responsibility of the Director of Central Intelligence to protect intelligence sources and methods;

(iii) Disclosure would violate a specific CIA regulation or directive;

(iv) Disclosure would reveal classified information;

(v) Disclosure would improperly reveal trade secrets or proprietary confidential information without the owner's consent; or

(vi) Disclosure would unduly interfere with the orderly conduct of CIA's functions.

(d) If oral or written testimony is sought by a demand in a case or matter in which the CIA is not a party, a reasonably detailed description of the testimony sought, in the form of an affidavit or, if that is not feasible, a written statement, by the party seeking the testimony or by the party's attorney must be furnished to the CIA Office of General Counsel.

(e) The Office of General Counsel shall be responsible for notifying the appropriate employees and other persons of all decisions regarding responses to demands and providing advice and counsel as to the implementation of such decisions.

(f) If response to a demand is required before a decision is made whether to provide the documents or information sought by the demand, an attorney from the Office of General Counsel, after consultation with the Department of Justice, shall appear before and furnish the court or other competent authority with a copy of this Regulation and state that the demand has been or is being, as the case may be, referred for the prompt consideration of the appropriate CIA officials, and shall respectfully request the court or other authority to stay the demand pending receipt of the requested instructions.

(g) If the court or other authority declines to stay the demand pending receipt of instructions in response to a request made in accordance with § 1905.4(g), or rules that the demand must be complied with irrespective of instructions rendered in accordance with this Part not to produce the material or disclose the information sought, the employee upon whom the demand has been made shall, if so directed by the General Counsel of CIA,

or designee, respectfully decline to comply with the demand under the authority of *United States ex rel. Touhy* v. *Ragen*, 340 U.S. 462 (1951), and this Regulation.

(h) With respect to any function granted to CIA officials in this Part, such officials are authorized to delegate in writing their authority in any case or matter or category thereof to subordinate officials.

(i) Any nonemployee who receives a demand for the production or disclosure of CIA information acquired because of that person's association or contacts with CIA should notify CIA's Office of General Counsel, Litigation Division (703/874–3118) for guidance and assistance. In such cases the provisions of this regulation shall be applicable.

William H. Webster,

Director of Central Intelligence.

[FR Doc. 91–19927 Filed 8–20–91; 8:45 am]

BILLING CODE 6310–02–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD1–91–015]

Drawbridge Operation Regulations; Bass River, MA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Massachusetts Department of Public Works (MDPW), the Coast Guard is changing the regulations governing the Hall Whitaker Bridge over the Bass River at mile 0.6 in Beverly, Massachusetts, by requiring that at least 24 hours advance notice is given by commercial and recreational vessels to open the bridge. This change is being made because there have been relatively few requests for openings each year. The vessels that use the waterway have requested openings 24 hours in advance for many years. This action will relieve the bridge owner of the burden of having a work crew constantly available to open the draw and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on September 20, 1991.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, First Coast Guard District (212) 668–7170.

SUPPLEMENTARY INFORMATION: On 27 March 1991, the Coast Guard published proposed rules in the **Federal Register** (56 FR 12695), concerning this amendment. The Commander, First Coast Guard District, also published the proposal as a Public Notice dated April 18, 1991. In each notice interested persons were given until May 17, 1991, to submit comments.

Drafting Information: The drafters of this notice are Mr. John McDonald, project officer, and Lieutenant John Gately, project attorney.

Discussion of Comments: One comment was received in favor of the proposed regulation change.

Economic Assessment and Certification: These regulations changes are considered to be non-major under Executive Order 12291 on Federal Regulation, and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact is expected to be so minimal that a full regulatory evaluation is unnecessary. This opinion is based on the fact that the regulation will not prevent the passage of vessels but just require advance notice for openings, which has been the tradition for many years. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that, they will not have a significant economic impact on a substantial number of small entities.

Federalism Implication Assessment: This action has been analyzed under the principles and criteria in Executive Order 12612, and it has been determined that this rule does not have sufficient federalism implications to warrant preparation of a federal assessment.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.588 is added to read as follows:

§ 117.588 Bass River.

The Hall Whitaker Bridge, mile 0.6 at Beverly, shall operate as follows:

(a) Public vessels of the United States and state or local vessels used for public safety shall be passed as soon as possible.

(b) The owners of this bridge shall provide and keep in good legible condition clearance gauges for each draw with figures not less than 12 inches high designed, installed and maintained according to the provisions of § 118.160 of this chapter.

(c) That the draw of the Hall Whitaker bridge shall open on signal if at least 24 hours notice is given by commercial and recreational vessels.

Dated: August 12, 1991.

J.D. Sipes,

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

[FR Doc. 91–19997 Filed 8–20–91; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 117

[CGD1–91–002]

Drawbridge Operation Regulations; Neponset River, MA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Massachusetts Department of Public Works (MDPW), the Coast Guard is changing the regulations governing the Granite Avenue Bridge over the Neponset River, mile 2.5 between Boston and Milton, Massachusetts, by requiring that a 24 hour advance notice be given by commercial and recreational vessels at all times from January 1 to March 31.

This change is being made because there have been no requests to open the bridge during the above period for the last four years. This action will relieve the bridge owner of the burden of having a work crew constantly available to open the draw and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on September 20, 1991.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, First Coast Guard District, (212) 668–7170.

SUPPLEMENTARY INFORMATION: On February 1, 1991, the Coast Guard published proposed rules in the **Federal Register** (56 FR 4024), concerning this amendment. The Commander, First Coast Guard District, also published the proposal as a Public Notice dated March 13, 1991. In each notice interested persons were given until April 5, 1991, to submit comments.

Drafting Information: The drafters of this notice are Mr. John McDonald,

project officer, and Lieutenant John Gately, project attorney.

Discussion of Comments: No comments were received.

Economic Assessment and Certification: These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation, and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact is expected to be so minimal that a full regulatory evaluation is unnecessary. This opinion is based on the fact that the regulation will not prevent the mariners from transiting the bridge but just require advance notice for openings. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that, they will not have a significant economic impact on a substantial number of small entities.

Federalism Implication Assessment: This action has been analyzed under the principles and criteria in Executive Order 12612, and it has been determined that this rule does not have sufficient federalism implications to warrant preparation of a federal assessment.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.611 is revised to read as follows:

§ 117.611 Neponset River.

The Granite Avenue Bridge, mile 2.5 between Boston and Milton, Massachusetts, shall operate as follows:

(a) Public vessels of the United States, vessels in distress and state or local vessels used for public safety shall be passed as soon as possible.

(b) The owners of this bridge shall provide and keep in good legible condition clearance gauges for each draw with figures not less than 12 inches high designed, installed and maintained according to the provisions of § 118.160 of this chapter.

(c) Open on signal:

(1) May 1 to October 31, at all times.

(2) April 1 to April 30 and November 1 to December 31, from 8 a.m. to 4 p.m.

(d) Open on signal if at least 24 hours notice is given at all other times except as provided paragraphs in (a) and (c) of this section.

Dated: August 12, 1991.

J.D. Sipes,

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

[FR Doc. 91–20060 Filed 8–20–91; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD1–91–013]

Drawbridge Operation Regulations; Taunton River, MA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Massachusetts Department of Public Works (MDPW), the Coast Guard is changing the regulations governing the Bristol County (Center Street) Bridge at Berkley, over the Taunton River at mile 10.3 in Berkley, Massachusetts, by requiring that at least 24 hours advance notice is given by commercial and recreational vessels for a bridge opening. This change is being made because there have been only five requests for bridge openings since July 1986. This action will relieve the bridge owner of the burden of having a person constantly available to open the draw and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on September 20, 1991.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, First Coast Guard District, (212) 668–7170.

SUPPLEMENTARY INFORMATION: On 19 March 1991, the Coast Guard published proposed rules in the **Federal Register** (56 FR 11535), concerning this amendment. The Commander, First Coast Guard District, also published the proposal as a Public Notice dated April 18, 1991. In each notice interested persons were given until May 17, 1991, to submit comments.

Drafting Information: The drafters of this notice are Mr. John McDonald, project officer, and Lieutenant John Gately, project attorney.

Discussion of Comments: One comment was received in favor of the change to the regulation.

Economic Assessment and Certification: These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation, and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. This opinion is based on the fact that the regulation will not prevent the passage of vessels but just require the limited marine traffic to give advance notice to obtain an opening. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that, they will not have a significant economic impact on a substantial number of small entities.

Federalism Implication Assessment: This action has been analyzed under the principles and criteria in Executive Order 12612, and it has been determined that this rule does not have sufficient federalism implications to warrant preparation of a federal assessment.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.619 is revised to read as follows:

§ 117.619 Taunton River.

The Bristol County Bridge, mile 10.3 at Berkley, shall operate as follows:

(a) Public vessels of the United States and state or local vessels used for public safety shall be passed as soon as possible.

(b) The owners of this bridge shall provide and keep in good legible condition clearance gauges for each draw with figures not less than 12 inches high designed, installed and maintained according to the provisions of § 118.160 of this chapter.

(c) Shall open on signal if at least 24 hours notice is given by commercial and recreational vessels.

Dated: August 12, 1991.

J.D. Sipes,

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

[FR Doc. 91–19999 Filed 8–20–91; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 117

[CGD1-91-014]

Drawbridge Operation Regulations; Westport River-East Branch

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Massachusetts Department of Public Works (MDPW), the Coast Guard is changing the regulations governing the Westport Point Bridge, (Route 88), over the Westport River East Branch at mile 1.2 in Westport, Massachusetts, by requiring that at least 24 hours advance notice be given by commercial and recreational vessels. This change is being made because there has been only one request for an opening in the last five years. This action will relieve the bridge owner of the burden of having a person constantly available to open the draw and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on September 20, 1991.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, First Coast Guard District, (212) 668-7170.

SUPPLEMENTARY INFORMATION: On March 27, 1991, the Coast Guard published proposed rules in the **Federal Register** (56 FR 12696), concerning this amendment. The Commander, First Coast Guard District, also published the proposal as a Public Notice dated April 18, 1991. Interested persons were given until May 13, 1991, in the Notice of Proposed Rulemaking, and May 17, 1991, in the Public Notice, to submit comments.

Drafting Information

The drafters of these regulations are Mr. John McDonald, project office, and Lieutenant John Gately, project attorney.

Discussion of Comments

Only one response to the Public Notice was received. The respondent had no objection to the proposal but asked about the point of contact and procedures for giving 24 hours advance notice. The respondent was advised that the bridge owner was required to post and maintain a sign on the upstream and downstream side of the bridge, giving the mariner the name, address and telephone number of the appropriate point of contact. No substantive changes were made to the rule.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation, and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. This opinion is based on the fact that the regulation will not prevent the passage of vessels but just require the limited marine traffic to give advance notice to obtain an opening. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that, they will not have a significant economic impact on a substantial number of small entities.

Federalism Implication Assessment

This action has been analyzed under the principles and criteria in Executive Order 12612, and it has been determined that this rule does not have sufficient federalism implications to warrant preparation of a federal assessment.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g).

2. Section 117.620 is added to read as follows:

§ 117.620 Westport River—East Branch.

The Westport Point Bridge, mile 1.2 at Westport, shall operate as follows:

(a) Public vessels of the United States and state or local vessels used for public safety shall be passed as soon as possible.

(b) The owners of this bridge shall provide and keep in good legible condition clearance gauges for each draw with figures not less than 12 inches high designed, installed, and maintained, according to the provisions of § 118.160 of this chapter.

(c) That the draw of the Westport Point Bridge, mile 1.2 at Westport, shall open on signal if at least 24 hours notice is given by commercial and recreational vessels.

Dated: August 12, 1991.

J.D. Sipes,

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

[FR Doc. 91-19998 Filed 8-20-91; 8:45 am]

BILLING CODE 4910-14-M

POSTAL SERVICE

39 CFR Part 111

Domestic Mail Manual Subscription

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This rule revises 39 CFR 111.2(c) to reflect occasional changes in the price and frequency of issue of the Domestic Mail Manual. It replaces the outdated subscription price contained in the current version of 39 CFR 111.2(c) with language that merely states that a subscription may be purchased from the Superintendent of Documents. Therefore, the revised § 111.2(c) does not indicate a specific price or frequency of publication for the Domestic Mail Manual.

EFFECTIVE DATE: August 21, 1991.

FOR FURTHER INFORMATION CONTACT: Neil Berger (202) 268-2859.

SUPPLEMENTARY INFORMATION: This rule revises the description of the availability of the Domestic Mail Manual through public subscription. The pricing of the Domestic Mail Manual for sale to the public is the responsibility of the Superintendent of Documents of the U.S. Government Printing Office in accordance with 44 U.S.C. 1708. This section directs that the Public Printer determines the sale price of publications based on actual cost plus fifty percent. This cost, which can include printing, binding, handling, postage, and delivery, is reviewed annually or when specifications change. The Postal Service determines the frequency of issue of the Domestic Mail Manual, currently published quarterly each year. As a consequence, both the price and the frequency of the Domestic Mail Manual are subject to change. Therefore, the revised § 111.2(c) does not contain a specific price or frequency of publication of the Domestic Mail Manual. It merely states that the Domestic Mail Manual may be purchased from the Superintendent of Documents.

Accordingly, 39 CFR part 111 is amended as follows:

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for 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. Section 111.2 is amended by revising paragraph (c) to read as follows:

§ 111.2 Availability of the Domestic Mail Manual.

* * * * *

(c) A one-year subscription to the Domestic Mail Manual may be purchased from the Superintendent of Documents, Washington, DC 20402–9371.

Stanley F. Mires,

Assistant General Counsel, Legislative Division.

[FR Doc. 91–19922 Filed 8–20–91; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. 102; FRL–3967–7]

Approval and Promulgation of Implementation Plans; Revision to the State of New York Implementation Plan for Ozone and Carbon Monoxide

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is today announcing its final approval of a request by New York to revise its State Implementation Plan (SIP) for ozone and carbon monoxide. This revision was prepared by the New York State Department of Environmental Conservation pursuant to a SIP commitment to attain the ozone and carbon monoxide standards in the New York City Metropolitan area. The revision modifies certain enforcement procedures in the operation of New York's motor vehicle emission inspection program for a two-year trial period. These modifications are not expected to have any adverse impact on air quality.

EFFECTIVE DATE: This action will be effective September 20, 1991.

ADDRESSES: Copies of the state submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region II Office, Air Programs Branch, 26 Federal Plaza, room 1005, New York, New York 10278.

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, DC 20460.

New York State Department of Environmental Conservation, Division of Air Resources, 50 Wolf Road, Albany, New York 12233.

FOR FURTHER INFORMATION CONTACT: Mr. William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, 26 Federal Plaza, room 1005, New York, New York 10278, (212) 264–2517.

SUPPLEMENTARY INFORMATION:

Background

On November 28, 1989 (54 FR 48916) the Environmental Protection Agency (EPA) published in the **Federal Register**, a Notice of Proposed Rulemaking (NPR) concerning revisions to the New York State Implementation Plan (SIP) for ozone and carbon monoxide. These revisions altered for a two-year trial period the nature and frequency of inspection and maintenance (I/M) station audits. The revisions and the rationale for EPA's proposed approval were explained in the NPR and will not be restated here since this final action does not differ from that proposed in the NPR. One public comment was received in support of the revisions.

EPA reviewed the adopted regulations and finds that they are consistent with the Amendments of the 1990 Clean Air Act. New York will still need to revise its I/M program to address new requirements for an "enhanced" program by the future dates mandated by the Act. However, today's action provides an improvement over the program contained in the current SIP.

Conclusion

EPA has reviewed the State's submittal and finds that the revised enforcement and monitoring procedures should improve the overall quality of the I/M program and, thus, provide air quality benefits equivalent to those committed to in New York's SIP. Therefore, EPA is approving New York's request to revise its SIP for ozone and carbon monoxide for a two-year trial period, effective thirty days from the publication of this notice in the **Federal Register.**

This notice is issued as required by section 110 of the Clean Air Act, as amended. The Administrator's decision regarding the approval of this plan revision is based on its meeting the requirements of section 110 of the Clean Air Act, and 40 CFR part 51.

The Agency has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit within 60 days from date of publication. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Ozone, Carbon monoxide.

Dated: June 6, 1991.

William K. Reilly,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40, chapter I, subchapter C, part 52, Code of Federal regulations is amended as follows:

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

Subpart HH—New York

2. Section 52.1683 is revised to read as follows:

§ 52.1683 Control strategy: Ozone.

(a) The State of New York has certified to the satisfaction of the EPA that no sources are located in the nonattainment area of the State which are covered by the following Control Techniques Guidelines:

(1) Natural Gas/Gasoline Processing Plants.

(2) Air Oxidation Processes at Synthetic Organic Chemical Manufacturing Industries.

(3) Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins.

(b) EPA approves on September 20, 1991 a request by New York State to implement modified I/M audit and enforcement procedures for a two-year trial period as specified in a September 19, 1988 letter from Thomas Allen, NYSDEC, to Raymond Werner, EPA,

which also provided justification for such modifications.

[FR Doc. 91-19760 Filed 8-20-91; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300191A; FRL-3887-1]

RIN 2070 AB-78

Biologically Processed Animal Waste Material

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule exempts biologically processed animal waste material from the requirement of a tolerance when used as an inert ingredient (carrier) in pesticide formulations applied to growing crops only. This regulation was requested by Leede Products, Inc.

EFFECTIVE DATE: Effective on August 21, 1991.

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

FOR FURTHER INFORMATION CONTACT: By mail: Kerry Leifer, Registration Support Branch, 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 22202, (703)-557-7700.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the Federal Register of August 24, 1988 (53 FR 32257), which announced that Leede Products, Inc., P.O. Box 368, London, OH 43140, had requested that 40 CFR 180.1001 be amended by establishing an exemption from the requirement of a tolerance for biologically processed animal waste material (produced by the thermophilic digestion of poultry or cattle manure) when used as a carrier in pesticide formulations applied to growing crops only.

Inert ingredients are ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Under the EPA review procedures for tolerance exemptions for inert ingredients, the Agency conducts a review of the data base supporting any prior clearances, the data available in the scientific literature, and any other relevant data. The States regulate animal waste products used for feed following guidelines set forth by the American Association of Feed Control Officials. The guidelines emphasize detection of potentially hazardous substances such as pathogenic organisms, heavy metals, veterinary drug residues, and pesticides. Analytical data submitted on this material indicated acceptable levels of heavy metal and microbial contamination. Based on a review of this data, the Agency has determined that no additional test data will be required to support this regulation.

Based on the above information and review of its use, it has been found that when used in accordance with good agricultural practices this ingredient is useful and does not pose a hazard to humans or the environment. In conclusion, the Agency has determined that the amendment to 40 CFR part 180 will protect the public health. Therefore, the regulation is being established as set forth below.

One comment was received in response to the proposed rule. The comment concerned the possibility of secondary residues of cyromazine occurring in crops treated with pesticide formulations containing biologically processed animal waste material as an inert ingredient. The Agency has reviewed the data previously submitted in support of the registration of cyromazine, in which a study was conducted involving the application of cyromazine-containing chicken manure on crops as fertilizer. EPA concluded that use of manure containing cyromazine would not pose unreasonable adverse effects on human health or the environment. EPA has determined that the use of biologically processed animal waste material as an inert ingredient will result in far less residue in food crops than from use as a fertilizer. For that reason, EPA believes the possibility of secondary residues of cyromazine does not warrant altering the proposed exemption for this material.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections with the Hearing Clerk, at the address given above. The objections must include a statement of the factual issue(s) on which a hearing is requested and the requestor's contentions on each such issue. A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested.

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

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests

Dated: August 8, 1991.

Douglas D. Campt,
Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

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

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

2. Section 180.1001(d) is amended by adding and alphabetically inserting the inert ingredient, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* *	* *	*
Animal waste material (produced by the thermophilic digestion of cattle and poultry manure).	*E. coli* and *Salmonella* free; heavy metal content not to exceed the following: Material/ Concentration (ppm): As/ 12.5; Cd/ 12.0; Cu/ 14.0; Pb/17.0; Hg/0.1; Se/ 0.2.	Carrier
* *	* *	*

* * * * *

[FR Doc. 91-19900 Filed 8-20-91; 8:45 am]
BILLING CODE 6560-50-F

40 CFR Part 180

[PP 7E3557/R1120; FRL-3929-8]

RIN 2070-AB78

Pesticide Tolerances for Chlorpyrifos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes tolerances for the pesticide chlorpyrifos in or on the raw agricultural commodity caneberries (*Rubus* spp., including blackberries; *Rubus caesius* (youngberry); *Rubus loganbaccus* (loganberry); *Rubus occidentalis, idaeus*, and *strigosus* (red and black raspberries); and varieties and/or hybrids of these). This regulation was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: This regulation becomes effective August 21, 1991.

ADDRESSES: Written objections, identified by the document control number, [PP 7E3557/R1120], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt L. Jamerson, Emergency Response and Minor Use Section (H7505C), Registration Division, 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 22202, (703)-557-2310.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 29, 1991 (56 FR 24157), EPA issued a proposed rule that gave notice that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 7E3557 to EPA on behalf of the Agricultural Experiment Stations of New York, Oregon, and Washington. The petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)), propose the establishment of a tolerance for residues of the insecticide chlorpyrifos (*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl)phosphorothioate) and its metabolite TCP (3,5,6-trichloro-2-pyridinol) in or on the raw agricultural commodity caneberries at 2.0 parts per million (ppm), of which no more than 1.0 ppm is chlorpyrifos. The petition was later amended to propose the tolerance at 1.0 ppm for residues of chlorpyrifos per se in or on caneberries.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections and/or a request for a hearing with the Hearing Clerk, at the address given above. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested and the requestor's contentions on each such issue. A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested.

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

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

List of Subjects in 40 CFR Part 180

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

Dated: August 8, 1991.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

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

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

2. In § 180.342, by designating existing paragraph (c) as paragraph (d) and adding new paragraph (c), to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

* * * * *

(c) Tolerances are established for residues of the pesticide chlorpyrifos (*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate in or on the following raw agricultural commodity:

Commodity	Parts per million
Caneberries	1.0

* * * * *

[FR Doc. 91-19899 Filed 8-20-91; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 180

[OPP-300233A; FRL-3930-1]

RIN 2070 AB-78

Vinylpyrrolidone-Vinyl Acetate Copolymer; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule exempts residues of the pesticide chemical vinylpyrrolidone-vinyl acetate copolymer (CAS Reg. No. 25086-89-9) when used as an inert ingredient (emulsion stabilizer, film-forming agent) in pesticide formulations applied to growing crops and raw agricultural commodities after harvest. This regulation was requested by GAF Chemicals Corp.

EFFECTIVE DATE: Effective on August 21, 1991.

ADDRESSES: Written objections, identified by document control number [OPP-300233A], may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Kerry Leifer, Registration Support Branch, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 726, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-5180.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the Federal Register of May 29, 1991 (56 FR 24161), which announced that GAF Chemicals Corp., 1361 Alps Rd., Wayne, NJ 07470, had requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose to amend 40 CFR part 180 by establishing an exemption from the requirement of a tolerance for residues of vinylpyrrolidone-vinyl acetate copolymer (CAS Reg. No. 25086-89-9) when used as an inert ingredient (emulsion stabilizer, film-forming agent) in pesticide formulations applied to growing crops and raw agricultural commodities after harvest.

There were no comments received in response to the proposed rule. The data submitted in support of the proposal and other relevant material have been evaluated and discussed in the proposed rule.

Inert ingredients are ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Under the EPA review procedures for tolerance exemptions for inert ingredients, the Agency conducts a review of the data base supporting any prior clearances, the data available in the scientific literature, and any other relevant data. Based on a review of such data, the Agency has determined that no additional test data will be required to support this regulation.

Based on the above information and review of its use, it has been found that when used in accordance with good agricultural practices this ingredient is useful and does not pose a hazard to humans or the environment. In conclusion, the Agency has determined that the amendment to 40 CFR part 180 will protect the public health. Therefore, the regulations are being established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections and/or a request for a hearing with the Hearing Clerk, at the address given above. The objections must include a statement of the factual issue(s) on which a hearing is requested and the requestor's contentions on each such issue. A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested.

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

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests

Dated: August 8, 1991.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

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

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

2. In subpart D, new § 180.1106 is added, to read as follows:

§ 180.1106 Vinylpyrrolidone-vinyl acetate copolymer; exemption from the requirement of a tolerance.

Vinylpyrrolidone-vinyl acetate copolymer (CAS Reg. No. 25086-89-9), minimum average molecular weight 6,700, is exempted from the requirement of a tolerance when used as an inert ingredient (emulsion stabilizer, film-forming agent) for pesticides applied to growing crops or to raw agricultural commodities after harvest. The inert shall not constitute more than 20 percent by weight of any pesticide formulation. Registration of each new pesticide formulation incorporating this dispersing agent must be supported by residue data for the active ingredient(s).

[FR Doc. 91-20047 Filed 8-20-91; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 88-192; RM-5928; RM-6262]

Radio Broadcasting Services; Fort Bragg, Monte Rio and Oroville, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 249B1 for Channel 249A at Oroville, California, and modifies the license of Station KEWE(FM) to specify operation on the higher powered channel, as requested by Oroville Radio, Inc. Also, at the request of Southcom, Inc., Channel 249B1 is substituted for Channel 249A at Monte Rio, California, and the license for Station KMGG(FM) is modified accordingly. In order to accommodate the upgrade at Monte Rio, Channel 253A is substituted for Channel 249A at Fort Bragg, California, and the license issued to Axell Broadcasting for Station KSAY(FM) is modified accordingly. Coordinates for Channel 249B1 at Oroville are 39-34-17 and 121-25-20. Coordinates for Channel 249B1 at Monte Rio are 38-32-24 and 122-57-39. Coordinates for Channel 253A at Fort Bragg are 39-28-03 and 123-45-34. With this action, the proceeding is terminated.

EFFECTIVE DATE: September 30, 1991.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 88-192, adopted July 31, 1991, and released August 15, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California, is amended by removing Channel 249A and adding Channel 253A at Fort Bragg; by removing Channel 249A and adding Channel 249B1 at Monte Rio; and by removing Channel 249A and adding Channel 249B1 at Oroville.

Federal Communications Commission.

Andrew J. Rhodes,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91–19919 Filed 8–20–91; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 90

[PR Docket No. 90–34; FCC No. 91–229]

SMR Short-spacing

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission amended its rules to codify the consensual short-spacing procedures applicable to applicants in the SMR Category, thereby eliminating the need for these applicants to procure a waiver of 47 CFR 90.621(b) if the consent of all licensees of constructed and operational co-channel systems has been obtained. In addition, the Commission amended its rules by codifying a table based on a non-overlap of the 40/22 dBu service and interference contours that reflects the permissible proximity between the stations of applicants and existing co-channel licensees whose systems will be separated by less than 113 km (70 miles). Applicants whose proposed systems comply with the terms of the table will not be required to procure a waiver. Non-consensual short-spacing applicants wishing to demonstrate the 40/30 dBu showing may still attempt to do so, but only on a waiver basis. These rule changes will further the public interest by making short-spacing arrangements more accessible to applicants, thereby encouraging more efficient use of the radio spectrum.

EFFECTIVE DATE: September 20, 1991.

FOR FURTHER INFORMATION CONTACT: Karen Kincaid, Land Mobile and Microwave Division, Private Radio Bureau (202) 634–2443.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in PR Docket 90–34, FCC 91–229, adopted July 19, 1991 and released August 15, 1991. The full text of this Commission document is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of the Report and Order may also be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036, (202) 452–1422.

Summary of Report and Order

1. Pursuant § 90.621(b) of the Commission's Rules, systems licensed in the SMR Category are required to be located at least 70 miles from co-channel systems (except on certain mountain peaks in California and Washington, where the required separation is 105 miles). In the Commission's experience, however, it has been acceptable to permit applicants, by waiver, to become licensed for stations closer together than provided by the mileage separation standards if (1) the applicant has obtained the consent of all constructed and operational co-channel licensees within the applicable area or (2) the applicant can submit a technical showing demonstrating that, because of the geographical terrain of the area or the design of the system, the requested arrangement will allow existing stations protection equal to that afforded by a separation of 70 miles. The licensing of "short-spaced" applicants able to make either of these showings is beneficial because it maximizes spectrum efficiency and the provision of service to the public without impairing the operations of existing co-channel licensees.

2. In January of 1989, the American SMR Network Association, Inc. (ASNA) submitted a petition for rule making suggesting that the Commission incorporate into a rule the requirements for short-spaced applications based on the consent of co-channel licensees, thereby eliminating the need to process requests of this nature by waiver. In February of 1990, the Commission issued a Notice of Proposed Rule Making 55 FR 8966, March 9, 1990 proposing to adopt such a rule and make it applicable to all channels in the SMR Category. The Commission subsequently expanded the scope of this proposal and issued a Further Notice of Proposed Rule Making 56 FR 7635, February 25, 1991 soliciting commenters' views on a plan also to dispense with the need for a waiver of § 90.621(b) for those short-spaced applications based on a technical showing of non-interference.

3. After carefully reviewing the record, including the comments and reply comments filed in response to the Notice and the Further Notice, the Commission amended its rules to codify the consensual short-spacing proposal. In addition, the Commission adopted new rules codifying a table based on a non-overlap of the 40/22 dBu service and interference contours that reflects the permissible proximity between the stations of applicants and existing co-channel licensees whose systems will be separated by less than 113 km (70 miles). Applicants whose proposed systems comply with the terms of the table will not be required to procure a waiver. Applicants wishing to demonstrate the 40/30 dBu showing may still attempt to do so, but only on a waiver basis.

List of Subjects in 47 CFR Part 90

Specialized mobile radio service, Radio.

Rule Changes

Part 90 of chapter I of title 47 of the Code of Federal Regulations is amended as follows:

1. The authority citation for part 90 continues to read as follows:

Authority: Sections 4, 303, 331 48 Stat., as amended, 1066, 1082, 47 U.S.C. § 154, 303, and 332 unless otherwise noted.

2. 47 CFR 90.621 is amended by revising paragraphs (b) introductory text, (b)(1) and the first sentence of (b)(3), and by adding new paragraphs (b)(4) and (b)(5) to read as follows:

§ 90.621 Selection and assignment of frequencies.

* * * * *

(b) Systems authorized on frequencies in the SMRS Category will be afforded protection solely on the basis of fixed mileage separation criteria. Only co-channel interference between base station operations will be taken into consideration. Adjacent channel and other types of possible interference will not be taken into account. The ordinary separation between co-channel systems will be 113 km (70 miles) with the following exceptions:

(1) No trunked system will be less than 169 km (105 miles) distant from co-channel trunked systems authorized 1 kw ERP on any of the following mountain top sites: Santiago Peak, Sierra Peak, Mount Lukens, Mount Wilson (California).

* * * * *

(3) SMR trunked systems located in the State of Washington at the following locations shall be separated from co-

channel systems by a minimum of 169 km (105 miles). * * *

* * * * *

(4) The following table indicates permissible distances between co-channel systems separated by less than 113 km (70 miles). Applicants seeking to be licensed for systems located in distances less than those prescribed in the table are required to secure a waiver and to file with their license application a certificate of service indicating that, concurrent with the filing of the application with the Commission, all co-channel licensees within the applicable area were served with a copy of the application and all attachments thereto.

DISTANCE (KM) OF PROPOSED FACILITY FROM EXISTING FACILITY [1] [2]

PROPOSED FACILITY*

HAAT		ERP (watts)						
(m)	(feet)	1000	800	600	400	200	100	50
30.5	100	108	107	102	95	87	80	80
61	200	113	111	106	103	95	89	82
91.5	300	113	113	113	108	98	95	89
122	400	113	113	113	113	105	100	92
152.5	500	113	113	113	113	109	102	97
183	600	113	113	113	113	113	104	98
213.5	700	113	113	113	113	113	106	100
244	800	113	113	113	113	113	108	104
274.5	900	113	113	113	113	113	110	106
305	1000	113	113	113	113	113	112	108

*Applicants whose exact ERP and HAAT are not reflected in the table must use the next highest figure shown. Distances shown are in kilometers.

[1] Separations for trunked systems on Santiago Peak, Sierra Peak, Mount Lukas, and Mount Wilson (California) and the locations in the State of Washington listed in 47 CFR 90.621(b)(3) are 56 km (35 miles) greater than those indicated in the table above. In the event of a conflict between this table and 47 CFR 90.621(b)(2)(ii), the latter will control.

[2] The distances shown are based on a non-overlap of the 22 dBu interference contour of the proposed station with the 40 dBu service contour of the existing station(s). No consideration has been given between the 40 dBu service contour of the proposed station and the 22 dBu interference contour of existing station(s).

(5) The separation between co-channel systems may be less than the separations defined above if an applicant submits with its application letters of concurrence indicating that the applicant and each co-channel licensee within the specified separation agree to accept any interference resulting from the reduced separation between their systems. Each letter from a co-channel licensee must certify that the system of the concurring licensee is constructed and fully operational. The applicant must also submit with its application a certificate of service indicating that all concurring co-channel licensees have been served with an actual copy of the application.

* * * * *

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91-19920 Filed 8-20-91; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 90

[DA 91-962]

Licensing of Channels in the 821-824/866-869 MHz Bands in the U.S./Mexico Border Area

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order modifies part 90 to permit public safety and special emergency entities to apply for licenses to operate radio systems on channels in the 821-824 MHz and 866-869 MHz bands within 110 km (68.4 miles) of the Mexican border.

EFFECTIVE DATE: August 21, 1991.

FOR FURTHER INFORMATION CONTACT: Elizabeth Woolford, Policy and Planning Branch, Land Mobile and Microwave Division, Private Radio Bureau, 202-632-6497.

SUPPLEMENTARY INFORMATION:

Order

By the Chief, Private Radio Bureau:

1. On July 24, 1986, the Commission allocated six megahertz of spectrum in the 821-824 MHz and 866-869 MHz bands for use exclusively in the Public Safety and Special Emergency Radio Services.[1] The Commission delineated service rules for these six megahertz of spectrum in a subsequent Report and Order.[2] That Report and Order, however, did not provide for use of the 821-824/866-869 MHz bands within 110 km (68.4 miles) of the Mexican border, pending agreement with Mexico.

2. On July 2, 1991, the Federal Communications Commission of the United States of America and the Direccion General De Politicas Y Normas De Communicaciones of the United Mexican States signed a Memorandum of Understanding (MOU) that governs use of the 821-824/866-869 MHz bands within 110 km (68.4 miles) of the U.S./Mexican border. The MOU specifies the channels that will be available for licensing by each administration within the border area. This Order modifies subpart S of part 90, 47 CFR, part 90, to conform the Rules to the MOU and to permit licensing of radio systems in the Mexican border area.

3. The 821-824/866-869 MHz Public Safety channels are available for licensing in the Mexican border zone on publication of this Order in the **Federal Register**. Such licensing must conform with Regional Public Safety Plans that have been accepted by the Commission.

4. These rule changes will facilitate the construction of additional Private Land Mobile Radio stations in the Mexican border area. This should result in improved mobile communication service to the public safety community without adversely affecting any party. As this Order does not impose new rules on licensees that would adversely affect their substantive rights, we find that notice and comment procedures are neither necessary nor appropriate.[3] To

[1] Report and Order, Gen. Docket Nos. 84-1231, 84-1233, and 84-1234, 61 RR2d 165 (1986).

[2] In the Matter of Development and Implementation of a Public Safety National Plan and Amendment of part 90 to Establish Service Rules and Technical Standards for Use of the 821-824/866-869 MHz Bands by the Public Safety Services, Report and Order, Gen. Docket No. 87-112, 3 FCC Rcd 905 (1988).

[3] *See* 5 U.S.C. 553(b)(3)(B).

initiate a notice and comment procedure to make these additional channels available for licensing in the Mexican border area would significantly delay the use of these channels without any countervailing public interest benefit. Further, because the rule changes relieve a restriction, we also conclude that these changes should become effective immediately upon publication in the **Federal Register.**[4]

5. Therefore, effective August 21, 1991, part 90 of the Commission's Rules is amended as indicated below. This is based on authority contained in sections 4(i) and 303 of the Communications Act, as amended, 47 U.S.C. 154(i) and 303, section 0.331(a)(1) of the Commission's Rules, 47 CFR 0.331(a)(1), and 5 U.S.C. 553(b)(3)(B) and (d)(1).

List of Subjects in 47 CFR Part 90

Public safety, Special emergency, Land mobile, Mexico, Radio.

Federal Communications Commission.

Ralph A. Haller,

Chief, Private Radio Bureau.

Rule Changes

Part 90 of chapter I of title 47 of the Code of Federal Regulations is amended as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. The authority citation for part 90 continues to read as follows:

Authority: Sections 4, 303, 331, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303, and 332, unless otherwise noted.

Subpart S—Regulations Governing Licensing and Use of Frequencies in the 806–824, 851–869, 896–901, and 935–940 MHz Bands

2. Section 90.601 is revised to read as follows:

[4] *See* 5 U.S.C. 553(d)(1).

§ 90.601 Scope.

This subpart sets out the regulations governing the licensing and operations of all systems operating in the 806–824/851–869 MHz and 896–901/935–940 MHz bands. It includes eligibility requirements, application procedures, operational, and technical standards for stations licensing in these bands. The rules in this subpart are to be read in conjunction with the applicable requirements contained elsewhere in this part; however, in case of conflict, the provisions of this subpart shall govern with respect to licensing and operation in these frequency bands.

3. Section 90.619 is amended by revising paragraphs (a), and (a)(1), redesignating paragraphs (a)(2), (a)(3) and (a)(4) as paragraphs (a)(3), (a)(4) and (a)(5), respectively, adding new paragraph (a)(2), revising the title and caption for table 1 of paragraph (a)(1), and adding new tables 1B, and 1C of paragraph (a)(2), to read as follows:

§ 90.619 Frequencies available for use in the U.S./Mexico and U.S./Canada border areas.

(a) U.S./Mexico border area. The channels listed in tables 1A, 2, 3, and 4 are offset 12.5 kHz lower in frequency than those specified in § 90.613. The Channel 201 mobile frequency will be 811.000 MHz, followed by Channel 202 at 811.025 MHz and proceeding with uniform 25 kHz channeling to Channel 400 at 815.975 MHz. Base station frequencies will be 45 MHz higher in frequency. These channels are available for assignment for conventional or trunked systems only in areas 110 kilometers (68.4 miles) or less from the U.S./Mexico border. Stations located on Mt. Lemmon, serving the Tucson, AZ area, shall only be authorized offset frequencies.

(1) Table 1A lists the channels in the 806–821/851–866 MHz band that are available for assignment to eligible applicants in the Public Safety Category (consisting of the Local Government, Police, Fire, Highway Maintenance, Forestry-Conservation, and Special Emergency Radio Services). Specialized Mobile Radio Systems (SMRS) will not be authorized in this category. These channels are available for intercategory sharing as indicated in § 90.621(g).

Table 1A—United States/Mexico Border Area, Public Safety Category 806–821/851–866 MHz Band (85 Channels):

* * * * *

(2) Certain channels in the 821–824/866–869 MHz band are also available to eligible applicants in the Public Safety Category in areas within 110 kilometers (68.4 miles) of the U.S./Mexican border. These channels will be assigned according to the policies defined in the Report and Order of Gen. Docket No. 87–112 (See §§ 90.16 and 90.34). The following channels are available only for mutual aid purposes as defined in Gen. Docket No. 87–112: Channels 601, 639, 677, 715, and 753. The specific channels that are available for licensing in this band within 110 kilometers (68.4 miles) of the Mexican border are listed in table 1B, and are subject to Effective Radiated Power (ERP) and Antenna Height limitations as indicated in table 1C. In addition, all channels designated for use within 110 kilometers (68.4 miles) of the Mexican border if the maximum power flux density (PFD) of the station's transmitted signal at any point at or beyond the border does not exceed −107 dBW/m². The spreading loss shall be calculated using the free space formula taking into account any antenna discrimination in the direction of the border. Authorizations for stations using channels allotted primarily to Mexico will be secondary to Mexican operations and conditioned to require that licensees take immediate action to eliminate any harmful interference resulting from the station's transmitted signal exceeding −107 dBW/m².

TABLE 1B—UNITED STATES/MEXICO BORDER AREA, PUBLIC SAFETY CATEGORY 821–824/866–869 MHz BAND (107 CHANNELS)

Channel	Base frequency	Mobile frequency	Country
601	866.0125	821.0125	Both countries.
	866.0250	821.0250	Not available.
602	866.0375	821.0375	U.S.
603	866.0500	821.0500	U.S.
604	866.0625	821.0625	U.S.
605	866.0750	821.0750	U.S.
606	866.0875	821.0875	U.S.
607	866.1000	821.1000	U.S.
608	866.1125	821.1125	U.S.
609	866.1250	821.1250	U.S.
610	866.1375	821.1375	U.S.
611	866.1500	821.1500	Guard channel.

TABLE 1B—UNITED STATES/MEXICO BORDER AREA, PUBLIC SAFETY CATEGORY 821–824/866–869 MHz BAND (107 CHANNELS)—Continued

Channel	Base frequency	Mobile frequency	Country
612	866.1625	821.1625	Mexico.
613	866.1750	821.1750	Mexico.
614	866.1875	821.1875	Mexico.
615	866.2000	821.2000	Mexico.
616	866.2125	821.2125	Mexico.
617	866.2250	821.2250	Mexico.
618	866.2375	821.2375	Mexico.
619	866.2500	821.2500	Mexico.
620	866.2625	821.2625	Mexico.
621	866.2750	821.2750	Mexico.
622	866.2875	821.2875	Mexico.
623	866.3000	821.3000	Mexico.
624	866.3125	821.3125	Mexico.
625	866.3250	821.3250	Mexico.
626	866.3375	821.3375	Mexico.
627	866.3500	821.3500	Mexico.
628	866.3625	821.3625	Mexico.
629	866.3750	821.3750	Guard channel.
630	866.3875	821.3875	U.S.
631	866.4000	821.4000	U.S.
632	866.4125	821.4125	U.S.
633	866.4250	821.4250	U.S.
634	866.4375	821.4375	U.S.
635	866.4500	821.4500	U.S.
636	866.4625	821.4625	U.S.
637	866.4750	821.4750	U.S.
638	866.4875	821.4875	U.S.
	866.5000	821.5000	Not available.
639	866.5125	821.5125	Both countries.
	866.5250	821.5250	Not available.
640	866.5375	821.5375	U.S.
641	866.5500	821.5500	U.S.
642	866.5625	821.5625	U.S.
643	866.5750	821.5750	U.S.
644	866.5875	821.5875	U.S.
645	866.6000	821.6000	U.S.
646	866.6125	821.6125	U.S.
647	866.6250	821.6250	U.S.
648	866.6375	821.6375	U.S.
649	866.6500	821.6500	Guard channel.
650	866.6625	821.6625	Mexico.
651	866.6750	821.6750	Mexico.
652	866.6875	821.6875	Mexico.
653	866.7000	821.7000	Mexico.
654	866.7125	821.7125	Mexico.
655	866.7250	821.7250	Mexico.
656	866.7375	821.7375	Mexico.
657	866.7500	821.7500	Mexico.
658	866.7625	821.7625	Mexico.
659	866.7750	821.7750	Mexico.
660	866.7875	821.7875	Mexico.
661	866.8000	821.8000	Mexico.
662	866.8125	821.8125	Mexico.
663	866.8250	821.8250	Mexico.
664	866.8375	821.8375	Mexico.
665	866.8500	821.8500	Mexico.
666	866.8625	821.8625	Mexico.
667	866.8750	821.8750	Guard channel.
668	866.8875	821.8875	U.S.
669	866.9000	821.9000	U.S.
670	866.9125	821.9125	U.S.
671	866.9250	821.9250	U.S.
672	866.9375	821.9375	U.S.
673	866.9500	821.9500	U.S.
674	866.9625	821.9625	U.S.
675	866.9750	821.9750	U.S.
676	866.9875	821.9875	U.S.
	867.0000	822.0000	Not available.
677	867.0125	822.0125	Both countries.
	867.0250	822.0250	Not available.
678	867.0375	822.0375	U.S.
679	867.0500	822.0500	U.S.
680	867.0625	822.0625	U.S.
681	867.0750	822.0750	U.S.
682	867.0875	822.0875	U.S.
683	867.1000	822.1000	U.S.
684	867.1125	822.1125	U.S.

TABLE 1B—UNITED STATES/MEXICO BORDER AREA, PUBLIC SAFETY CATEGORY 821–824/866–869 MHZ BAND (107 CHANNELS)—Continued

Channel	Base frequency	Mobile frequency	Country
685	867.1250	822.1250	U.S.
686	867.1375	822.1375	U.S.
687	867.1500	822.1500	Guard channel.
688	867.1625	822.1625	Mexico.
689	867.1750	822.1750	Mexico.
690	867.1875	822.1875	Mexico.
691	867.2000	822.2000	Mexico.
692	867.2125	822.2125	Mexico.
693	867.2250	822.2250	Mexico.
694	867.2375	822.2375	Mexico.
695	867.2500	822.2500	Mexico.
696	867.2625	822.2625	Mexico.
697	867.2750	822.2750	Mexico.
698	867.2875	822.2875	Mexico.
699	867.3000	822.3000	Mexico.
700	867.3125	822.3125	Mexico.
701	867.3250	822.3250	Mexico.
702	867.3375	822.3375	Mexico.
703	867.3500	822.3500	Mexico.
704	867.3625	822.3625	Mexico.
705	867.3750	822.3750	Guard channel.
706	867.3875	822.3875	U.S.
707	867.4000	822.4000	U.S.
708	867.4125	822.4125	U.S.
709	867.4250	822.4250	U.S.
710	867.4375	822.4375	U.S.
711	867.4500	822.4500	U.S.
712	867.4625	822.4625	U.S.
713	867.4750	822.4750	U.S.
714	867.4875	822.4875	U.S.
	867.5000	822.5000	Not available.
715	867.5125	822.5125	Both countries.
	867.5250	822.5250	Not available.
716	867.5375	822.5375	U.S.
717	867.5500	822.5500	U.S.
718	867.5625	822.5625	U.S.
719	867.5750	822.5750	U.S.
720	867.5875	822.5875	U.S.
721	867.6000	822.6000	U.S.
722	867.6125	822.6125	U.S.
723	867.6250	822.6250	U.S.
724	867.6375	822.6375	U.S.
725	867.6500	822.6500	Guard channel.
726	867.6625	822.6625	Mexico.
727	867.6750	822.6750	Mexico.
728	867.6875	822.6875	Mexico.
729	867.7000	822.7000	Mexico.
730	867.7125	822.7125	Mexico.
731	867.7250	822.7250	Mexico.
732	867.7375	822.7375	Mexico.
733	867.7500	822.7500	Mexico.
734	867.7625	822.7625	Mexico.
735	867.7750	822.7750	Mexico.
736	867.7875	822.7875	Mexico.
737	867.8000	822.8000	Mexico.
738	867.8125	822.8125	Mexico.
739	867.8250	822.8250	Mexico.
740	867.8375	822.8375	Mexico.
741	867.8500	822.8500	Mexico.
742	867.8625	822.8625	Guard channel.
743	867.8750	822.8750	U.S.
744	867.8875	822.8875	U.S.
745	867.9000	822.9000	U.S.
746	867.9125	822.9125	U.S.
747	867.9250	822.9250	U.S.
748	867.9375	822.9375	U.S.
749	867.9500	822.9500	U.S.
750	867.9625	822.9625	U.S.
751	867.9750	822.9750	U.S.
752	867.9875	822.9875	U.S.
	868.0000	823.0000	Not available.
753	868.0125	823.0125	Both countries.
	868.0250	823.0250	Not available.
754	868.0375	823.0375	U.S.
755	868.0500	823.0500	U.S.
756	868.0625	823.0625	U.S.
757	868.0750	823.0750	U.S.

TABLE 1B—UNITED STATES/MEXICO BORDER AREA, PUBLIC SAFETY CATEGORY 821–824/866–869 MHz BAND (107 CHANNELS)—Continued

Channel	Base frequency	Mobile frequency	Country
758	868.0875	823.0875	U.S.
759	868.1000	823.1000	U.S.
760	868.1125	823.1125	U.S.
761	868.1250	823.1250	U.S.
762	868.1375	823.1375	U.S.
763	868.1500	823.1500	Guard channel.
764	868.1625	823.1625	Mexico.
765	868.1750	823.1750	Mexico.
766	868.1875	823.1875	Mexico.
767	868.2000	823.2000	Mexico.
768	868.2125	823.2125	Mexico.
769	868.2250	823.2250	Mexico.
770	868.2375	823.2375	Mexico.
771	868.2500	823.2500	Mexico.
772	868.2625	823.2625	Mexico.
773	868.2750	823.2750	Mexico.
774	868.2875	823.2875	Mexico.
775	868.3000	823.3000	Mexico.
776	868.3125	823.3125	Mexico.
777	868.3250	823.3250	Mexico.
778	868.3375	823.3375	Mexico.
779	868.3500	823.3500	Mexico.
780	868.3625	823.3625	Guard channel.
781	868.3750	823.3750	U.S.
782	868.3875	823.3875	U.S.
783	868.4000	823.4000	U.S.
784	868.4125	823.4125	U.S.
785	868.4250	823.4250	U.S.
786	868.4375	823.4375	U.S.
787	868.4500	823.4500	U.S.
788	868.4625	823.4625	U.S.
789	868.4750	823.4750	U.S.
790	868.4875	823.4875	U.S.
791	868.5000	823.5000	U.S.
792	868.5125	823.5125	U.S.
793	868.5250	823.5250	U.S.
794	868.5375	823.5375	U.S.
795	868.5500	823.5500	U.S.
796	868.5625	823.5625	U.S.
797	868.5750	823.5750	U.S.
798	868.5875	823.5875	U.S.
799	868.6000	823.6000	U.S.
800	868.6125	823.6125	Guard channel.
801	868.6250	823.6250	Mexico.
802	868.6375	823.6375	Mexico.
803	868.6500	823.6500	Mexico.
804	868.6625	823.6625	Mexico.
805	868.6750	823.6750	Mexico.
806	868.6875	823.6875	Mexico.
807	868.7000	823.7000	Mexico.
808	868.7125	823.7125	Mexico.
809	868.7250	823.7250	Mexico.
810	868.7375	823.7375	Mexico.
811	868.7500	823.7500	Mexico.
812	868.7625	823.7625	Mexico.
813	868.7750	823.7750	Mexico.
814	868.7875	823.7875	Mexico.
815	868.8000	823.8000	Mexico.
816	868.8125	823.8125	Mexico.
817	868.8250	823.8250	Mexico.
818	868.8375	823.8375	Mexico.
819	868.8500	823.8500	Mexico.
820	868.8625	823.8625	Mexico.
821	868.8750	823.8750	Mexico.
822	868.8875	823.8875	Mexico.
823	868.9000	823.9000	Mexico.
824	868.9125	823.9125	Guard channel.
825	868.9250	823.9250	U.S.
826	868.9375	823.9375	U.S.
827	868.9500	823.9500	U.S.
828	868.9625	823.9625	U.S.
829	868.9750	823.9750	U.S.
830	868.9875	823.9875	U.S.

TABLE 1C.—LIMITS OF EFFECTIVE RADIATED POWER (ERP) CORRESPONDING TO ANTENNA HEIGHTS OF BASE STATIONS IN THE 821–824/866–869 MHZ BAND WITHIN 110 KILOMETERS (68.4 MILES) OF THE MEXICAN BORDER

Antenna height above mean sea level		ERP
Meters	Feet	Watts (maximum)
0–503	0–1650	500
504–609	1651–2000	350
610–762	2001–2500	200
763–914	2501–3000	140
915–1066	3001–3500	100
1067–1219	3501–4000	75
1220–1371	4001–4500	70
1372–1523	4501–5000	65
Above 1523	Above 5000	5

* * * * *

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB59

Endangered and Threatened Wildlife and Plants: Establishment of a Nonessential Experimental Population of Black-Footed Ferrets in Southeastern Wyoming

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service), in cooperation with the Wyoming Game and Fish Department, will reintroduce captive-raised black-footed ferrets (*Mustela nigripes*) into the 5,354 km² (2,068 square miles) Shirley Basin/Medicine Bow Management Area in southeastern Wyoming. A backup reintroduction site (Meeteetse Management Area) in northwestern Wyoming also is being readied. Provided conditions are acceptable, 20 or more excess captive-raised ferrets will be released in 1991 and 50 or more excess ferrets will be released annually thereafter for 2 to 4 years or until a wild population is established. Releases will test ferrets reintroduction techniques and, if fully successful, will establish a wild population within 5 years. The Shirley Basin/Medicine Bow population (or the Meeteetse population, if necessary) is designated a nonessential experimental population in accordance with section 10(j) of the Endangered Species Act of 1973, as amended. This population will be managed in accordance with the provisions of the accompanying special rule.

EFFECTIVE DATE: August 21, 1991.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, during normal business hours at the Service's:

—Regional Office, Division of Endangered Species and Environmental Contaminants, 134 Union Boulevard, Lakewood, Colorado (303/236–7398 or FTS 776–7398), and

—Wyoming Fish and Wildlife Enhancement Office, 2617 East Lincolnway, suite A, Cheyenne, Wyoming (307/772–2374 or FTS 328–2374).

FOR FURTHER INFORMATION CONTACT: Mr. Larry Shanks (303/236–7398 or FTS 776–7398) at the Colorado address or Dr. Stephen Torbit (307/772–2374 or FTS 328–2374) at the Wyoming address above.

SUPPLEMENTARY INFORMATION:

Background

1. Legislative

Among the significant changes made in the Endangered Species Act by the Amendments of 1982, Public Law No. 97–304, was the creation of a new section 10(j) which provides for the designation of specific populations of listed species as "experimental populations." Under previous authorities in the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), the U.S. Fish and Wildlife Service (Service) was permitted to reintroduce populations into unoccupied portions of a listed species' historical range when it would foster the conservation and recovery of the species. However, local opposition to reintroduction efforts, stemming from concerns about the restrictions and prohibitions on Federal and private activities contained in sections 7 and 9 of the Act, severely handicapped the effectiveness of this as a management tool.

Under section 10(j), reintroduced populations established outside the current range but within the species' historical range may be designated, at the discretion of the Service, as "experimental." This designation increases the Service's flexibility to manage reintroduced populations of endangered species because experimental populations may be treated as threatened species. The Service has more discretion in devising management programs for threatened species than for endangered species.

Additional management flexibility is possible if the experimental population is found to be "nonessential" to the continued existence of the species in question. Nonessential experimental populations located outside National Wildlife Refuge or National Park lands are treated, for purposes of section 7 of the Act, as if they were only proposed for listing. Only two provisions of section 7 would apply: Section 7(a)(1), which requires all Federal Agencies to establish conservation programs; and section 7(a)(4), which requires Federal Agencies to confer informally with the Service on actions that are likely to jeopardize the continued existence of the species. Section 7(a)(2) of the Act, which requires Federal Agencies to insure that their activities are not likely to jeopardize the continued existence of a listed species, would not apply.

Note: Activities undertaken on private lands are not affected by section 7 of the Act unless they are funded, authorized, or carried out by a Federal Agency.

Individual animals comprising designated experimental population can be removed from an existing source or donor population only after it has been determined that their removal is not likely to jeopardize the continued existence of the species. Moreover, removal must be done under a permit issued in accordance with the requirements in 50 CFR 17.22.

2. Biological

The species addressed by this rulemaking is the black-footed ferret (*Mustela nigripes*), an endangered carnivore with a black facemask, black legs, and a black-tipped tail. It is nearly 2 feet long and weighs up to 2.5 pounds. The only ferret native to North America, it may be extinct in the wild.

Though the black-footed ferret was found over a wide area historically, it is difficult to make a conclusive statement on its historical abundance due to its nocturnal and secretive habits. The black-footed ferret's historical range, based on specimens collected since its identification, includes 12 States (Arizona, Colorado, Kansas, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, and Wyoming) and the Canadian Provinces of Alberta and Saskatchewan. There is prehistoric evidence of this ferret from Yukon Territory, Canada, to New Mexico and Texas (Anderson et al. 1986). Although there are no specimen records for black-footed ferrets from Mexico, prairie dogs (*Cynomys* spp.) are established in Chihuahua (Anderson 1972) and were present as far back as

the Late Pleistocene-Holocene Age (Messing 1986). Because black-footed ferrets depend almost exclusively on prairie dogs for food and shelter (Henderson et al. 1969, Forrest et al. 1985), and ferret range is coincident with that of prairie dogs (Anderson et al. 1986) with no documentation of black-footed ferrets breeding outside of prairie dog colonies, black-footed ferrets may have been historically endemic to northern Mexico.

Black-footed ferrets prey on prairie dogs primarily and use their burrows for shelter and denning. There are specimen records of black-footed ferrets from ranges of three species of prairie dogs: black-tailed prairie dogs (*Cynomys ludovicianus*), white-tailed prairie dogs (*Cynomys leucurus*), and Gunnison's prairie dogs (*Cynomys gunnisoni*) (Anderson et al. 1986).

Widespread poisoning of prairie dogs and agricultural cultivation of their habitat drastically reduced prairie dog abundance and distribution in the last century. Sylvatic plague, which may have been introduced to North America around the turn of the century, also decimated prairie dogs, particularly in the southern portions of their range. The severe decline of prairie dogs resulted in a concomitant and near-fatal decline in black-footed ferrets, though the latter's decline may be partially attributable to other factors, such as secondary poisoning from prairie dog toxicants (e.g., strychnine) or high susceptibility to canine distemper. The black-footed ferret was listed as an endangered species on March 11, 1967.

In 1964, a wild population was discovered in South Dakota and studied intensively, but this population became extinct in 1974, with its last member dying in captivity in 1979. Afterwards, some believed that the species was probably extinct until another wild population was discovered near Meeteetse, Wyoming, in 1981. The Meeteetse population underwent a severe decline in 1985–1986 due to canine distemper, which is fatal to infected ferrets. Eighteen survivors were taken into captivity in 1986–1987 to prevent extinction and to serve as founder animals in a captive propagation program aimed at eventually reintroducing the species into the wild.

3. Recovery efforts

The national recovery objective in the recovery plan for this species (U.S. Fish and Wildlife Service 1988) is "To ensure immediate survival of the black-footed ferret by:

(1) Increasing the captive population of black-footed ferrets to a census size of 200 breeding adults by 1991;

(2) Establishing a prebreeding census population of 1,500 free-ranging black-footed ferret breeding adults in 10 or more populations with no fewer than 30 breeding adults in any population by the year 2010; and

(3) Encourage the widest possible distribution of reintroduced black-footed ferret populations."

When this objective is achieved, the black-footed ferret will be downlisted to threatened, assuming the extinction rate of the established populations remains at or below the rate new populations are established for at least 5 years.

Led by the Wyoming Game and Fish Department (Department), cooperative efforts to breed and raise black-footed ferrets in captivity have been encouraging and successful. In 5 years, the captive population has increased from 18 to over 300 black-footed ferrets. In 1988, the single captive population was split into three separate captive subpopulations to avoid the possibility that a single catastrophic event could wipe out the entire known population. These subpopulations are located at the Department's Sybille facility in Wyoming; the Henry Doorly Zoo in Omaha, Nebraska; and the National Zoological Park's Conservation and Research Center in Front Royal, Virginia. Two additional captive subpopulations were established in 1990 (Louisville Zoological Garden in Louisville, Kentucky; Cheyenne Mountain Zoo in Colorado Springs, Colorado). Two more captive subpopulations are planned for the Phoenix Zoo in Phoenix, Arizona, and the Toronto Zoo in Toronto, Canada, at the end of 1991, making a total of seven captive subpopulations by the end of 1991.

Because a secure population of 200 breeding adults already has been achieved, ferret recovery efforts are now moving into the next phase—reintroduction into the wild.

4. Reintroduction Sites

a. Site Selection Process

The Service and State wildlife agencies in 11 western States are identifying potential ferret reintroduction sites within its historical range. As of this writing, potential reintroduction sites in Wyoming (two sites), Montana (one site), and South Dakota (one site) have been identified and compared. Other western States are still in the process of identifying and evaluating additional potential reintroduction sites. Sites are compared quantitatively and qualitatively and recommended for reintroduction scheduling by an interdisciplinary group assisting the Service known as the Black-footed Ferret Interstate Coordinating Committee.

The Department has a strong interest in reintroducing the ferret into the wild in Wyoming. A site near the town of Meeteetse in northwestern Wyoming and a site in the Shirley Basin/Medicine Bow (SB/MB) area in southeastern Wyoming were identified as the most promising sites in Wyoming for ferret reintroduction. Working together, the Department and the Service have been evaluating these sites' biological suitability and working with affected landowners to develop mutually acceptable management plans for these sites.

Initially, the Meeteetse site was selected as the first reintroduction site because:

(1) It was the area most recently occupied;

(2) Efforts to maintain the habitat were ongoing and successful at the time of site selection;

(3) Most black-footed ferret data were obtained from the Meeteetse area, simplifying comparison of post-reintroduction and historical data; and

(4) Released animals may be best adapted to conditions in the Meeteetse area.

In 1988, the prairie dog population at the Meeteetse site was estimated to be capable of supporting 29 families of black-footed ferrets. In 1989, the prairie dog complex declined 52 percent, i.e., only 14 ferret families could be supported. In 1990, the site's carrying capacity remained at 14 ferret families. Because of this decline, the Meeteetse site no longer met one of the minimum requirements for reintroduction, i.e., the ferret habitat rating index (black-footed ferret carrying capacity) must be greater than 50 percent of the 1988 rating. It is entirely possible that prairie dogs at Meeteetse may not increase to or maintain themselves at acceptable population levels in the near future.

In September 1990, the Department and the Service met to decide whether to retain the Meeteetse site or to substitute the SB/MB site as the first reintroduction site. After much discussion, both parties agreed to plan for the SB/MB site as the highest priority site, with Meeteetse as a backup site.

The decision to use the SB/MB site as the first reintroduction site does not in any way imply that Meeteetse has been dismissed as a future reintroduction site. In fact, if the SB/MB site is determined

to be unacceptable using the minimum criteria for reintroduction specified in "A Cooperative Management Plan for Black-footed Ferrets—Shirley Basin/Medicine Bow, Wyoming" (Cooperative Management Plan (SB/MB)) (Shirley Basin/Medicine Bow Working Group 1991), then Meeteetse will serve as the backup reintroduction site, provided it is determined to be acceptable using the minimum criteria for reintroduction specified in a "Cooperative Management Plan for Black-footed Ferrets at Meeteetse" (Cooperative Management Plan (M)) (Black-footed Ferret Advisory Team 1990). If the Meeteetse site is not used in a backup capacity, then it will remain under consideration as a future reintroduction site provided biological conditions improve.

As noted previously, the only known population of black-footed ferrets is in captivity. The Service has not concluded that the species is extirpated in the wild, and requires black-footed ferret surveys to be performed if any action authorized, funded, or carried out by a Federal Agency may affect prairie dog colonies deemed capable of supporting ferrets. Numerous ferret surveys have been conducted in the SB/MB and Meeteetse areas and have not turned up any evidence of ferrets (Wyoming Game and Fish Department 1989, Shirley Basin/Medicine Bow Working Group 1991). To the best of our knowledge, any reintroduced population of ferrets at the SB/MB (or Meeteetse) site would be wholly separate and distinct from other populations of this species.

b. Shirley Basin/Medicine Bow Site

The SB/MB site was historically occupied by black-footed ferrets. The latest physical evidence that black-footed ferrets occupied the SB/MB area and southeastern Wyoming was a skull collected in 1979. The SB/MB reintroduction site encompasses 5,354 km ^{2} (2,068 square miles), of which 55 percent is private land, 37 percent is federally managed land, and 8 percent is State trust land. Except for the Shirley Mountains, the majority of the land area is actual or potential prairie dog habitat. Mapping conducted in 1990 indicates that 59,726 hectares (147,581 acres) of prairie dog towns exist at the SB/MB site, with the capability of supporting 142 black-footed ferret families (213 adult ferrets).

Reintroduction, habitat management, and intensive ferret management will occur in a specifically delineated area designated the "Shirley Basin/Medicine Bow Management Area." Specifics on the location and boundaries of the SB/MB Management Area are provided in the map accompanying the special rule. Current plans are to begin releasing ferrets into a subportion of the SB/MB Management Area considered best for release and initial management, known as a "Primary Management Zone" (PMZ). If reintroduction is successful, ferrets will eventually disperse from the PMZ into other portions of the SB/MB Management Area. The preferred release location is PMZ1 (Shirley Basin) in the northern half of the SB/MB Management Area. If major problems arise in PMZ1 prior to release (see below), ferrets will be released in PMZ2 (Medicine Bow) in the southern half of the SB/MB Management Area.

Ferrets will be released only if biological conditions are suitable and a management framework acceptable to the State, Service, and landowners/land managers in the area has been developed. Reintroduction in the SB/MB Management Area will be re-evaluated if one or more of the the following conditions occur:

(1) Failure to maintain at least one PMZ with a black-footed ferret habitat rating index of 26 (i.e., carrying capacity for 40 adult black-footed ferrets) or a strong indication that such will be the case within 5 years.

(2) Inability to formulate a management plan and environmental assessment acceptable to all landowners and agencies with jurisdiction in the Management Area.

(3) Failure to acquire "nonessential experimental population" designation for the site.

(4) A wild black-footed ferret population is discovered within the experimental population area.

(5) An active case of canine distemper is documented in any wild mammal inside the Management Area within 12 months prior to the scheduled reintroduction.

c. Meeteetse (Backup) Site

The Meeteetse site was the last known occupied habitat of the black-footed ferret. It encompasses 538 km ^{2} (208 square miles), of which 52 percent is private land, 28 percent is federally managed land, and 20 percent is State trust land. Roughly 9 percent of the site was occupied by prairie dogs in 1988.

The reintroduction and management area at Meeteetse is the "Meeteetse Management Area." Specifies on the location and boundaries of the Meeteetse Management Area are provided in "Location of Reintroduced Population." There is no need to designate a PMZ within the Meeteetse Management Area due to its small size.

The Meeteetse Management Area will be re-evaluated as a backup reintroduction site if one or more of the following conditions occur:

(1) The ferret habitat rating index is 50 percent or less than the 1988 index (i.e., 29 ferret families) or 1988 to 1991 trends strongly indicate that it will fall below 50 percent within 5 years following the start of reintroduction efforts.

(2) An active case of canine distemper is documented in any wild animal inside the Meeteetse Management area within 12 months prior to the scheduled reintroduction.

(3) Rejection of the Cooperative Management Plan (M) and future reintroduction plans by landowners, State, or Federal agencies with jurisdiction of black-footed ferret populations and habitat in the Meeteetse Management Area.

(4) Failure to obtain the designation of nonessential experimental population or other legal authorization that allows landowner concerns to be adequately addressed.

(5) A wild black-footed ferret is found within the experimental population area.

5. Reintroduction Protocol

In general, the reintroduction protocol will involve releasing 20 or more captive-raised ferrets in the first year of reintroduction, and 50 or more captive-raised ferrets annually thereafter for 2 to 4 years or until a wild population is established. Captive animals selected for release will be as genetically redundant as possible with the gene pool in the captive breeding population, hence, any loss of released animals is unlikely to have appreciable impacts on existing genetic diversity in the species. Moreover, because breeding ferrets in captivity is not a problem, any animals lost in the reintroduction effort could be replaced.

As currently envisioned, young-of-the-year ferrets approximately 14-weeks of age will be released in PMZ1 in September to October 1991, when wild young ferrets typically become independent of natal care and disperse. A "soft" release method will be used, involving a temporary release cage and nest box arrangement with artificial burrows to the outside. The release cage will be placed in or near a high density prairie dog town. As the experimental release proceeds, it may be advisable to surround each release cage with an electric fence to prevent damage by livestock or big game. Black-footed ferrets will be kept in the cage initially, and fed for approximately 10 days.

If they appear to be adapting well, an artificial burrow (which had been plugged) will be opened to the outside and the ferrets allowed free egress and

ingress. They will be supplied food as needed, and use of the cage until they adapt to life in the wild. Eventually, it is expected that all of the animals will learn to hunt on their own and disperse into the wild.

Released animals will be vaccinated against diseases, as appropriate, including canine distemper if an effective vaccine can be developed for ferret use. Preventative and, where necessary, corrective measures to reduce predation by coyotes, badgers, raptors, or other predators will be taken over the short term, without intent to continue over the long term. Habitat conditions will be monitored continually during the reintroduction effort. If the ferret habitant rating or trend of PMZ1 drops to unacceptable levels, ferrets will be released in and/or moved to PMZ2, another biologically suitable prairie dog complex in a non-PMZ area in the SB/MB Management Area, the Meeteetse Management Area, translocated to the next scheduled site, or returned to captivity. To the extent consistent with private landowners' needs to control nuisance prairie dogs and with other economic activities, cooperative measures will be taken to maintain overall prairie dog populations at or near 1990 levels in the SB/MB Management Area.

All black-footed ferrets released will be marked. Initially, all released ferrets will be radio-tagged; in later years, a sample of the released ferrets will be radio-tagged. Radio-tagged ferrets will be monitored.

It is unlikely that released ferrets or their offspring will emigrate outside of the SB/MB Management Area. The SB/MB Management Area is essentially a large island of excellent ferret habitant (i.e., prairie dog colonies) in southeastern Wyoming. The surrounding area is relatively devoid of prairie dog colonies and the eastern edge of the SB/MB Management Area has physical barriers to migration such as Pathfinder, Seminole, and Kortes Reservoirs and the North Platte River. The large size of the SB/MB Management Area, combined with the limited mobility of wild ferrets radio-tagged during 1982 to 1986 studies at Meeteetse (less than 7 km or 4.3 miles/night), makes it unlikely that ferrets will disperse outside of the SB/MB Management Area, given the significantly better colonization opportunities within its boundaries. Moreover, any ferrets that might disperse outside the SB/MB Management Area, but that stay within the experimental population area, may be used to establish or supplement ferret reintroduction sites elsewhere.

The detailed elements of the 1991 reintroduction protocol have been decided. Researchers have tested and will continue to test reintroduction techniques and investigate prerelease conditioning techniques that might improve survival of released captive-raised ferrets, e.g., testing the relatively efficacy of available canine distemper vaccines, investigating techniques to teach predator avoidance and develop needed hunting skills, etc.

The first experimental reintroduction design will be tested at the first reintroduction site and possibly modified at this and/or upcoming reintroduction sites. The first release will be limited by the number of captive ferrets available in excess of the captive population objectives. The 20 to 50 excess individuals expected to be released in 1991 are considered sufficient to begin testing release techniques and monitoring results.

Realistically, the Service and the Department expect high natural mortality (up to 90 percent) among the released ferrets in the first year of release, even with a soft release. Despite prerelease conditioning, captive-bred animals will be relatively naive in terms of avoiding predators, securing prey, and withstanding environmental rigors. Mortality is expected to be highest within the first month of release. A realistic goal for the first year would be to work toward enabling a few ferrets to survive at least 1 month after release, with perhaps 10 percent of the released animals surviving the winter.

The intensive studies conducted on the wild Meeteetse population during the 1982 to 1986 period will provide a natural baseline against which the reintroduction effort can be compared to determine how well the reintroduction experiments are proceeding. These baseline data will be supplemented with baseline biological and behavioral data taken in the 1960's and 1970's from the South Dakota population.

If successful, this effort is expected to result in the establishment of a free-ranging population of at least 40 black-footed ferret adults within the SB/MB (or Meeteetse) Management Area by a target date 1996. The Department and the Service will evaluate project progress annually. The biological status of the reintroduction effort at this site will be re-evaluated within the first 5 years to determine future management needs of the population. This 5-year evaluation will not include an evaluation to determine whether the nonessential experimental designation for the SB/MB population should be changed. It is envisioned that the "nonessential experimental" designation for the SB/MB population will not be changed unless the experiment is determined to be a failure (and this rulemaking is terminated) or until the species is determined to be recovered (and the species is delisted). Once recovery goals are met for delisting the species, a conservation plan(s) will be proposed to address delisting.

Status of Reintroduced Population

The SB/MB (or, if necessary, Meeteetse) population of black-footed ferrets is designated a nonessential experimental population according to the provisions of section 10(j) of the Act. The basis for this designation is explained below. The term "experimental population" will be discussed first, followed by an explanation of why this experimental population qualifies as "nonessential."

"Experimental population" means the reintroduced population will be treated as a threatened species rather than an endangered species. This designation enables the Service to develop special regulations for management of the population that are less restrictive than the mandatory prohibitions covering endangered species if more management flexibility is needed to make reintroduction compatible with current or planned human activities in the reintroduction area. Per section 4(d) of the Act, these special regulations must be "necessary and advisable" to provide for the conservation of the black-footed ferret.

"Nonessential" experimental populations are not essential to the continued existence of the species. For purposes of section 7 of the Act, they are treated as though they were only proposed for listing. The SB/MB experimental population qualifies as being nonessential to the continued existence of the black-footed ferret because:

1. For the time being, the captive population will be the primary species population. This population has been protected against the threat of extinction from a single catastrophic event through the planned splitting of the captive population into seven widely separated subpopulations by the end of 1991. Hence, loss of the experimental population will not jeopardize species' survival.

2. For the time being, the primary repository of genetic diversity for the species will be the 200 adult breeders in the captive population. Animals selected for reintroduction purposes will be as genetically redundant as possible with the captive population, hence any loss of

reintroduced animals in this experiment will not significantly impact the goal of preserving maximal genetic diversity in the species.

3. Any animals lost during the reintroduction attempt can be replaced readily through captive breeding, as demonstrated by the rapid increase in the captive population over the past 5 years. In 1991, 20 or more ferrets should be excess to the numbers needed to maintain the long-term viability and genetic variability and genetic variability of the captive population. After 1991, based on current population dynamics, 100 to 200 juvenile ferrets will eventually be produced each year in excess of numbers needed to maintain 200 breeding adults in captivity.

This reintroduction effort will be the first attempt to reintroduce the black-footed ferret back into the wild. The biological questions and logistical problems that must be addressed are daunting. Yet a reintroduction attempt must be made soon, before the captive population becomes overly adapted to captivity. Continued captivity increases the risk of losing important wild survival instincts and reduces the likelihood of successful reintroduction and recovery of the species. Furthermore, the continuing breeding success of the captive population will create problems in finding and funding adequate housing for captive ferrets in 1991 and beyond.

Fifty-five percent of the habitat in the SB/MB Management Area is privately managed. The nonessential experimental population designation will facilitate re-establishment of the species in the wild by easing landowner concerns about possible overly restrictive protective measures that might be taken. This designation is less restrictive than reintroducing ferrets as an endangered species population. The nonessential designation provides a more flexible management framework for protecting and recovering black-footed ferrets such that private landowners may continue their current lifestyles.

The first few attempts to reintroduce the black-footed ferret into the wild will place great emphasis on developing and improving reintroduction techniques. This applied research will lay the groundwork for a general reintroduction and management protocol for re-establishing ferrets in the wild throughout their historical range. An inability to establish the first population in the first few years of effort will not be considered to appreciably reduce the likelihood of the survival of the species in the wild because the knowledge gained will be used to improve reintroduction techniques, thereby enhancing the probability of successful reintroductions later on at this and/or future sites.

Assuming successful reintroduction techniques are developed and refined in the SB/MB Management Area and subsequent reintroduction sites, then most, if not all, future reintroductions will be more in the nature of recovery (as opposed to research) efforts aimed at permanently establishing new populations at suitable sites in the wild. As successful wild populations are established, they will provide wild-raised ferrets that can be used to supplement captive releases at other sites. As additional wild populations become established, the captive population will diminish in relative importance and wild populations will increase in relative importance in the overall species recovery effort.

Depending on the progress made in overall species recovery and the unique circumstances surrounding each potential reintroduction site, the Service will evaluate each potential reintroduction site to determine whether it should be proposed as "nonessential experimental," "essential experimental" (i.e., an experimental population that is essential to the continued existence of a listed species), or "endangered" (i.e., a population under all the protections of the Act). The Service believes that at least 10 or more wild populations are needed to insure the immediate survival and downlisting of this species to threatened status (U.S. Fish and Wildlife Service 1988).

Location of Reintroduction Population

Under section 10(j) of the Act, an experimental population must be wholly separate geographically from nonexperimental populations of the same species. Since the last known member of the original Meeteetse ferret population was captured for inclusion in the captive population in 1987, no other ferrets have been confirmed anywhere in the wild. There is a remote chance that ferrets may still exist in the wild. Thousands of hours of ferret survey work have been conducted in the general areas of the proposed of the proposed reintroduction and backup sites in Wyoming and no wild ferrets have been found. Based on these data, it is extremely unlikely that the reintroduced population will overlap with any wild population of the species.

1. Shirley Basin/Medicine Bow Population

The SB/MB Management Area is a large, irregularly shaped area between the cities of Casper and Laramie, Wyoming. The SB/MB Management Area lies primarily in the northeast corner of Carbon County, extending northward into Natrona County and eastward into Albany County.

Managed so that ferret habitat is maintained in a manner compatible with landowner needs, the SB/MB Management Area will serve as the core recovery area for black-footed ferrets in southeastern Wyoming. The proposed geographic boundaries of the nonessential experimental population would extend beyond the SB/MB Management Area to encompass that portion of Wyoming south and east of the North Platte River in Natrona, Carbon, and Albany Counties.

There have been 350 black-footed ferret surveys (3,452 survey hours) conducted on lands occupied by prairie dogs in and near the SB/MB Management Are (Shirley Basin/ Medicine Bow Working Group 1991, table 2). Based on this survey work, it is reasonable to infer that wild black-footed ferrets probably no longer exist in the area south and east of the North Patte River in Natrona, Carbon, and Albany Counties. With this final rulemaking, the Service administratively determines that wild ferrets no longer exist in the experimental population area prior to this release, barring strong evidence to the contrary (such as a wild ferret being found in the experimental population area before the first breeding season).

The SB/MB Management Area will serve as the core recovery area for the SB/MB experimental population, i.e., efforts to maintain ferret and prairie dog populations will focus on the SB/MB Management Area. The area surrounding the SB/MB Management Area is essentially a low-intensity management area that serves more as a buffer zone than a recovery area. Because the best ferret habitat is in the SB/MB Management Area, ferrets will most likely concentrate and reproduce in this area.

Ferrets are planned to be reintroduced into a PMZ in the SB/MB Management Area. Prior to the first breeding season following the first releases, all marked ferrets in the wild in the experimental population area will comprise the nonessential experimental population. During and after the first breeding season, all ferrets in the wild in the experimental population area will comprise the experimental population. Reintroduced ferrets are expected to remain in the SB/MB Management Area for the reasons explained earlier. In the unlikely event that a ferret leaves the SB/MB Management Area but stays within the boundaries of the

experimental population area, the Service and the Department will have the authority to capture the emigrant and place it back into the SB/MB Management Area, translocate it to another reintroduction site, or return it to captivity. If a ferret is found on private land outside the SB/MB Management Area but within the experimental population area, the landowner will be consulted, and the ferret removed if the landowner requests it. If the private landowner has no objection to the ferret remaining on his/her land, then it would be allowed to remain.

There are some significant movement barriers within and bordering the area designated from the nonessential experimental population, such as Seminoe, Pathfinder, and Kortes Reservoirs, the Shirley Mountains, the North Platte River, the Laramie Range, and most importantly, the paucity of significant prairie dog colonies outside the SB/MB Management Area. These movement barriers will impede ferret dispersal within and outside the experimental population area.

Because all ferrets released in the SB/MB Management Area will be marked, in the unlikely event that an unmarked ferret(s) is found in the experimental population area before the first breeding season (February-May 1992) following the Fall 1991 release of ferrets, this will trigger a concerted effort to find the location of the source wild population. This search will determine whether a wild population exists and, if validated, authorities will take appropriate cooperative action for its conservation In addition, the impact of the ongoing establishment of an experimental population in the SB/MB Management Area on this hypothetical newly found population will be evaluated, and appropriate action taken.

2. Meeteetse (Backup) Population

If insurmountable problems arise at the SB/MB site, ferrets will be reintroduced into the Meeteetse Management Area, provided the minimum criteria for reintroducing ferrets into the Meeteetse Management Area are evaluated and reintroduction is determined to be appropriate.

Located 15 miles west of Meeteetse, in Park County in northwestern Wyoming, the Meeteetse Management Area consists of rangeland bounded on the north by Township 50 North, on the west by Range 104 West, on the south by the Greybull River, and on the east by Wyoming State Highway 120. Despite over 1,700 hours of ferret surveys conducted in the area, the Service and the Department have not received any evidence confirming the presence of wild ferrets in the area.

As was the case for the SB/MB population, the boundaries of the Meeteetse experimental population would extend beyond the Meeteetse Management Area. Were ferrets to be reintroduced or transferred to the Meeteetse Management Area, the boundaries of the Meeteese nonessential experimental population would be all of Park County, Wyoming, south of U.S. Highway 16/14/20.

If ferrets disperse outside the Meeteetse Management Area, they would still be considered part of the nonessential experimental population if they were in Park County south of U.S. Highway 16/14/20. Such ferrets would be handled as described for the SB/MB population, and, in accordance with the provisions of the special rule provided herein, modified to designate the Meeteetse population as the nonessential experimental population.

Like the SB/MB Management Area, the area surrounding the Meeteetse Management Area is relatively devoid of prairie dog colonies. To the west, the Absaroka Range is another barrier to dispersal. Apparently, these or other factors are an effective movement barrier, as researchers were unable to document successful dispersal of young ferrets during the period wild ferrets were being studied at Meeteetse.

Management

The SB/MB reintroduction will be undertaken by the Service and the Department in accordance with the Cooperative Management Plan (SB/MB). If Meeteetse must be used instead, reintroduction will be undertaken in accordance with the Cooperative Management Plan (M). These Cooperative Management Plans will be updated as necessary. General reintroduction protocol was discussed under "Background." Additional considerations pertinent to reintroduction are discussed here.

1. Monitoring

Various monitoring efforts are planned over the first 5 years. Prairie dog numbers and distribution will be monitored prior to and annually during the reintroduction effort (Shirley Basin/Medicine Bow Working Group 1991). Monitoring for sylvatic plague will be done prior to reintroduction and annually at least through 1996. If the ferret habitat rating drops to 50 percent or less of the objective level, reintoduction efforts will be re-evaluated. There also will be monitoring for canine distemper prior to and during reintroduction. Reintroduced ferrets and their offspring will be monitored every year, using spotlight surveys and/or snowtracking surveys done on foot. In the initial years, all released ferrets will be marked and radio-collared. During the first year, the greatest emphasis in ferret monitoring will be placed on determinng causes of injury and mortality and using the results to refine the reintroduction protocol to reduce such losses. Assuming a few ferrets survive the winter and enter the courtship and breeding season the next year, monitoring of ferret breeding success and recruitment will take priority. Ferret behavior will be monitored throughout the duration of the effort.

2. Disease Considerations

Reintroduction will be re-evaluated if an active case of canine distemper is documented in any wild mammal within 12 months prior to the scheduled reintroduction. Samples from 40 coyotes and 40 badgers will be obtained prior to reintroduction to determine if active canine distemper exists in the reintroduction area. Visitors and biologists in the SB/MB Management Area will be discouraged from bringing dogs. Residents and hunters will be encouraged to vaccinate pets and report sick wildlife. Efforts are continuing to develop an effective canine distemper vaccine for ferrets.

Ferrets will not be introduced into and/or will be relocated from the SB/MB Management Area if the ferret habitat rating falls below acceptable minimum levels as a result of sylvatic plague. Sampling for sylvatic plague will occur on a regular basis prior to and during the reintroduction effort. To the extent possible, strategies will be developed to enhance prairie dog recovery in areas impacted by plague.

3. Genetic Considerations

While the ultimate genetic goal of the reintroduction program should be to establish wild reintroduced populations that embody the maximum level of genetic diversity available from the captive population, this does not need to be the immediate goal in Wyoming. Individuals used for reintroduction will be chosen so that the level of genetic diversity and demographic stability (e.g., stable age and sex structure) of the captive population is not compromised (reduced) by their removal. Therefore, early experimental reintroductions will likely consist of a biased sample of the genetic diversity of the captive gene pool. This bias will be corrected at a later date by selecting and re-establishing breeding ferrets that

theoretically compensate for any genetic biases in earlier releases.

4. Prairie Dog Management

The Service and the Department will work cooperatively with landowners and land management agencies in the SB/MB Management Area to: (a) Manage the two PMZ's (each with a black-footed ferret family rating of at least 26) and maintain their current black-footed ferret habitat capabilities based on 1990 prairie dog densities and distribution; and (b) maintain at least 90 percent of the current black-footed ferret habitat capability (prairie dog acreage) in non-PMZ areas (based on 1990 prairie dog acreage density data). Means for managing the prairie dog ecosystem in the proposed reintroduction area have been incorporated into the Cooperative Management Plan (SB/MB). (Copies may be obtained by contacting the Wyoming Game and Fish Department, 260 Buena Vista, Lander, Wyoming 82520 (307-332-2688).) Specific prairie dog acreages will be established for each ranch in the SB/MB Management Area, set entirely at the prerogative of the landowner. On public lands with private grazing leases, the number and distribution of prairie dogs will be set cooperatively. In areas where prairie dogs become a problem for the landowner, control techniques compatible with ferret recovery objectives could be implemented, e.g., use of control methods that are not lethal to ferrets, removal and relocation of ferrets prior to control of prairie dogs, use of ferrets to control prairie dog numbers, or agreements to allow expansion of prairie dog acreage elsewhere in the PMZ to compensate for acreage lost during the control program.

5. Mortality

As noted earlier, only those animals considered excess to the needs of the captive breeding goal will be used in this reintroduction attempt. Though efforts will be made to reduce mortality, significant mortality will inevitably occur as captive-raised animals adapt to the wild. Natural mortality from predators, fluctuating food availability, disease, hunting inexperience, etc., will be reduced through predator and prairie dog management, vaccination, soft release, supplemental feeding, and prerelease conditioning. Human-caused mortality will be reduced by information and education efforts directed at landowners and land users, and review and cooperative management (where necessary) of human activities in the area.

A low level of mortality from incidental take is expected as a result of designing the ferret reintroduction program to work within the context of traditional land uses in the SB/MB Management Area. Incidental take is any take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity within the experimental population area.

Ferret injuries or mortalities will be required to be reported immediately to the Service. The Service will investigate each case. If it is determined that a ferret injury or mortality was unavoidable, unintentional, and did not result from negligent conduct lacking reasonable due care, then there will be no penalty. Knowing or willful take will be prosecuted.

The final biological opinion prepared on the reintroduction proposal anticipates an incidental take level of 12 percent/year. If this level of incidental take is reached at any time within any year, the Service, in cooperation with the Department, will conduct an evaluation of incidental take and cooperatively develop and implement with landowners and land users measures to reduce incidental take.

Even if all released animals were to succumb to natural and human-caused mortality factors, this would not jeopardize the continued existence of the species. As notes earlier, the captive population is the primary species' population and could readily replace any animals lost in the reintroduction effort. This is consistent with the designation of the reintroduced population as a nonessential experimental population. The choice for wildlife managers is either to risk excess captive ferrets in reintroduction efforts in order to re-establish the species in the wild, or to keep all ferrets in relative safety in captivity and forgo re-establishing the species in the wild.

6. Special Handling

Under the special regulation (promulgated under authority of section 4(d) of the Act) that will accompany the experimental population designation, Service and Department employees and agents would be authorized to handle ferrets for scientific purposes (such as replacing radio-collars); relocate ferrets to avoid conflict with human activities; relocate ferrets that have moved outside the SB/MB Management Area when removal is necessary or requested; relocate ferrets within the experimental population area to improve ferret survival and recovery prospects; relocate ferrets to future reintroduction sites; aid animals which are sick, injured, or orphaned; and salvage dead ferrets. If a ferret is determined to be unfit to remain in the wild it would be returned to captivity. The Service would determine the disposition of sick, injured, orphaned, or dead ferrets.

7. Coordination With Landowners and Land Management Agencies

This action was discussed with potentially affected State and Federal agencies in the proposed reintroduction area. A scoping effort to identify issues and concerns associated with reintroduction into the SB/MB area was conducted prior to the development of the proposed rule. A SB/MB Working Group consisting of a representative each from the Department, Service, Bureau of Land Management, and Wyoming Board of Land Commissioners; and two private landowners was assembled to define the boundaries of the SB/MB Management Area, identify issues and concerns, and develop the Cooperative Management Plan (SB/MB). Affected private land managers in the area were consulted; offered the opportunity to participate in the development of the Cooperative Management Plan (SB/MB); and, to the extent the Department and Service can determine, concurred with or did not oppose the proposed action provided it did not interfere with existing lifestyles and current and potential income. Public meetings concerning the proposed SB/MB reintroduction were held in Medicine Bow, Laramie, and Casper, Wyoming, in November 1990 to offer the general public in Wyoming the opportunity to learn about and comment on the reintroduction proposal.

Similar efforts were conducted to involve affected State and Federal agencies, private landowners, and the general public in Wyoming in scoping out and formulating the Cooperative Management Plan (M). Public meetings were held in Meeteetse, Cody, and Casper, Wyoming, in September 1989.

Thirty-seven percent of the SB/MB Management Area is federally managed lands (197,601 hectares or 487,904 acres). The Bureau of Land Management has jurisdiction over 97 percent of the surface Federal lands and all of the Federal mineral estate in the SB/MB Management Area. The Bureau of Reclamation has jurisdiction over 3 percent of the land. There are no conflicts expected with any current or anticipated actions of Federal Agencies from reintroduction of ferrets into the SB/MB Management Area. The Bureau of Land Management participated in the development of the Cooperative Management Plan (SB/MB) and the environmental assessment.

The Wyoming Board of Land Commissioners administers about 8

percent of the land in the area (43,241 hectares or 106,768 acres) and may propose or permit actions in the future that could affect the black-footed ferret or its habitat. Any changes in State trust land management must be specifically authorized and approved by the Wyoming Board of Land Commissioners. This agency also was a participant in developing the Cooperative Management Plan (SB/MB).

Private landowners own 55 percent of the land (295,320 hectares or 729,184 acres) in the SB/MB Management Area. Their voluntary participation is crucial to the success of this project. Their acceptance of and participation in this rulemaking process and the Cooperative Management Plan (SB/MB) is an essential part of the planning for and management of the reintroduced population.

The Meeteetse Management Area is rangeland under private (52 percent), State (20 percent), and Federal (28 percent) ownership. For the most part, prime ferret habitat and access to it is controlled by private landowners. Therefore, the voluntary participation of private landowners is essential to any cooperative reintroduction effort at Meeteetse.

8. Potential for Conflict With Oil and Gas and Mineral Development Activities

The boundaries of the SB/MB Management Area and the PMZ's were, in part, developed to exclude potential conflicts with development activities, where possible. The maximal impact these activities could have on ferret habitat in the SB/MB Management Area is discussed in the Cooperative Management Plan (SB/MB) and may be summarized as follows:

—There are 35 active oil and gas wells in the SB/MB Management Area. No active wells occur in PMZ1. The greatest potential for future oil and gas development is centered in existing developments, mostly in PMZ2. The high potential areas for oil and gas development lie under 6,404 hectares (15,825 acres) of prairie dog towns in PMZ2, and 1,968 hectares (4,859 acres) of prairie dog towns in non-PMZ areas. Existing (15 hectares) and high potential oil and gas development areas comprise 8,387 hectares or 14.0 percent of the ferret habitat in the SB/MB Management Area.

—Three coal leases occur in the SB/MB Management Area. No active mining occurs in the area at present. Up to 598 hectares of prairie dog towns could potentially be impacted if these leases were developed or 1.0 percent of the ferret habitat in the SB/MB Management Area.

—Demand for saleable minerals (sand, gravel, limestone) has been low and would probably remain low in the foreseeable future. If mineral materials permits in the area were fully developed, up to 199 hectares or 0.3 percent of ferret habitat would be lost.

—Locatable mineral claims (primarily uranium and bentonite) occur within the SB/MB Management Area. There are 22 claims occur in PMZ1 and 35 claims within PMZ2. At the present time, locatable mineral mining is not contributing to a significant loss of ferret habitat. If fully developed, these claims could impact 3,757 hectares or 6.3 percent of the ferret habitat in the SB/MB Mangement Area.

—There are 447 hectares or 0.7 percent overlap among the development activities described above.

In summary, considering all existing and potential oil, gas, and mineral development on existing leases in the SB/MB Management Area, a "worst case" maximum of approximately 12,485 hectares or 20.9 percent of the ferret habitat in the SB/MB Management Area could be impacted under a full development scenario without mitigation (see table 1). A 20.9 percent loss of ferret habitat would not preclude establishment of a viable wild population of ferrets in the SB/MB Management Area, as sufficient habitat would remain to support 168 ferret adults. Moreover, such a "worst case" scenario is unlikely, given the opportunity to mitigate habitat losses by expanding prairie dog colonies into areas currently unoccupied by prairie dogs.

TABLE 1. SUMMARY OF CURRENT AND MAXIMUM POTENTIAL IMPACTS TO BLACK-FOOTED FERRET HABITAT IN THE SB/MB MANAGEMENT AREA

	Area currently impacted		Area potentially impacted	Percent of the prairie dog complex
Oil and Gas	15ha (36ac)	+	8,372ha (20,684ac)	14.0
Coal	0		598ha (1,477ac)	1.0
Salable Minerals	0		199ha (492ac)	0.3
Locatable Minerals	0		3,757 ha (9,284ac)	6.3
Area of Overlap			<447ha (1,104ac)>	<0.7>
Highest possible impact from leasing				12,485ha (30,849ac) 20.9

Source: Adapted from "A Cooperative Management Plan for Black-footed Ferrets—Shirley Basin/Medicine Bow, Wyoming" (1991).

There is oil and gas development potential in the Meeteetse Management Area, however, drillable prospects appear limited at this time. Were ferrets to be reintroduced into the Meeteetse Management Area, the Service, Department, and Bureau of Land Management would work with oil and gas exploration and development companies to develop mutually agreeable means to avoid or mitigate potential adverse impacts from oil and gas activities on ferrets or their habitat. The Service is presently developing oil and gas guidelines for new leases and developments proposed in prairie dog ecosystems managed for black-footed ferret recovery, and pertinent guidelines were included in the Cooperative Management Plan (M).

9. Potential for Conflict With Grazing and Recreational Activities.

All lands in the SB/MB Management Area are included in grazing allotments. Conflicts between grazing and ferret management area not anticipated on Federal lands, as current Federal rangeland management systems favor prairie dog populations in grazed areas. Decreasing animal unit months for livestock will not benefit prairie dog

populations and will not be recommended as a tool for ferret management. No additional grazing restrictions will be placed on Federal lands with grazing allotments in the SB/MD Management Area as a result of ferret reintroduction. On Federal lands with private grazing leases, prairie dog population objectives would be cooperatively established to be consistent with ferret recovery and grazing needs.

No additional restrictions will be placed on landowners regarding prairie dog control on private and State trust lands. Under the Cooperative Management Plan (SB/MD), landowners can readily control prairie dogs in irrigated fields, wet meadows, and pastures which are economically significant to ranching and of little biological significance to ferret populations. In the unlikely event that prairie dog control proposed on private and State trust lands might eliminate or significantly diminish the prey base for established ferrets in a specific problem area, it will be the responsibility of State and Federal biologists to determine whether ferrets are likely to be negatively impacted, and if so, to provide the necessary coordination to minimize these impacts. If necessary, ferrets could be translocated from the problem area to areas of no conflict.

In the Meeteetse Management Area, equivalent cooperative grazing management measures would be implemented on Federal, private, and State trust lands if ferrets were reintroduced.

Recreational activities currently enjoyed in the SB/MB Management Area (antelope hunting, prairie dog shooting, rabbit hunting using greyhound dogs, trapping for furbearers or predators, and off-road vehicle recreation) are either unlikely to impact ferrets or would be managed to avoid or minimize negative impacts to ferrets.

Recreational activities in the Meeteetse Management Area are managed primarily by the private landowners. Based on historical use, it appears unlikely that these activities would adversely impact ferrets.

10. Protection of Ferrets

Recently released ferrets will need protection from natural sources of mortality (predators, disease, inadequate prey, etc.) and from human-caused sources of mortality. Natural mortality will be reduced through prerelease conditioning, soft release, vaccination, predator control, positive management of prairie dog populations, etc. Human-caused mortality will be minimized by placing ferrets in an area with low human population density and relatively low development; by informing and working with landowners, Federal land managers, developers, and recreationists to develop means for conducting their existing and planned activities in a manner compatible with ferret recovery; and by conferring with developers on proposed actions and providing recommendations that will reduce any likely adverse impacts to ferrets.

A final biological opinion was prepared on this action to reintroduce ferrets into the SB/MB Management Area and concluded that this action will not jeopardize the species.

11. Public Awareness and Cooperation

An extensive sharing of information about the program and the species, via educational efforts targeted toward the public in the region and nationally, will enhance public awareness of this species and its reintroduction. The public will be encouraged to cooperate with the Service and the Department in attempts to maintain ferrets on the release site.

12. Overall

The designation of the SB/MB (or Meeteetse) population as a nonessential experimental population will encourage local cooperation as a result of the management flexibility allowed under this designation. The Service and the Department consider the nonessential experimental population designation and accompanying special rule, the Cooperative Management Plan (SB/MB) or (M), and the commitment to accommodate cooperatively planned oil, gas, and mineral exploration and development necessary to receive cooperation of affected landowners, agencies, citizens, and oil and gas, minerals, grazing, and recreational interests in the area.

13. Future Reintroductions

Since additional excess captive-reared black-footed ferrets should be available for reintroduction in 1992 or 1993, the Service plans to reintroduce black-footed ferrets into other sites within its known historical range. Like this effort, future reintroductions will be planned in partnership with affected State and Federal agencies and/or private landowners. Proposed and final rulemakings will be developed for individual populations and, possibly, several populations at a time, as appropriate. This rule may serve as a key reference document for future rulemaking documents involving reintroduced ferret populations, or even as a model for a possible programmatic rulemaking for future reintroduction efforts.

14. Effective Date

Pursuant to 5 U.S.C. 553(d)(3), the Service finds that good cause exists to have this rule take effect upon publication. It is essential to the success of the reintroduction effort that releases commence in September of this year, when wild young ferrets would typically become independent of natal care and disperse.

Summary of Comments and Recommendations

In the May 24, 1991, proposed rule and associated notifications, all interested parties were invited to submit comments or recommendations concerning any aspect of the proposed rule that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal Agencies, business and conservation organizations, and other interested parties were contacted and requested to comment. On May 28, 1991, the Service mailed letters notifying 202 persons and organizations of the proposed rule and solicited their comments. Of these 202 persons and organizations notified, 27 were provided copies of the rule and draft environmental assessment, and 175 were provided copies of the rule and a list of nine offices where copies of the draft environmental assessment and Cooperative Management Plan (SB/MB) could be obtained. A detailed legal notice was published in: Rock Springs Daily Rocket Miner on May 24, 1991; Rawlins Daily Times on May 25, 1991; Casper Star-Tribune, Laramie Daily Boomerang, and Greybull Standard on May 26, 1991; Wyoming State Journal (Lander) on May 27, 1991; Cody Enterprise on May 29, 1991; and Wyoming Eagle-State Tribune (Cheyenne) on May 30, 1991, which invited general public comment. On May 28, 1991, a news release was mailed to 36 newspapers and 1 radio station in Wyoming. Nine government offices (eight in Wyoming, one in Colorado) were identified as distribution points where one could obtain copies of the rule and the draft environmental assessment.

The Service received letters from 25 commenters, including 3 State agencies, 5 business organizations, 6 conservation groups, and 11 individuals. Written comments received during the public comment period are covered in the following summary. Thirteen commenters supported reintroduction, completely or with reservations; five commenters opposed reintroduction;

and seven commenters were neutral. Comments of a similar nature or point are grouped into a number of general issues. These issues, and the Service's response to each, are discussed below:

Issue 1: Whether the reintroduced population should be designated as a nonessential experimental population. One commenter supported the experimental designation, six commenters supported the nonessential experimental designation, and four commenters supported a more restrictive designation based on their belief that a nonessential experimental designation was not justified and/or did not offer adequate protection to the reintroduced ferrets or ferret habitat.

Response: The Service's rationale for determining the SB/MB population to be "nonessential experimental" was explained under "Status of Reintroduced Population." Establishment of a wild population at the SB/MB Management Area is not essential to the continued existence of the species. The captive population is secure and other reintroduction sites are being identified and readied.

The designation being applied to this population meets the criterion for "nonessential" designation and complies with congressional intent, i.e., to use the experimental population designation to reduce local opposition to reintroduction of listed species and that most experimental populations would be designated nonessential.

At this time, the most valuable action that could be taken to advance ferret recovery is to use excess ferrets to test reintroduction techniques as soon as possible. The SB/MB Management Area is the best available testing and reintroduction site at this time. Pursuit of a more stringent designation at this site would be opposed by landowners and land users, and would effectively foreclose the possibility of using this site this year, and possibly in future years. Non-Federal landowners control 63 percent of the land in the SB/MB Management Area, and ferret reintroduction in this area cannot succeed without their cooperation.

Two commenters noted that if the SB/MB site is the best site for reintroduction in the nation, then why is it not "essential?" The Service's rationale for determining the SB/MB population to be nonessential experimental was explained earlier. The SB/MB site is the best available site in the nation at this time capable of supporting a self-sustaining ferret population. There appear to be better ferret habitats elsewhere, but they are not available at this time, though efforts are continuing to determine if they can be used for ferret reintroduction.

Four commenters supported a more restrictive designation, arguing that this would provide greater protection, such as a requirement for section 7 consultation. The Service notes that section 7 consultation would apply to only 37 percent of the land in the SB/MB Management Area, and would not "make or break" the reintroduction effort as much as the degree of cooperation needed from non-Federal landowners, who control 63 percent of the land in the SB/MB Management Area. Private landowners in the area whose economic and/or recreational quality of life is linked to activities permitted on nearby Federal lands would oppose any designation requiring them to be indirectly subjected to formal section 7 consultation. The Cooperative Management Plan (SB/MB) provides a technical assistance mechanism similar to section 7 consultation whereby the Service and Department would work with parties proposing or conducting development, recreational, or prairie dog control activities in the SB/MB Management Area to provide recommendations on means to avoid, minimize, or compensate for negative impacts to ferrets or ferret habitat. This technical assistance mechanism is more palatable than formal section 7 consultation to landowners and land users.

One commenter recommended that ferrets on public lands in the SB/MB area be designated essential experimental and ferrets on private lands be designated nonessential experimental. Though his idea is intriguing, it did not appear legally possible, because it lacked justification as to why the public lands population would be essential to the continued existence of the species, while the private lands population would be nonessential. It should be noted that the nonessential experimental designation, if used throughout the SB/MB Management Area, does not preclude the use of different management strategies on Federal v. non-Federal land.

Issue 2: Whether the nonessential experimental designation and/or the Cooperative Management Plan (SB/MB) does an adequate job in protecting ferret habitat. Four commenters argued that it did not.

Response: The Service disagrees. The SB/MB Management Area covers 2,068 square miles, and the prairie dog colonies in the SB/MB Management Area were estimated to be capable of supporting 213 adult ferrets in 1990. Doing a "worst case" analysis that assumes full development of the SB/MB Management Area without mitigation of habitat losses, then only 20.9 percent of the available ferret habitat would be affected, which would leave sufficient habitat to support 168 ferret adults. If mitigating or compensating measures were taken, as is planned for in the Cooperative Management Plan (SB/MB), much less than 20.9 percent of the ferret habitat would be altered or lost under the worst case development scenario.

One commenter urged the Service to explore other areas with more contiguous Federal land, purchase land, acquire easements, etc., in order to provide greater habitat protection. The Service is investigating potential reintroduction sites containing more contiguous Federal land, such as areas in northcentral Montana and in South Dakota. At the SB/MB Management Area, the preferred approach is to attempt voluntary cooperation to determine if mixed-ownership sites can be used for ferret recovery. Conservation easements or land acquisition will be pursued at the SB/MB site only if deemed necessary.

The Service and the Department are not trying to create an inviolable refuge for ferrets in the SB/MB Management Area; that would be impractical. Instead, we are trying to work with landowners and land users to develop a management system wherein ferrets and humans can coexist. Such a cooperative system was used at Meeteetse after the wild ferret population was found there. If mixed-ownership sites can be used successfully for reintroduction, this will increase the number of sites deemed potentially suitable for reintroduction purposes and increase the species' chances of recovery.

Issue 3: Whether there had been adequate coordination with the affected public. Six commenters questioned this.

Response: With regard to coordination with landowners in the SB/MB Management Area, in April and May 1989, a Department biologist met with several Medicine Bow landowners. In May 1989, the Department compiled a landowner list for the SB and MB areas. All landowners in these two areas whose land was to be sampled to determine prairie dog densities were contacted in person. The purpose of the contacts was to discuss: (a) The purpose of prairie dog habitat mapping conducted over the past several years, (b) the objectives for prairie dog town transecting proposed for the summer of 1989, (c) the potential of the site for black-footed ferret reintroduction, and (d) preliminary issues and concerns. All landowners in the sample areas granted

permission for prairie dog mapping and transecting of towns on their ranches, and none expressed adamant opposition to the proposal. In June 1989, aerial transects were conducted between the SB and MB areas. Landowners in this area with prairie dog colonies were contacted by Department biologists seeking permission to map prairie dog colonies. In September 1989, the Department contacted landowners in the Shirley Basin with large prairie dog towns to appraise them of the status of the ferret program.

In early January 1990, the SB/MB working group was formed and immediately met to formulate work plans. An informal open house for landowners was held in January 1990 to provide information and answer questions on the proposal to reintroduce ferrets into this area. Letters were sent to 33 ranches identified from personal contacts and permittee lists from the Bureau of Land Management. Nine landowners or ranch representatives attended the open house, and two volunteered to serve on the SB/MB working group. Three letters were received from landowners unable to attend.

The Department wrote and circulated one preliminary draft and two working drafts of the Cooperative Management Plan (SB/MB), the last of which had a distribution of over 200. The mailing list developed by the Department included most private landowners in the SB/MB Management Area with significant amounts of ferret habitat on their land, and land users that were normally contacted by the Bureau of Land Management with regard to National Environmental Policy Act documents. Each draft was revised based on comments received.

In November 1990, public meetings were held in Medicine Bow, Casper, and Laramie, Wyoming, to discuss the Cooperative Management Plan (SB/MB) and the proposed nonessential experimental population designation. These pubic meetings were announced on local radio stations and in all newspapers in affected counties.

A similar public coordination process was conducted for the Meeteetse Management Area, including public meetings conducted in September 1989 in Meeteetse, Cody, and Casper, Wyoming.

The primary emphasis in landowner and land user contacts was toward parties located or operating in the SB/MB Management Area. Landowners outside this area would be negligibly impacted if a ferret was found on their property and they requested that the ferret be removed.

In addition, the Department conducted further outreach through the media. Outreach efforts included ferret articles in the "Wyoming Landowner Newsletter" (Spring 1990, Summer 1990), which is mailed to every rancher in the State, and eight news releases sent out between January 1990 and April 1991. Articles on ferret reintroduction were published in Wyoming newspapers such as the Laramie Boomerang, Casper Star-Tribune, Rancher-Stockman-Oilman, Wyoming Eagle (Cheyenne), and Medicine Bow Post.

The procedures the Service used to disseminate notice and copies of the proposed rule to designate the SB/MB population as a nonessential experimental population and the accompanying draft environmental assessment were described earlier. Landowners and land users in the SB/MB Management Area will be contacted following publication of this final rule. Copies of the final rule, Cooperative Management Plan (SB/MB), and environmental assessment will be provided to those landowners and land users desiring copies.

Any landowners or land users that may have been missed during this extensive public notification process were missed unknowingly. The Department and the Service will remain available after the publication of this final rule to work out reasonable measures to accommodate landowners and land users still concerned about possible negative impacts to their operations as a result of ferret reintroduction.

Five landowners sent in comment letters indicating that they were not contacted and/or were concerned about the impacts of reintroduction on their normal operations. A Department biologist visited with them on June 25 and 28, and July 1, 1991, to explain the reintroduction program in more depth and work out solutions agreeable to both parties.

Issue 4: Whether the 30-day comment period should be extended. Three persons requested extensions to the comment period, and two persons noted that the draft environmental assessment had indicated a 60-day comment period would be granted.

Response: The Service was sympathetic to the requests for time extensions, but determined that it would not be possible to reopen the comment period for a significant time period (30 to 60 days) without jeopardizing the chances of releasing an adequate number of black-footed ferrets at the most appropriate biological time this year. Based on the limited number of excess ferrets available this year, their birthdates, and the age (14 weeks) deemed best for release, September and October are the best release dates. The time required to publish a notice in the **Federal Register** to reopen the comment period, plus the time extension itself, would delay publication of the final rule to the point that most excess ferrets would be older than the optimal release age by the time the rule was finalized. The Service decided not to grant the time extensions because it would seriously compromise the success of the 1991 reintroduction effort.

The Service had originally planned to have a 60-day comment period for the proposed rule. However, due to circumstances beyond the Service's control, the proposed rule was published later than planned. To keep the 1991 fall release date viable, a decision was made to shorten the comment period in the proposed rule to 30 days, which is the minimum allowable for experimental population rulemakings (see 49 FR 33886). Unfortunately, a similar change should have been, but was not, made to the draft environmental assessment, which retained a reference to the originally planned 60-day comment period. The comment period for the draft environmental assessment closed on the same day as the comment period for the rule closed, i.e., June 24, 1991. The Service regrets any confusion this discrepancy may have caused.

Issue 5: Whether the 5-year evaluation referred to in § 17.84(g)(10) of the proposed rule meant that the population would be reclassified to a status other than "nonessential experimental." Two commenters requested that this point be clarified.

Response: Under the experimental population regulations (50 CFR part 17, subpart H), any rule designating an experimental population must provide "a process for periodic review and evaluation of the success or failure of the release and the effect of the release on the conservation and recovery of the species." The 5-year evaluation noted in § 17.84(g)(10) of the proposed rule was intended to be a milestone in the periodic review and evaluation process required, and will be a review of the biological success of the reintroduction effort. If determined to be less than successful, the Service and the Department will modify the reintroduction protocol and/or the strategies within the Cooperative Management Plan (SB/MB) with the involvement of affected landowners and land managers to improve ferret survival and/or recruitment. If the experiment is extremely unsuccessful, the Service and Department may consider a temporary

hold on releasing ferrets into the SB/MB Management Area until better release or management techniques are developed. The 5-year evaluation will not include an evaluation to determine whether the population should be reclassified.

Note: It is not possible to change the "nonessential experimental" designation of the SB/MB population without going through a new rulemaking process, which would include a proposed rule, a public comment period, public meetings, National Environmental Policy Act compliance documents, and other documents before a final rule to change the designation could be published.

The Service does not foresee any likely situation which would call for altering the nonessential experimental status of the population. Should any such alteration prove necessary, it is possible that it would not change ferret management on private lands. If the designation changes and if it is necessary to substantially modify ferret management on private lands, any private landowner who consented to the introduction of ferrets on his lands will be permitted to terminate his consent and the ferrets will be, at his request, relocated. This change was made to the final rule.

Issue 6: Whether the Cooperative Management Plan (SB/MB) should be referred to in the experimental population rule to establish the linkage between the rule and the Cooperative Management Plan (SB/MB). Two commenters recommended this.

Response: The Service agrees, and has changed the rule accordingly. However, because the Cooperative Management Plan (SB/MB) will be dynamic in nature (i.e., updated as necessary), the rule refers to the Cooperative Management Plan (SB/MB) in a general sense, rather than to its present version.

Issue 7: Whether the Service should develop and enter into separate agreements with each landowner who may be affected by the reintroduction of ferrets into the area. Three commenters requested that this be done.

Response: Section 17.81(d) of the experimental population regulations states: "* * * Any regulation promulgated pursuant to this section shall, to the maximum extent practicable, represent an agreement between the Fish and Wildlife Service, the affected State and Federal agencies and persons holding any interest in land which may be affected by the establishment of an experimental population." The Service believes that this final regulation (including the prefatory material) will suffice as an agreement between the Service and affected parties, provided "grassroots" coordination continues. The Department may choose to enter into separate agreements with landowners as part of the implementation of the Cooperative Management Plan (SB/MB).

As noted under Issue 3, the Department and the Service already have gone to great lengths to scope out issues and concerns before proceeding with the Cooperative Management Plan (SB/MB) and (M) and the proposed rule. The nonessential experimental population designation and accompanying special rule provide the basic ground rules for pursuing ferret recovery amidst human uses in this experimental population area. Just as the most detailed contract cannot cover all eventualities, the agreement embodied in this experimental rule cannot address all concerns. However, the Service and the Department are ready and willing to continue to work directly with affected parties within the framework of the experimental population designation and special rule and the Cooperative Management Plan (SB/MB) to make ferret recovery compatible with landowner and land user needs.

Issue 8: Whether the Meeteetse site should be used as a backup site or designated a nonessential experimental population. One commenter noted that Meeteetse site should not be used as a backup site if it failed to meet the minimum requirements for reintroduction. Another commenter opposed designating any ferret population reintroduced at Meeteetse as nonessential experimental because it would serve as a dangerous precedent whereby the Service could bring a wild population of endangered species into captivity and then release them onto the same site at a later date under a less restrictive designation. He noted that "All of these animals (referring to ferrets from Meeteetse) would be fully protected if they were still in the wild living at Meeteetse." A fourth commenter expressed a concern similar to the third commenter's but as a concern pertaining to experimental populations, in general.

Response: With regard to the first concern, before ferrets could be released at the Meeteetse Management Area in its role as a backup reintroduction site, the site would be evaluated relative to the minimum criteria for reintroduction specified in the Cooperative Management Plan (M). With regard to the second concern, the Service would not take all members of a wild population into captivity unless it was clear that allowing them to remain in the wild would almost certainly lead to extinction, as was the case for the ferrets at Meeteetse in 1986. The Service and the Department devoted significant resources towards maintaining the Meeteetse population in the wild, such as treating approximately 7,000 acres of prairie dog burrows to try to prevent the spread of sylvatic plague. Both the Service and the Department are convinced that the Meeteetse population would have been extirpated due to canine distemper and other stochastic events had the remaining ferrets not been rescued and placed in captivity. On a final note, it is theoretically arguable that the Service could propose to take all members of a threatened or endangered species into captivity under the pretext that it was necessary to prevent extinction in order to release them under a less restrictive designation. However, the Service finds such an idea contrary to the intent of the Act. Moreover, from a practical standpoint, such an action could not be undertaken without State consent and a State would not be likely to grant consent without strong evidence that extinction was imminent.

Issue 9: Whether the proposed action complied with the National Environmental Policy Act. One commenter challenged the adequacy of the draft environmental assessment prepared for the proposed rule and expressed her belief that the environmental assessment was prepared to justify a "done deal," while another commenter recommended that a programmatic environmental impact statement be prepared for the ferret recovery effort.

Response: The Service and the Bureau of Land Management prepared a detailed and extensively researched environmental assessment to evaluate the environmental impacts of reintroducing ferrets into the SB/MB Management Area. A supplemental draft environmental assessment was prepared to evaluate the impacts of using the Meeteetse Management Area as a backup site. It was deemed appropriate to prepare a draft environmental assessment on the proposed rule, receive public comments and revise the rule, then prepare a final environmental assessment on the final rule. Both bureaus found National Environmental Policy Act compliance to be adequate for this action. The proposed action is not a "done deal," as there are five explicit conditions specified in the Cooperative Management Plan (SB/MB) that could cause the Service and Department to reevaluate reintroduction into the SB/MB Management Area. In fact, the

Service and the Department originally had planned to reintroduce ferrets to the Meeteetse Management Area, until it met one of its five conditions for not using the site, i.e., a ferret habitat rating index that was 50 percent or less than the 1988 ferret habitat rating index.

The Service cannot prepare a programmatic Environmental Impact Statement on the ferret recovery program at this time because it does not have a "proposal" for ferret recovery, as defined in 50 CFR 1508.23. Most potential reintroduction sites are still being evaluated, and only two cooperative management plans have been developed. We do not even know if it is possible to successfully reintroduce captive-raised ferrets back into the wild. Until the ferret recovery program is more fully developed and more information is developed from actual reintroduction attempts, it is premature to consider preparing a programmatic Environmental Impact Statement.

Issue 10: Whether different experimental treatments (changes in the experimental design) would be attempted in the reintroduction protocol. Two commenters urged testing alternative treatments to find the "best" release strategy.

Response: Two experimental treatments are proposed for the SB/MB reintroduction effort. Their implementation will be determined by the number of excess ferrets available for reintroduction. If 50 or fewer animals are available in the first year, only one treatment will be used. A second treatment will be used if there are animals in excess of 50 during the first year. If only one treatment is used during the first year, then at least two treatments will be tested in the second year.

Issue 11: Whether the predator control efforts specified in the rule and associated documents are acceptable. One commenter urged predator removal by nonlethal methods. Another commenter appeared to encourage complete removal of predators. A third commenter was willing to accept temporary, but not long term, predator control.

Response: Live-trapping will be the first predator control option considered. However, lethal methods may be used if nonlethal methods are not expedient or effective enough to protect ferrets. All control methods used will comply with Federal and State law. Predator control will be selective, site-specific, and short-term to provide captive-raised ferrets better survival odds during the first few weeks of releases. Because the ultimate goal is to produce a self-sustaining wild population of ferrets, eventually the ferrets must learn to survive under normal predator pressures.

Issue 12: Whether the reintroduction protocol provides a sufficient degree of protection to the released ferrets. One commenter was concerned about the high level of mortality expected for released animals and questioned the degree of protection offered under the Cooperative Management Plan (SB/MB).

Response: Ferrets raised in captivity are rarely, if ever, exposed to predators, disease, parasites, fluctuating food supplies, inclement weather, and other mortality factors. When released into the wild, it is inevitable that many of these sheltered animals will succumb to the normal rigors and dangers of their natural environment. In the first year, prerelease conditioning, soft release, supplemental feeding, predator control, release into healthy prairie dog colonies, and positive management of human activities to avoid adverse impacts to ferrets should reduce mortality. Causes of injury and mortality in the first year will be examined and used to refine the reintroduction protocol and Cooperative Management Plan (SB/MB) to reduce losses the following year. As long as there is reasonable hope that ferrets can survive at the site, there will be a continual process of experimenting and learning how to improve ferret survival.

Issue 13: Whether canine distemper will be sampled and managed by appropriate methods. One commenter asked whether sampling for canine distemper will be done through nonlethal blood sampling or lethal methods. Another commenter asked about restrictions on dogs in the SB/MB Management Area. A third commenter believed that it would be too restrictive to decide to not use the SB/MB Management Area if an active case of canine distemper was discovered in the SB/MB Management Area.

Response: Blood sampling can only diagnose whether an individual predator was ever exposed to distemper; it cannot be used to detect active distemper. Because active canine distemper can be diagnosed only through histopathology, virus isolation, and electron microscopy, a sample of wild predatory mammals in the area must be killed and necropsied. Not only will these techniques determine whether canine distemper was active in a sampled animal, but they also will discover whether the animal was shedding the virus (Dr. Elizabeth Williams, veterinary pathologist, Department of Veterinary Science, University of Wyoming, pers. comm., 1991).

The Department and the Service will conduct public information efforts to actively inform local residents and visitors of the potential disease threat posed by dogs, and request that dogs either not be allowed to enter the reintroduction site or be vaccinated prior to entry. Efforts are continuing to develop an effective canine distemper vaccine for ferrets.

The SB/MB Management Area is so large (over 2,000 square miles) that the discovery of a single case of active canine distemper may not necessarily be sufficient cause to withdraw the entire site from consideration for reintroduction. The Department and the Service will reevaluate and not necessarily forgo reintroduction if an active case of canine distemper is found in the SB/MP Management Area.

Issue 14: Whether sufficient flexibility will be given to "on the spot" managers to deal with the natural, dynamic shifts in prairie dog numbers and locations.

Response: The Service agrees that prairie dogs constitute a dynamic resource. Provision will be made for "on the spot" and other managers to have appropriate authority to deal with changes in prairie dog numbers and locations such that sufficient ferret habitat is maintained.

Issue 15: Whether the oil and gas guidelines and block clearance guidelines need to be finalized before the SB/MB nonessential experimental population is designated. Two commenters urged that this be done. Another commenter was concerned that block clearance would render some lands permanently unavailable for reintroduction.

Note: "Oil and gas guidelines" refers to general guidelines for making oil and gas development compatible with ferret reintroduction in an area; "block clearance guidelines" refers to general criteria that should be met in order for the Service to declare a specific area containing prairie dogs: (a) To have a high probability of being free of ferrets, and (b) not suitable for ferret recovery, so that ferret surveys will no longer be required for prairie dog control efforts in that area.

Response: Both sets of general guidelines do not need to be finalized before this initial reintroduction attempt is made. Because ferret reintroduction is in its infancy, oil and gas guidelines need to be tested, just as ferret reintroduction itself is being tested to see if it will work. Based on the projected oil and gas development potential in the SB/MB Management Area and the siting of the primary ferret release areas, the Service believes that there will not be significant conflicts

between ferret recovery and existing and likely oil and gas development (see "Potential for conflict with oil and gas and mineral development activities" and final environmental assessment). In the SB/MB Management Area, oil and gas restrictions are not deemed necessary. A general process for dealing with oil and gas development is outlined in the Cooperative Management Plan (SB/MB), and mitigative measures will be negotiated on a case-by-case basis if a proposed project appears to have the potential to adversely impact ferrets or ferret habitat. In the future, when the oil and gas guidelines are completed, appropriate techniques can be incorporated into the Cooperative Management Plan (SB/MB). In addition, as more is learned about reconciling ferret reintroduction with oil and gas activities, these techniques will be refined.

As presently envisioned, the oil and gas guidelines will be a "toolbox" of techniques from which the most appropriate techniques will be selected to use at each reintroduction site. The cooperative management plan developed for each site will develop a site-specific oil and gas management strategy using all or some of the techniques in the oil and gas guidelines.

The SB/MB experimental population area is administratively declared "ferret free" at the moment this rule is final. This is not the same as "block clearing," which entails a determination of an area being "ferret free" and "not suitable for ferret recovery." "Ferret free" determinations are made for potential experimental population reintroduction sites, while "block clearing" will be done only on sites unsuitable for ferret recovery, e.g., areas with high levels of human use. Therefore, it is not necessary to finalize the block clearing guidelines before proceeding with the SB/MB reintroduction. However, the Service does agree to continue progress on block clearance guidelines which will be used in areas determined to be unsuitable for ferret recovery.

Issue 16: Whether innocent landowners and land users will be exposed to prosecution if they accidentally harm a ferret during the course of their normal lawful activities. Two commenters were concerned about this.

Response: The Service agrees this is a legitimate concern and has added a provision to the special rule to allow incidental take of ferrets (i.e., takings that result from, but are not the purpose of, the carrying out of an otherwise lawful activity). Further discussion regarding incidental take was added to "5. Mortality."

Issue 17: Whether reintroduction of ferrets will result in a take of private property rights. One commenter was concerned about this.

Response: The designation of the reintroduced population as "nonessential experimental," the accompanying special rule, and the Cooperative Management Plan (SB/MB) provide a means and a system to reintroduce ferrets without harming or taking individual property rights. The Service and the Department need voluntary cooperation from private landowners for successful reintroduction, and any aspect of the reintroduction program that might result in a take of private property rights would be modified to maintain landowner cooperation.

Issue 18: Whether the ferret reintroduction effort was likely to adversely affect landowners' ability to control prairie dogs. One commenter (a landowner) believed current land management practices for livestock production were fully compatible with ferret reintroduction and that active control of prairie dogs was not economically justified under current conditions. Another commenter (a scientist) noted that a strong case can be made using recent data from the Shirley Basin that the burrowing activities of prairie dogs actually benefit livestock in areas with clayey subsoils or that are sodium affected (which are common in the Shirley Basin area) due to enhanced production of sagebrush and grass. A third and fourth commenter asked about how rodenticides would be used in the SB/MB area. A fifth commenter wanted clarification on what the term "control techniques compatible with ferret recovery objectives" meant and whether the cooperative agreements with landowners concerning prairie dog numbers meant the landowners were obligated to produce a fixed number of prairie dogs on their land.

Response: As noted in the Cooperative Management Plan (SB/MB), the private landowners in the SB/MB Management Area rarely use rodenticides. Zinc phosphide is the only approved rodenticide, and the Service must be contacted before its use. Once contacted, the Service and the Department will assess the situation and determine whether the application would negatively affect ferrets. If there will be an impact of concern, then the Department and Service will recommend means to avoid or minimize those impacts, including moving ferrets to other areas, if necessary. If ferrets were allowed to remain in the treatment area, the best scientific data available suggest that there will be no danger of secondary poisoning from zinc phosphide, used in accordance with label instructions. The greater concern from use of rodenticides would be loss of the prey base.

Note: If a landowner contacted the service, was cleared to use a specific rodenticide in accordance with label instructions and Service and Department recommendations, and a ferret was found dead, presumably from secondary poisoning, in the area cleared for rodenticide use, this would be considered incidental take if the landowner applied the rodenticide in accordance with the guidance provided, and, therefore, not subject to prosecution.

Examples of control techniques compatible with ferret recovery objectives are provided in Strategy f under Problem 3 in the Cooperative Management Plan (SB/MB).

Prairie dog acreages will be established for each ranch in the SB/MB Management Area, set entirely at the prerogative of the landowner. These are not considered contracts requiring production of a specified acreage of prairie dogs.

Issue 19: Whether ferret reintroduction would adversely impact shooting, trapping, or hunting activities in the SB/MB Management Area area, or conversely, whether these activities would adversely impact ferrets. One person was concerned about the possible negative consequences to ferrets of continuing such activities in the area and recommended developing a set of criteria for closures. Another person recommended a ban on prairie dog shooting/trapping in the area. A third and fourth persons asked if there would be restrictions on prairie dog shooting on their land or in the PMZ.

Response: Prairie dog shooting will continue in the SB/MB Management Area, but measures will be taken to avoid or minimize incidental take of ferrets and loss of ferret habitat (Refer to strategies under Problem 8 in the Cooperative Management Plan (SB/MB)). Furbearer trapping will continue, but with modifications to avoid incidental take of ferrets (Refer to strategies under Problem 7 in the Cooperative Management Plan (SB/MB)). Hunting will continue, but with adjustments to avoid conflict with ferret reintroduction (Refer to Problems 9 and 10 in the Cooperative Management Plan (SB/MB)). Careful timing of ferret releases can avoid much of the potential for conflict with hunters. For example, the Department estimates that 80 percent of the sage grouse hunters and up to 75 percent of the antelope hunters

will hunt on opening weekend. A small percentage of these hunters will return later in the season. These hunters, and those who did not hunt on opening weekend, tend to be more widely dispersed throughout the remainder of the hunting seasons, creating less potential conflict with ferret release activities.

Issue 20: Whether there will be unreasonable restrictions on landowners or land users. Two commenters were concerned about this.

Response: No. It is the intent of the Service and the Department to work out reasonable, cooperative solutions to all situations where there is a conflict between human uses of and ferret recovery in the SB/MB Management Area. Refer to Issue 1 concerning the nonessential experimental population designation, the Cooperative Management Plan (SB/MB), and the final environmental assessment for further discussion on this issue.

Issue 21: Whether a formal mechanism has been or will be developed for allowing the public to be informed of or participate in ferret recovery. One commenter was concerned about this.

Response: Persons interested in staying abreast of the ferret recovery effort may: (1) Attend the meetings of the SB/MB Working Group or the Black-footed Ferret Advisory Team, which are open to the public, (2) contact the Department and ask to be placed on their general SB/MB or Meeteetse mailing lists, (3) subscribe to "The Drumming Post," a periodic newsletter put out by the Department, or (4) request a copy of the annual report that will be prepared on the ferret reintroduction effort by the Department.

Issue 22: Whether the Service or the Department would compensate the Wyoming State Land Trust for any income lost from restrictions required on State trust lands. One commenter advocated such compensation.

Response: The Service and the Department cannot require the Wyoming Board of Land Commissioners to impose any restrictions on State trust lands. The only restrictions on State trust lands that would be imposed would be those that the Wyoming Board of Land Commissioners would impose voluntarily. The Service would not compensate the Wyoming Board of Land Commissioners for income lost from voluntary restrictions.

Issue 23: In 50 CFR 17.84(g)(4) in the proposed rule, whether the terms "agent," "necessary," and "conflict" require clarification. One commenter recommended that these terms be clarified.

Response: The term "agent" refers to any person who is not an actual employee of the Service or the Department, but who is authorized by the Service or Department to handle ferrets. The term "necessary" will not be defined, and will be left to the discretion of the Service and the Department. The term "conflict" refers to situations involving lawful activities proposed for or normally conducted within the experimental population area that are likely to result in adverse impacts of concerns to ferrets and for which reasonable alternative courses of action that would result in no or less harm to ferrets were not agreed to or capable of being implemented

Issue 24: One commenter requested information on the land ownership patterns in PMZ1 and PMZ2.

Response: PMZ1 is 47 percent Federal land, 43 percent private land, and 10 percent State trust land. PMZ2 is 70 percent private land, 22 percent Federal land, and 8 percent State trust lands.

Issue 25: Whether the rule should allow for taking of ferrets that wander outside the experimental population area. One commenter recommended this.

Response: It is highly unlikely that ferrets would expand beyond the boundaries of the experimental population area for the reasons noted in "Location of Reintroduced Population." The SB/MB Management Area and the experimental population area are disproportionately huge compared to the most optimistic reasonable projection of ferret survival and recruitment. Ferrets approaching the boundaries of the experimental population area could be translocated to other reintroduction sites.

If ferrets were able to survive and reproduce beyond projections, any ferret found outside the experimental population area boundary would receive the full protection of the Act. It would be possible to expand the boundaries of the experimental population area through a rulemaking, provided such expansion was into areas determined to be ferret-free.

Issue 26: Whether reintroduced populations should be separated geographically. One commenter opposed this.

Response: There are no longer vast, continuous prairie dog complexes in the western United States. Reintroduced ferret populations must be geographically isolated because the remaining ferret habitat is fragmented.

Issue 27: One commenter disagreed with one statement in the Black-Footed Ferret Recovery Plan and desired that specific tasks (#2435, 2442, 2443) in the recovery plan be clarified and/or addressed in the environmental assessment for this rule.

Response: This rulemaking does not open up the Black-Footed Ferret Recovery Plan for comment. Tasks 2435, 2442, 2443 are either not at issue in this rule or premature to surface.

Issue 28: Whether the ferret reintroduction effort conforms to the Great Divide and Platte River Resource Management Plans. One commenter questioned this in great detail.

Response: At the time the January 1991 draft of the Cooperative Management Plan (SB/MB) was being written (October 1990), the Great Divide Resource Management Plan had not been finalized. The Platte River Resource Management Plan was final at the time the January 1991 draft Cooperative Management Plan (SB/MB) was written, but discussions with the Casper District of the Bureau of Land Management did not result in a definitive answer as to whether the Cooperative Management Plan (SB/MB) was in compliance with the Platte River Resource Management Plan. Subsequent finalization of the Great Divide Resource Management Plan and further discussions with the Casper District has resulted in the conclusion that this action conforms with these Resource Management Plans. If it was discovered that there was a discrepancy between these Resource Management Plans and this final rule, the Resource Management Plans would be updated to conform with this rule.

National Environmental Policy Act

A final environmental assessment as defined under the authority of the National Environmental Policy Act of 1969 has been prepared and is available to the public at the Service Offices identified in the "Addresses" section. the assessment formed the basis for the decision that this is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

Executive Order 12291, Paperwork Reduction Act, and Regulatory Flexibility Act

The Service has determined that this is not a major rule as determined by Executive Order 12291 and that it would not have a significant economic effect on a substantial number of small entities as described in the Regulatory Flexibility Act (Pub. L. 96–354). The rule does not contain any information collection or recordkeeping

requirements as defined in the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

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Authors

The principal authors of this rule are Ron Crete, Fish and Wildlife Enhancement, U.S. Fish and Wildlife Service, Montana Office, Helena, Montana (Telephone: 406/449–5225 or FTS 585–5225) and Nancy Chu, Fish and Wildlife Enhancement, U.S. Fish and Wildlife Service, Regional Office, Denver, Colorado (Telephone: 303/236–7398 or FTS 776–7398).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Regulations Promulgation

PART 17—[AMENDED]

Amend part 17, subchapter B of chapter I, title 50 of the U.S. Code of Federal Regulations, as set forth below:

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

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.11(h) by revising the existing entry for the black-footed ferret under "Mammals" to read as shown below:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
Mammals:	*	*	*	*	*	*	
Ferret, black-footed.	Mustela nigripes.....	Western U.S.A., Western Canada.	Entire, except where listed as an experimental population below.	E	1,3,433	NA	NA
Do.....	.....do.....	.....do.....	WY: in the wild, south and east of the N. Platte River within Natrona, Carbon, and Albany Counties.	XN	433	NA	17.84(g).
*	*	*	*	*	*	*	

3. Amend 50 CFR 17.84 by adding new paragraph (g) as follows:

§ 17.84 Special rules—vertebrates.

* * * * *

(g) Black-footed ferret (*Mustela nigripes*).

(1) The black-footed ferret population identified in paragraph (g)(9) of this section is a nonessential experimental population. This population will be managed in accordance with a Cooperative Management Plan developed by the Shirley Basin/Medicine Bow Working Group.

(2) No person may take this species in the wild in the experimental population area, except as provided in paragraphs (g)(3), (4), (5) and (10) of this section.

(3) Any person with a valid permit issued by the U.S. Fish and Wildlife Service (Service) under § 17.32 may take black-footed ferrets in the wild in the experimental population area for educational purposes, scientific purposes the enhancement of propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Endangered Species Act and in accordance with applicable State fish and wildlife conservation laws and regulations.

(4) Any employee or agent of the Service or the Wyoming Game and Fish Department (Department) who is designated for such purposes, when acting in the course of official duties, may take a black-footed ferret in the wild in the experimental population area if such action is necessary:

(i) For scientific purposes;

(ii) To relocate a ferret to avoid conflict with human activities;

(iii) To relocate a ferret that has moved outside the Shirley Basin/Medicine Bow Management Area when removal is necessary or requested or whose removal is requested pursuant to paragraph (12) of this rule;

(iv) To relocate ferrets within the experimental population area to improve ferret survival and recovery prospects;

(v) To relocate ferrets from the experimental population area into future reintroduction sites or captivity;

(vi) To aid a sick, injured, or orphaned specimen; or

(vii) To salvage a dead specimen which may be useful for scientific study.

(5) A person may take a ferret in the wild within the experimental population area, provided such take is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Knowing or willful take will be prosecuted.

(6) Any taking pursuant to paragraphs (g)(3), (4)(vi) and (vii), and (5) must be reported immediately to the State Supervisor, Fish and Wildlife Enhancement, Fish and Wildlife Service, Cheyenne, Wyoming (Telephone: (307) 772–2374), who will determine the

disposition of any live or dead specimens.

(7) No person shall possess, sell, deliver, carry, transport, ship, import, or export by any means whatsoever, any ferret or part thereof from the experimental population taken in violation of these regulations or in violation of applicable State fish and wildlife laws or regulations or the Endangered Species Act.

(8) It is unlawful for any person to attempt to commit, solicit another to commit, or cause to be committed, any offense defined in paragraphs (g)(2) and (7) of this section.

(9) The site for reintroduction of black-footed ferrets is within the historical range of the species. The reintroduction area, Shirley Basin/Medicine Bow Management Area, is shown on the attached map and will be considered the core recovery area for this species in southeastern Wyoming. The boundaries of the nonessential experimental population will be that part of Wyoming south and east of the North Platte River within Natrona, Carbon, and Albany Counties (see map). All marked ferrets found in the wild within these boundaries prior to the first breeding season following the first year of releases will constitute the nonessential experimental population during this period. All ferrets found in the wild within these boundaries during and after the first breeding season following the first year of releases will comprise the nonessential experimental population, thereafter.

(10) The reintroduced population will be continually monitored during the life of the project, including the use of radio telemetry and other remote sensing devices as appropriate. All released animals will be vaccinated against diseases prevalent in mustelids, as appropriate, prior to release. Any animal which is sick, injured, or otherwise in need of special care may be captured by authorized personnel of the Service or the Department or their agents and given appropriate care. Such an animal may be released back to the wild in the Shirley Basin/Medicine Bow Management Area or another authorized site as soon as possible, unless physical or behavioral problems make it necessary to return the animal to captivity.

(11) The status of the experimental population will be reevaluated within the first 5 years after the first year of releases of black-footed ferrets to determine future management needs. This review will take into account the reproductive success and movement patterns of the individuals released on the area, as well as the overall health of the experimental population and the prairie dog ecosystem in the above described area. Once recovery goals are met for delisting the species, a conservation plan(s) will be proposed to address delisting.

(12) This 5-year evaluation will not include a reevaluation of the "nonessential experimental" designation for this population. The Service does not foresee any likely situation which would call for altering the nonessential experimental status of the population. Should any such alteration prove necessary and it results in a substantial modification to black-footed ferret management on private lands, any private landowner who consented to the introduction of black-footed ferrets on his lands will be permitted to terminate his consent and the ferrets will be, at his request, relocated pursuant to paragraph (g)(4)(iii) of this section.



Dated: August 9, 1991.

Bruce Blanchard,

Acting Director, Fish and Wildlife Service.

[FR Doc. 91-19969 Filed 8-20-91; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 253

[Docket Number 910767-1167]

Interjurisdictional Fisheries

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

ACTION: Final rule.

SUMMARY: NOAA issues this final rule to implement the Fishery Conservation Amendments of 1990, which amend the Interjurisdictional Fisheriesunding to states with agreements for the protection of fishery resources that are managed under an interstate fishery management plan, and (2) by limiting the Federal funding for disaster assistance under the Act to 75 percent.

EFFECTIVE DATE: August 21, 1991.

FOR FURTHER INFORMATION CONTACT: Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, or Austin R. Magill, 1335 East-West Highway, Silver Spring, MD 20910, phone (301) 427-2347.

SUPPLEMENTARY INFORMATION: Public Law 99-659 was enacted on November 14, 1986, and became effective October 1, 1987. The purpose of title III of the Act was to promote and encourage state activities in support of the management of interjurisdictional fishery resources throughout their range. Regulations implementing the Act were promulgated on June 3, 1988.

The regulations, at 50 CFR 253.3(b), provide that a state whose apportionment formula pursuant to 50 CFR 253.3(a) is less than one-third of 1 percent may receive funding if the state has entered into an enforcement agreement with the Secretary of Commerce and/or the Secretary of the Interior. On November 28, 1990, Public Law 101-627, the Fishery Conservation Amendments of 1990, became effective. Section 501 amended section 304(c)(3)(B) of the Act so that a state enforcement agreement must pertain to the protection of fishery resources that are managed under an interstate fishery management plan for the state to be eligible for funding under section 304(c)(3). This effectively prohibits a state that is not a

coastal state, Great Lakes state, or a member of an interstate commission, from obtaining an enforcement grant. This rule conforms 50 CFR 253.3(c)(2) to this change.

Further, section 502(3) of Public Law 102–627 amended section 308(b) of the Act to provide that the Federal share of funds provided to states for disaster assistance shall not exceed 75 percent of the cost of the activity. Although this does not change a state's eligibility for grant funds, it increases a state's financial responsibility for restoring resources identified to have been damaged by a resource disaster. This rule conforms 50 CFR 253.5(a) to this change.

Classification

The Assistant Administrator for Fisheries, NOAA, has determined that this final rule is not a major rule requiring a regulatory impact analysis under Executive Order 12291. Because the rule only implements the provisions of Public law 101–627 to establish criteria for approving grants to states for enforcement purposes and requires matching state funds for disaster assistance, it will not have an effect on the economy of $100 million or more, will not increase prices or costs, and will not have a significant effect 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 does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

Because this rule relates to grants, benefits and contracts, it is exempt from the requirements of notice and opportunity to comment and delayed effective date of the Administrative Procedure Act by 5 U.S.C. 553(a). Therefore, this rule is being issued as a final rule effective on the date of publication in the **Federal Register.**

Since a notice and an opportunity for comment are not required to be given for this rule by the Administrative Procedure Act or any other law, no Regulatory Flexibility Analysis has to be or was prepared for purposes of the Regulatory Flexibility Analysis Act (5 U.S.C. 603(a), 604(a)).

This action does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 253

Fisheries, Grants programs, Reporting and recordkeeping requirements.

Dated: August 15, 1991.

Michael F. Tillman,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 253 is amended as follows:

PART 253—INTERJURISDICTIONAL FISHERIES

1. The authority citation for part 253 continues to read as follows:

Authority: 16 U.S.C. 4101 *et seq.*

2. In § 253.3, paragraph (c)(2) is revised to read as follows:

§ 253.3 Apportionment.

* * * * *

(c) * * *

(2) Has entered into an enforcement agreement with the Secretary and/or the Secretary of the Interior for a fishery that is managed under an interstate fishery management plan; or

* * * * *

3. Section 253.5 is amended by adding a sentence following the existing text of paragraph (a) to read as follows:

§ 253.5 Other funds.

(a) * * * The Federal share of the cost of any activity conducted under the disaster provision of the Act shall be limited to 75 percent of the total cost.

* * * * *

[FR Doc. 91–20037 Filed 8–20–91; 8:45 am]

BILLING CODE 3610–22–M

Proposed Rules

Federal Register
Vol. 56, No. 162
Wednesday, August 21, 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 Part 51

[Docket Number FV-91-302]

Fresh Fruits, Vegetables and Other Products [1] (Inspection, Certification, and Standards)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed action would revise the regulations governing inspection, certification and standards for fresh fruits, vegetables and other products by revising the fees charged for the inspection of these products and certain of the bases for calculating fees. The proposed fees would recover the costs of performing inspection services at destination markets, as authorized by the Agricultural Marketing Act (AMA) of 1946. The changes in some of the fee bases are designed to improve the accuracy of the fees in recovering the cost of service under certain specific inspection situations.

DATES: Comments must be postmarked or courier dated on or before September 20, 1991.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Office of the Branch Chief, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, room 2056 South Building, Washington, DC 20090-6456. Comments should make reference to the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the above office during regular business hours.

[1] Among such other products are the following: Raw nuts; Christmas trees and evergreens; flowers and flower bulbs; and onion sets.

FOR FURTHER INFORMATION CONTACT: Mr. Douglas Bailey at the above address or call (202) 447-5870.

SUPPLEMENTARY INFORMATION: This action has been reviewed by the Department in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "nonmajor" rule.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.), the Administrator of the Agricultural Marketing Service (AMS) has determined that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule for the revision of the Regulations governing inspection, certification and standards for fresh fruits, vegetables and other products will not impose substantial direct economic cost, recordkeeping, or personnel workload changes on small entities, and will not alter the market share or competitive position of these entities relative to large businesses.

The regulations were last revised in March 1986. The proposed rule reflects fee increases needed to recover the costs of service rendered in accordance with the AMA of 1946.

The AMA authorizes voluntary official inspection, grading, and certification on a user-fee basis, of fresh fruits, vegetables, and other products such as raw nuts, Christmas trees, flowers and flower bulbs, and onion sets. The AMA provides that reasonable fees be collected from the user of the program services to cover as nearly as practicable the costs of services rendered. This proposal would amend the schedule for fees and charges for services rendered to the fresh fruit and vegetable industry at destination markets to reflect the costs currently associated with the program.

AMS regularly reviews these programs to determine if fees are adequate. Since the last fee change on March 23, 1986, (51 FR 8478), program operating costs have increased. The major increase is the result of salary increases effective each January for Federal employees that have increased salary expenses by 18 percent. Furthermore, the program's cost for the retirement system and health insurance of Federal employees has increased by over 13 percent. Employee salary and benefits are major program costs that account for approximately 77 percent of the annual program expense.

In addition, the following increases or projected increases have further required a rate increase: An inflationary increase for non-salary expenses of approximately 20 percent from 1987 through 1991, a projected increase of five percent for salary expenses in 1992, and a projected expense of $220,000 for field office automation equipment in 1991. The Agency has determined that due to the aforementioned increases in program operating costs, the program will incur a $793,000 loss in fiscal year 1991.

Based on the Agency's analysis of increased costs since 1986, AMS proposes to increase the fees for destination market inspection services. The following table compares current fees and charges with proposed fees and charges for fresh fruit and vegetable inspection as found in 7 CFR 51.38. Unless otherwise provided for by regulation or written agreement between the applicant and the Administrator, the charges in the schedule of fees as found in § 51.38 are:

Service	Current	Proposed
Quality and condition inspections for each over half carlot equivalent up to a full carlot equivalent.	$50	$62.
Quality and condition inspections for each half carlot equivalent or less.	$42	$52.
Condition inspections for each over half carlot equivalent up to a full carlot equivalent.	$42	$52.
Condition inspections for each half carlot equivalent or less.	$38	$47.
Inspections for peanuts (shelled), pecans, or other nuts.	$1.50 per ton.	$31.00 per hour.
Inspections for Farmer's Stock peanuts (unshelled).	$4.00 per ton.	$31.00 per hour.
Inspections performed for other purposes during the grader's regularly scheduled work week.	$25.00 per hour.	$31.00 per hour.
Overtime or holiday premium rate for all inspections performed outside the grader's regularly scheduled work week.	$12.00 per hour.	$15.50 per hour.
Fees for additional copies of inspection certificates.	$2.25 for each set of five or less copies.	$5.00 per copy.

In addition, a $10 fee for each additional lot identified on an inspection certificate for the same product on or unloaded from the same conveyance would be added for quality and condition or condition only inspections to offset the additional cost of sampling, grading, and documenting results for these additional lots. Also the maximum carlot fee for quality and condition inspections and condition only inspections would be eliminated because it does not allow the fee charged to recover the full cost of the service rendered. In its place, a base fee of $220 would be charged for quality and condition inspections and/or condition only inspections of five or more products on or unloaded from the same conveyance, with an additional charge of $10 for the sixth and each additional product inspected.

For products unloaded directly from sea transportation, fees would be determined on a package basis when palletized products are offered for inspection as product is unloaded at dock-side. The package rate applied to inspection of palletized products at dock-side generally results in a lower charge than the carlot rate, and reflects the increased inspection efficiencies that result when a high volume of palletized product is offered for inspection at the same time and site. Tonnage fees for inspections of peanuts and other nuts would be eliminated and an hourly fee used in its place to simplify the fee determinations for these inspections as they are rarely conducted at destination markets. Package rates for small lots unloaded from land or air transportation would be eliminated as these rates are seldom used in lieu of the hourly rate for time consumed to perform the inspection. Separate fee bases using an hourly rate would be established for Government agencies, for inspections of product destined for Defense Personnel Support Centers, and for inspections for nonprescribed purposes, in order to meet the particular circumstances of those situations. Finally, the definition of "lot" would be redefined as a "carlot," and the conditions under which a carlot is considered to consist of several lots would be clarified.

List of Subjects in 7 CFR Part 51

Agricultural commodities, Food grades and standards, Fruits, Nuts, Reporting and recordkeeping requirements, Vegetables.

PART 51—[AMENDED]

For reasons set forth in the preamble, it is proposed that 7 CFR part 51 be amended to read as follows:

1. The authority citation for 7 CFR part 51 continues to read as follows:

Authority: Secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended; 7 U.S.C. 1622, 1624, unless otherwise noted.

2. In Subpart-Regulations, § 51.2 paragraphs (m) through (t) would be redesignated (n) through (u) respectively, paragraphs (d) through (k) would be redesignated as (f) through (m) respectively, and paragraph (l) would be redesignated as (d).

3. Section 51.2 would be amended by revising newly redesignated paragraph (d) and adding paragraph (e) as follows:

§ 51.2 Terms defined.

* * * * *

(d) *Carlot. Carlot* means any number of containers which contain a product of the same kind located on or unloaded from the same conveyance and available for inspection at the same time and location: *Provided,* That:

(1) Product of the same carlot shall be considered to be separate lots whenever the product differs markedly as to quality and/or condition, and such differences are definitely associated with certain brands, varieties, sizes or container markings;

(2) If the applicant requests more than one inspection certificate covering portions of the same carlot, the quantity of the carlot covered by each certificate shall be considered to be a separate carlot;

(3) If product of the same carlot is packed in more than one size or type container, each such size or type shall be considered to be a separate lot.

(e) *Carlot equivalent. Carlot equivalent* shall be the quantity of an individual product customarily loaded in common highway trailers.

4. Section 51.37 would be revised to read as follows:

§ 51.37 Charges for fees, rates, and expenses.

For each carlot of product inspected, a fee or rate determined in accordance with §§ 51.38 and 51.39, and expenses determined in accordance with § 51.40, shall be paid by the applicant.

5. Section 51.38 would be revised to read as follows:

§ 51.38 Basis for fees and rates.

(a) When performing inspections of product unloaded directly from land or air transportation, charges shall be determined on the following basis:

(1) Quality and condition inspection and/or condition only inspection of five or more products from the same conveyance:

(i) $220 for the first five products.

(ii) $10 for each additional product.

(iii) $10 for each additional lot identified on an inspection certificate for any of the products.

(2) All other inspections for quality and condition:

(i) $62 for each over one-half carlot equivalent of an individual product up to a full carlot equivalent.

(ii) $52 for each half-carlot equivalent or less of an individual product.

(iii) $10 for each additional lot identified on an inspection certificate for the same product on or unloaded from the same conveyance.

(3) All other inspections for condition only:

(i) $52 for each over one-half carlot equivalent of an individual product up to a full carlot equivalent.

(ii) $47 for each half-carlot equivalent or less of an individual product.

(iii) $10 for each additional lot identified on an inspection certificate for the same product on or unloaded from the same conveyance.

(b) When performing inspections of products unloaded directly from sea transportation, charges shall be determined on the following basis:

(1) On a package basis, with a minimum charge of $62 for each product inspected, for palletized products offered for inspection as unloaded at dockside according to the following rates:

(i) 1 cent per package weighing less than 15 pounds;

(ii) 2 cents per package weighing 15 to 29 pounds; and

(iii) 3 cents per package weighing 30 or more pounds.

(2) On a carlot basis in accordance with § 51.38(a) for products in sea containers, or when inspections are performed after product has been transported from the dock-side facility.

(c) When performing inspections for Government agencies, or for purposes other than those prescribed in the preceding paragraphs including weight-only and freezing-only inspections, fees for inspection shall be based on the time consumed by the grader in connection with such inspections, computed at a rate of $31.00 an hour: *Provided,* That

(1) Charges for time shall be rounded to the nearest half hour;

(2) The minimum fee shall be two hours for weight-only inspections, and one-half hour for other inspections;

(3) When weight certification is provided in addition to quality and/or

condition inspection, a one-hour charge shall be added to the carlot fee.

(4) When inspections are performed to certify product compliance for Defense Personnel Support Centers, the daily or weekly charge shall be determined by multiplying the total hours consumed to conduct inspections by the hourly rate. The daily or weekly charge shall be prorated among applicants by multiplying the daily or weekly charge by the percentage of product passed and/or failed for each applicant during that day or week. Waiting time and overtime charges shall be charged directly to the applicant responsible for their incurrence.

(d) When performing inspections at the request of the applicant during periods which are outside the grader's regularly scheduled work week, a charge for overtime or holiday work shall be made at the rate of $15.50 per hour or portion thereof in addition to the carlot equivalent fee, package charge, or hourly charge specified in this subpart. Overtime or holding charges for time shall be rounded to the nearest half hour.

6. Section 51.39 would be revised to read as follows:

§ 51.39 Fees for appeal inspections.

The fee to be charged to an applicant, including any Government agency, for appeal inspections on all products shall be at the same rate as those set forth in this part, except that when a material error is found in the determination of the original inspection, no fee will be charged.

7. Section 51.40 would be revised as follows:

§ 51.40 Traveling and other expenses.

Costs including travel incurred by the Agricultural Marketing Service in providing inspection service or appeal inspections may be charged to the applicant, including any Government agency. These charges shall be included with the fee for inspection on the bill furnished the applicant.

8. Section 51.41 would be revised as follows:

§ 51.41 Fees for additional copies of inspection certificates.

Additional copies of any inspection certificate other than those copies provided for in § 51.21, or copies of official memoranda, may be mailed, faxed, or otherwise provided to any interested party upon payment of a fee of $5.00 for each copy.

Dated: August 15, 1991.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 91-19871 Filed 8-20-91; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150-AD89

Decommissioning Funding for Prematurely Shutdown Power Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) proposes to amend its regulations on the timing of the collection of funds for decommissioning for those nuclear power reactors that have shut down before the expected end of their operating lives. The proposed rule, if adopted, would require that the NRC evaluate decommissioning funding plans for power reactors that shut down prematurely on a case-by-case basis. The NRC's evaluation would take into account the specific safety and financial situations at each plant.

DATES: Comment period expires November 4, 1991. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Mail written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:45 and 4:15 pm on Federal workdays.

Copies of comments received may be examined at: the NRC Public Document Room at 2120 L Street, NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert Wood, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-1255.

SUPPLEMENTARY INFORMATION:

Background

On June 27, 1988, the NRC published in the **Federal Register** the decommissioning regulation amending 10 CFR parts 30, 40, 50, 51, 70, and 72. This regulation established several acceptable methods by which power reactor licensees may provide assurance that they will have sufficient funds to decommission their plants by the time the plants are permanently shut down. (53 FR 24018, at p. 24043.) In considering the final decommissioning rule, the Commission acknowledged that, in certain instances, reactors might be permanently shut down before completing the full term of their operating lives. However, because the Commission determined that such instances would be infrequent, it did not explicitly include in the rule remedies for this situation.

As provided in 10 CFR 50.82(a), for a plant that had permanently shut down before the effective date of the rule (July 27, 1988), requirements for contents of the decommissioning plan, including provisions for assuring adequate funding, may be modified with approval of the Commission to reflect the fact that the decommissioning process had been initiated previously. For plants that permanently shut down after July 27, 1988, an application to terminate the operating license (accompanied or preceded by a proposed decommissioning plan) must be made within 2 years following permanent cessation of operations and in no case later than one year prior to expiration of the operating license. Moreover, the provisions of §§ 50.82(a) and 50.75(e) reflect the Commission's objective that "*at the time of permanent end of operations* sufficient funds are available to decommission the facility in a manner which protects public health and safety" (53 FR 24018, at pps. 24030-31, emphasis added).

In establishing the decommissioning rule, the Commission also recognized that power reactor licensees generally have access to significant amounts of financial capital and are closely regulated. Therefore, the Commission allowed them the option of accumulating decommissioning funds over the projected operating life of the facility rather than requiring that these funds be available or guaranteed prior to operation or at some time before the end of the projected operating life of the facility. The Commission recognized the risk that, if some reactors did not operate for their entire operating lives, those licensees might have insufficient decommissioning funds at the time of permanent shutdown.

After the NRC published the final decommissioning rule, three power reactor facilities shut down prematurely: The Fort St. Vrain Nuclear Generating Station, the Rancho Seco Nuclear Generating Station, and the Shoreham Nuclear Power Station. The NRC staff

sought the Commission's guidance on the appropriate period for collecting funds to compensate for any shortfall of decommissioning funds for these plants. The staff presented four options to the Commission intended to be applied to future prematurely shutdown plants:

(1) Require licensees to have funds for decommissioning at the time of permanent shutdown as implicitly mandated by the existing decommissioning rule;

(2) Allow licensees who propose to put their plants in safe storage to collect decommissioning funds over the original term of the operating license or the storage period, whichever is less;

(3) Allow licensees to collect decommissioning funds over a 5-year period after permanently ceasing operations, provided they will have sufficient funds for conducting any decommissioning activities over this 5-year period; and

(4) Determine the appropriate collection period for each licensee on a case-by-case basis.

The Commission selected the fourth option: determine the appropriate collection period on a case-by-case basis. For Fort St. Vrain, Rancho Seco, and Shoreham, this approach would be applied by issuing exemptions. Several arguments support this option. First, a case-by-case approach would be less arbitrary than establishing a general collection period that might not be justified for a particular licensee. For example, a longer collection period might be justified for an operating, stable utility in reasonable financial health while not justified for financially unstable entities. Smaller licensees who would suffer undue hardships from a short collection period could have the length of their collection periods extended. Second, a case-by-case approach would be consistent with the Commission's intent in 10 CFR 50.82, which provides more flexibility for licensees that permanently shut down their facilities before July 27, 1988, the effective date of the decommissioning rule.

The case-by-case approach would call for the staff to determine the longer-term financial stability of licensees that decommission prematurely. To minimize the potential for the staff to treat different licensees inconsistently, the commission proposes to use the following criteria for evaluating funding options for licensees that shut down their facilities prematurely.

(1) All funds needed for decommissioning should be available or guaranteed in external accounts before the start of DECON operations. This is the same requirement that the NRC imposed on licensees that operate their facilities for their entire license term and then choose the DECON option of decommissioning. This requirement will help avoid a shortfall of funds that could adversely affect the decommissioning process once that process has begun.

(2) The Commission will consider factors other than availability of decommissioning funds, such as the number of power plants in a licensee's system that continue to generate revenues.

(3) The Commission will allow those licensees who chose to accumulate funds over the life of the facility and subsequently select a period of safe storage before permanently dismantling their prematurely shutdown reactors, to collect funds in external accounts into the safe storage period. However, the Commission's objective will continue to be that licensees will have all necessary decommissioning funds collected or guaranteed prior to final dismantlement operations. To minimize the risk that such licensees will be unable to complete funding in a reasonable period, licensees that choose this funding option should demonstrate financial solvency during the collection period.

The NRC would consider the ability to meet the following criteria to determine the extent of a licensee's financial solvency:

(1) All funds needed for decommissioning must be collected before the expiration of the original operating license term, during which the reactor facility would have operated if the licensee had not prematurely shut it down; and

(2) Funding may continue into the storage period, but only until the license expiration date, and only if a licensee maintains a bond rating of at least "A" or equivalent by Moody's Investment Services, Standards and Poors, or another national rating agency. The rating should be maintained for at least 4 of any 5-year sequence. If a licensee's rating falls below "A" more than once in a 5-year period, that licensee would be expected to obtain the balance of the funds needed for decommissioning, and deposit them in an external account within 1 year after being downrated. Alternatively, a licensee could use other assurance mechanisms allowed by 10 CFR 50.75(e).

Traditionally, bond ratings adequately predict the intermediate-term financial health of larger businesses such as electric utilities. If a utility were to be derated from "A" to "BBB," or equivalent, it should still be able to raise or guarantee the funds necessary to decommission without unduly stressing its capital structure. A "BBB" rating is still considered "investment grade", which suggests that the licensee would not face inordinate capital costs for raising such funds.

The Commission believes that use of this standard would ensure that licensees would be treated consistently, reasonable assurance of the availability of decommissioning funds would be maintained, and flexibility of funding would be provided to financially healthy licensees.

Finding of No Significant Environmental Impact: Availability

These proposed amendments would clarify decommissioning funding arrangements for those licensees whose power reactors are shut down prematurely. This action is required so that the Commission may evaluate on a case-by-case basis the unique financial situation that could confront such licensees. The Commission would continue its requirements for assurance of decommissioning costs but could alter the timing of funds collection according to a licensee's individual financial situation. The Commission believes that if utility licensees were required to have all funds for decommissioning by the time of permanent shutdown as required by the existing rule, some utilities could be unnecessarily financially stressed without significantly increasing the protection of the public health and safety and of the environment.

Neither this action nor the alternative of maintaining the existing rule would significantly affect the environment. Although changes in the timing of collection of funds for decommissioning prematurely shutdown power reactors may affect the financial arrangements of licensees and may have economic and social consequences, they would not alter the affect on the environment of the licensed activities considered in the final decommissioning rule (53 FR 24018, June 27, 1988) as analyzed in the Final Generic Environmental Impact Statement on Decommissioning of Nuclear Facilities (NUREG–0586, August 1988). The alternative to this proposed action would not significantly affect the environment. Therefore, the Commission has determined, under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in subpart A of 10 CFR part 51, that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment, and therefore an environmental impact statement is not required. No other agencies or persons were contacted for this proposed action,

and no other documents related to the environmental impact of this proposed action exist. The foregoing constitutes the environmental assessment and finding of no significant impact for this proposed rule.

Paperwork Reduction Act Statement

This proposed rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget approval number 3150–0011.

Regulatory Analysis

On June 27, 1988, the NRC published in the **Federal Register** (53 FR 24018) a final rule amending 10 CFR parts 30, 40, 50, 51, 70 and 72 regarding general requirements for decommissioning nuclear facilities. In that rule, the Commission provided the option that power reactor licensees may collect funds for decommissioning over the projected operating life of the facility but required that all funds needed for decommissioning be accumulated by the time of permanent shutdown. Power reactors that shut down prematurely would not have the remaining term of the operating license to accumulate decommissioning funds and could be unduly burdened financially if required to raise all remaining decommissioning funds shortly after shutdown. Consequently, the NRC proposes to evaluate the schedule for decommissioning funding for prematurely shutdown facilities on a case-by-case basis. A case-by-case approach will allow the NRC to evaluate the particular financial circumstances of each affected licensee while continuing to ensure that the public health and safety and the environment are adequately protected. The proposed rule would reduce financial costs for those licensees allowed to extend the collection period of decommissioning funds.

The proposed rule would not create substantial costs for other licensees. The proposed rule also will not significantly affect state and local governments and geographical regions, or the environment, or create substantial costs to the NRC or other Federal agencies. The foregoing discussion constitutes the regulatory analysis for this proposed rule.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule, if adopted, will not have a significant impact upon a substantial number of small entities. The proposed rule would potentially affect approximately 118 nuclear power reactor operating licenses. Nuclear power plant licensees do not fall within the definition of small businesses as defined in section 3 of the Small Business Act, 15 U.S.C. 632, the Small Business Size Standards of the Small Business Administrator (13 CFR part 121), or the Commission's Size Standards (50 FR 50241; December 9, 1985).

Backfit Analysis

The NRC has determined that this proposed rule does not impose a backfit as defined in 10 CFR 50.109(a)(1). Therefore, a backfit analysis is not required for this proposed rule.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Criminal penalty, Fire protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendment to 10 CFR part 50.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201 as amended, 202, 206, 88 Stat. 1242 as amended 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601 sec. 10 92 Stat. 2951 (42, U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939 as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

For the purposes of sec. 223, 66 Stat. 958, as amended (42 U.S.C. 2273); §§ 50.46 (a) and (b), and 50.54(c) are issued under sec. 161b, 161i and 161o 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.7(a), 50.10(a)–(c), 50.34 (a) and (e), 50.44(a)–(c), 50.46 (a) and (b), 50.47(b), 50.48 (a), (c), (d), and (e), 50.49(a), 50.54 (a), (i), (i)(1), (1)–(n), (p), (q), (t), (v), and (y), 50.55(f), 50.55a (a), (c)–(e), (g), and (h), 50.59(c), 50.60(a), 50.62(c), 50.64(b), and 50.80 (a) and (b) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.49 (d), (h), and (j), 50.54 (w), (z), (bb), (cc), and (dd), 50.55(e), 50.59(b), 50.61(b), 50.62(b), 50.70(a), 50.71(a)–(c) and (e), 50.72(a), 50.73 (a) and (b), 50.74, 50.78, and 50.90 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Section 50.82 is amended by revising paragraph (a) to read as follows:

§ 50.82 Application for termination of license.

(a) Any licensee may apply to the Commission for authority to surrender a license voluntarily and to decommission the facility. For a facility that permanently ceases operation after July 27, 1988, this application must be made within two years following permanent cessation of operations, and in no case later than one year prior to expiration of the operating license. Each application for termination of license must be accompanied, or preceded, by a proposed decommissioning plan. For a facility which has permanently ceased operation prior to July 27, 1988, requirements for contents of the decommissioning plan as specified in paragraphs (b) through (d) of this section may be modified with approval of the Commission to reflect the fact that the decommissioning process has been initiated previously. For a facility which has permanently ceased operation before the expiration of its operating license, the collection period for any shortfall of funds will be determined, upon application by the licensee, on a case-by-case basis taking into account the specific financial situation of each licensee.

* * * * *

Dated at Rockville, Maryland this 9th day of August, 1991.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 91–20029 Filed 8–20–91; 8:45 am]

BILLING CODE 7590–01–M

FEDERAL ELECTION COMMISSION

11 CFR Part 114

[Notice 1991-15]

Rulemaking Petition: Common Cause; Availability

AGENCY: Federal Election Commission.

ACTION: Rulemaking petition: Notice of availability.

SUMMARY: On July 25, 1991, the Commission received a Petition for Rulemaking from Common Cause. The Petition requests the Commission to consider amending its regulations governing the reimbursement of corporations by candidates, political committees, and other political parties who use corporate jets or other privately financed aircraft in connection with a Federal election. The petition is available for public inspection in the Commission's Public Records office. Further information is provided in the supplementary information which follows.

DATES: Statements in support of or in opposition to the petition must be filed on or before September 20, 1991.

ADDRESSES: Comments must be made in writing and addressed to: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street NW., Washington, DC 20463.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street NW., Washington, DC 20463 (202) 376-5690 or (800) 424-9530 until August 23, 1991, or (202) 219-3690 or (600) 424-9530 after August 23, 1991.

SUPPLEMENTARY INFORMATION:

Rulemaking Petition: Notice of Availability

Petitioner has requested that the Commission reconsider its regulations governing the reimbursement of corporations by candidates, political committees, and other political parties who use corporate jets or other privately financed aircraft in connection with a Federal election under 11 CFR 114.9(e). The Petitioner alleges that the current regulations allow corporations to provide a significant financial benefit, which would otherwise be an illegal campaign contribution, to federal candidates because under the current rules, corporations are reimbursed at rates lower than the actual travel costs. The Petitioner asks that the Commission require candidates to reimburse corporations "at the same price it would cost to charter similar aircraft."

Copies of the Petition for Rulemaking are available for public inspection at the Commission's Public Records Office, 999 E Street, NW., Washington, DC 20463, Monday through Friday between the hours of 9 a.m. and 5 p.m. Statements in support of or in opposition to the Petition for Rulemaking must be submitted in writing by September 20, 1991.

Dated: August 15, 1991.

John Warren McGarry,

Chairman, Federal Election Commission.

[FR Doc. 91-19930 Filed 8-20-91; 8:45 am]

BILLING CODE 6715-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[IA-195-78]

RIN 1545-AB48

Certain Returned Magazines, Paperbacks, or Records; Public Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing relating to a method of accounting for certain returns of magazines, paperbacks, or records.

DATES: The public hearing will be held on Wednesday, October 16, 1991, beginning at 10 a.m. Outlines of oral comments must be received by October 2, 1991.

ADDRESSES: The public hearing will be held in the Internal Revenue Building, Second floor, room 2615, 1111 Constitution Avenue, NW., Washington, DC. Requests to speak and outlines or oral comments should be submitted to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R, (IA-195-78), room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Felicia A. Daniels of the Regulations Unit, Assistant Chief Counsel (Corporate), 202-566-3935, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 458 of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Friday, August 31, 1984, at page 34520 (49 FR 34520).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations would submit not later than Wednesday, October 2, 1991, an outline of oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited 10 minutes for an oral presentation exclusive of the time consumed by the questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be permitted beyond the lobby of the Internal Revenue Building until 9:15 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 91-19916 Filed 8-20-91; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD 6010.8-R]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); CHAMPUS Coverage of Screening Mammography and Papanicolaou (Pap) Tests

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: This proposed rule implements section 1079(a)(2) of title 10, United States Code amended by the Defense Authorization Act for fiscal year 1991 (Pub. L. 101-510). This proposed rule revises the CHAMPUS regulation's exclusions and limitations pertaining to preventive care and unnecessary diagnostic tests not related to a specific illness, injury, or definitive set of symptoms. This change is being made to allow coverage for screening mammography and Pap tests on either a preventive or diagnostic basis.

DATES: Written public comments must be received on or before September 20, 1991.

ADDRESSES: Comments must be sent to the Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Office of Program Development, Aurora, CO 80045–6900.

FOR FURTHER INFORMATION CONTACT: Tanya Agee, OCHAMPUS, Office of Program Development, telephone (303) 361–3586.

SUPPLEMENTARY INFORMATION:

I. Background

Title 32 of Code of Federal Regulations, § 199.4. lists basic program benefits including exclusions and limitations. Paragraph (g)(1) of this section specifically excludes benefits for services and supplies not considered medically or psychologically necessary in the treatment or diagnosis of a covered illness. Paragraph (g)(2) of this section further excludes benefits for unnecessary diagnostic tests. This exclusion includes screening procedures such as mammography and Pap tests when signs and symptoms of an illness or malignancy are not present. Finally, paragraph (g)(37) excludes coverage of preventive care such as routine or annual screening procedures.

We are proposing to amend these provisions based on section 701 of the Defense Authorization Act for fiscal year 1991 which now allows coverage of screening mammography and screening Pap tests. This amendment proposes to be effective for mammography and Pap test screening services received on or after November 5, 1990.

Because of strong legislative and public concern regarding the quality of mammography services, this amendment requires mammography suppliers to be either Medicare participating or certified by the American College of Radiology as a mammography supplier. The Medicare requirements for participation are outlined in its interim final rule published in the Federal Register on December 31, 1990 (55 FR 53510). The rule lists comprehensive standards regarding equipment specifications, qualifications of consulting and interpreting physicians and other safety measures, compliance with Federal, State, and local laws and regulations, preservation and disposition of examination records and the need for an ongoing equipment quality assurance program. Medicare received expert consultation from the National Cancer Institute (NCI) of the National Institutes of Health (NIH), American College of Radiology (ACR), and the Food and Drug Administration (FDA) before deciding its coverage limitations and conditions for screening. Section 199.6 will be amended to add a new paragraph reflecting the new requirements.

Our rationale for adopting the Medicare certification requirement is based on the fact that CHAMPUS has no expert resources to rely on other than those identified in the Medicare rule. We feel we can justifiably accept Medicare's requirements as recognized standards of quality care concurred upon by the experts in mammography, oncology, and radiology.

As an alternative to Medicare participation, CHAMPUS will recognize mammography suppliers who are certified by the American College of Radiology. The requirements for screening mammography suppliers are applicable to Medicare and/or CHAMPUS certified hospital providers. In other words, certification as a Medicare or CHAMPUS hospital provider will not satisfy the requirements for mammography suppliers. Mammography supplier requirements are the same for hospital and outpatient providers.

II. Coverage Limitations and Conditions

A. Screening Mammography

Because of the extensive expert consultation obtained by Medicare in the development of its coverage criteria as published in the December 31, 1990 interim final rule, we have decided to adopt the same criteria on frequency and conditions as applicable to the Medicare program. The following frequency restrictions imposed by Medicare will apply to CHAMPUS coverage of screening mammography:

1. No payment will be allowed for screening mammography performed on an asymptomatic woman under 35 years of age.

2. Payment will be allowed for only 1 screening mammography performed on an asymptomatic woman at least 35 years of age but under 40 years of age.

3. For an asymptomatic woman at least 40 years of age, but under 50 years of age, coverage will be allowed under the following guidelines: Payment will be allowed for screening mammography performed after at least 11 months have passed following the month in which the last screening mammography was performed if the woman has a high risk of developing breast cancer, such as,

a. A personal history of breast cancer;

b. A personal history of biopsy-proven benign breast disease;

c. A mother, sister, or daughter who has had breast cancer; or

d. Not given birth prior to age 30.

Payment will be allowed for screening mammography performed after at least 23 months have passed following the month in which the last screening mammography was performed if the above criteria do not apply (that is, the woman is not at a high risk of developing breast cancer).

4. For an asymptomatic woman at least 50 years of age, but under 65 years of age, payment will be allowed for screening mammography performed after at least 11 months have passed following the month in which the last screening mammography was performed.

In those cases involving asymptomatic CHAMPUS beneficiaries 65 years of age or older, coverage will be allowed for screening mammography when performed after at least 23 months have passed following the month in which the last screening mammography was performed.

B. Screening Pap Test

CHAMPUS coverage of screening Pap tests is based on the American College of Obstetricians and Gynecologists (ACOG) who along with the National Cancer Institute (NCI) and American Cancer Society (ACS), made a joint recommendation for frequency of screening cervical cytology (Pap test). CHAMPUS coverage of Pap test screening is allowed for asymptomatic women who are or have been sexually active, or have reached 18 years of age subject to the following criteria:

1. Coverage will be limited to one annual examination with normal findings, or

2. If there is evidence that the beneficiary is at high risk of developing cervical cancer, Pap tests may be cost-shared if documented to be medically necessary and appropriate.

III. Payment Limitations

CHAMPUS will allow payment for screening mammography and screening Pap test in accordance with established program reimbursement procedures for professional and technical components for radiology and pathology services.

There are three types of billing methods for mammography and Pap test services: (1) Professional component, (2) technical component, and (3) global billing. The professional component represents charges submitted for the physician's interpretation of the tests;

technical component are charges for all other services excluding the physicians' interpretation and global charge refers to charges for both the professional and technical component services. Reimbursement for the professional component is limited to 40 percent of the CHAMPUS prevailing charge, while the value of the technical component is limited to 60 percent of the CHAMPUS prevailing charge for services rendered.

Limits to the payment amount allowed for mammography and Pap test are contingent upon the prevailing rates for each service. The prevailing rates are based on the 80th percentile of billed charges and are established per state. Prevailing rates are updated annually and are subject to the Medicare Economic Index (MEI) for increase limitations. In addition to coverage of screening mammography and screening Pap tests, CHAMPUS will cover charges for a brief or intermediate level office visit associated with the screening service.

IV. Regulatory Impact Analysis

Executive Order 12291 requires that a regulatory impact analysis be performed on any "major rule". A "major rule" is defined as one which would result in an annual effect on the national economy of $100 million or more, or have other substantial impact.

The Regulatory Flexibility Act (RFA) requires that each federal agency prepare and make available for public comment a regulatory flexibility analysis when the agency issues regulations that would have a significant impact on a substantial number of small entities.

This rule is not a major rule under Order 12291. The changes set forth a benefit expansion based upon recently enacted federal legislation and will not significantly affect a substantial number of small entities. In light of this fact, a regulatory impact analysis is not required.

Although this change does not qualify as a major rule under Executive Order 12291, we are providing a cost analysis for the benefit of the reader and public.

The following estimated costs to add coverage of screening mammography and screening Pap tests take into consideration the impact of increased outpatient deductibles effective April 1991, and two different payable benefit frequencies. The estimated costs include coverage of intermediate level office visits associated with these screening services.

ESTIMATED COSTS TO COVER SCREENING MAMMOGRAPHY AND SCREENING PAP TESTS UNDER THE CHAMPUS PROGRAM

[In millions]

Fiscal year				
1991	1992	1993	1994	1995
$36.1	$37.3	$39.9	$42.7	$45.6

V. Other Required Information

A. Effective date

The changes in this proposed rule will be effective for mammography and Pap test screening services furnished on or after November 5, 1990.

B. Paperwork Reduction Act

This notice does not impose information collection requirements. Therefore, it does not need to be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3511).

List of Subjects in 32 CFR Part 199

Claims, Handicapped, Health insurance, and Military personnel.

PART 199—[AMENDED]

Accordingly, 32 CFR part 199 is proposed to be amended as follows:

1. The authority citation for part 199 continues to read as follows:

Authority: 10 U.S.C. 1079, 1086, 5 U.S.C. 301.

2. Section 199.4 is amended by revising paragraphs (g)(1), (g)(2), and adding new paragraphs (g)(37)(vii) and (viii) to read as follows:

§ 199.4 Basic program benefits.

* * * * *

(g) * * *

(1) *Not Medically or psychologically necessary.* Services and supplies that are not medically or psychologically necessary for the diagnosis or treatment of a covered illness (including mental disorder) or injury, for the diagnosis and treatment of pregnancy, or for well-baby care except as provided in the following paragraph.

(2) *Unnecessary diagnostic tests.* X-ray, laboratory, and pathological services and machine diagnostic tests not related to a specific illness or injury or a definitive set of symptoms except for cancer screening mammography and cancer screening Pap tests provided under the terms and conditions contained in the guidelines adopted by the Director, OCHAMPUS.

* * * * *

(37) * * *

(vii) Screening mammography for asymptomatic women 35 years of age and older when provided under the terms and conditions contained in the guidelines adopted by the Director, OCHAMPUS.

(viii) Cancer screening Pap test for women who are or have been sexually active, and women 18 years of age and older when provided under the terms and conditions contained in guidelines adopted by the Director, OCHAMPUS.

* * * * *

3. Section 199.6 is amended by adding a new paragraph (d)(6) to read as follows:

§ 199.6 Authorized providers.

* * * * *

(d) * * *

(6) *Mammography suppliers.* Mammography services may be cost-shared only if the supplier is certified by Medicare for participation as a mammography supplier, or is certified by the American College of Radiology as having met its mammography supplier standards.

Dated: August 16, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91–19985 Filed 8–20–91; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD5–91–031]

Drawbridge Operation Regulations; Bass River, New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: At the request of the New Jersey Department of Transportation (NJDOT), the Coast Guard is considering a change to the regulations governing the US 9 bridge over the Bass River, mile 2.6, in New Gretna, New Jersey, by requiring that at least six hours advance notice be given for all openings by commercial and recreational vessels. This proposal is being made because of a drastic decrease in requests for openings of the draw. This action should relieve the bridge owner of the burden of having a person constantly available to open the draw and should still provide for the reasonable needs of navigation.

DATES: Comments must be received on or before October 7, 1991.

ADDRESSES: Comments should be mailed to Commander (ob), Fifth Coast Guard District, c/o Commander (obr), First Coast Guard District, Bldg., 135A, Governors Island, NY 10004–5073. The comments and other materials referenced in this notice will be available for inspection and copying at that address. Normal office hours are between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator-NY, Fifth Coast Guard District (212) 668–7170.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change to the proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed post card or envelope. The Commander, Fifth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this notice are Waverly W. Gregory, Project Officer, and LT Monica L. Lombardi, Project Attorney, Fifth Coast Guard District.

Discussion of Proposed Regulations

The current regulations for the US 9 bridge require that the bridge shall opening on signal from March 1 through November 30, from 7 a.m. to 11 p.m. At all other times, the draw shall open on signal if at least six hours notice is given. NJDOT has requested a change to the regulation to require that a minimum of six hours notice be given at all times by commercial and recreational vessels to obtain an opening of the draw. NJDOT requested this regulation's change because of the drastic decrease in requests for bridge openings durings the past two years (1989–90). The result of a survey conducted by NJDOT revealed that there were only two requests for bridge openings for the entire year of 1990, and only four requests for bridge openings for the entire year of 1989 (all four for one recreational vessel). In 1988, there were 91 requests for bridge openings, and in 1987, there were 77 requests for openings. Most openings in previous years were for crab boats. No more crabbing is done in the river. Approval of the proposed regulations will require the NJDOT to post signs advising mariners of the operating regulations and where to call to provide advance notice. The proposed regulations would also require that clearance gauges be maintained at the draw to assist small boats in transiting the bridge in the closed position, and that public vessels of the United States, state and local vessels used for public missions shall be passed as soon as possible.

Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rule does not raise sufficient federalism implications to warrant preparation of a Federalism Assessment.

Regulatory Evaluation

This proposal is not major under Executive Order 12291 and not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a Regulatory Evaluation is unnecessary. This conclusion is based on the fact that the proposed regulation will not prevent commercial vessels from transiting the bridge, but only require advance notice for openings. The Coast Guard will accept comments on this impact and will consider them when issuing the final rule.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the U.S. Coast Guard must consider whether proposed rules will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). The Coast Guard will accept comments on the economic impact on small entities, in connection with the proposal for permanent regulations, and consider them at that time.

Environmental Impact

This rulemaking has been thoroughly reviewed by the Coast Guard and it has been determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.g.(5) of Commandant Instruction M16475.1B. A Categorical Exclusion Determination is available in the rulemaking docket for inspection or copying where indicated under "**ADDRESSES**".

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, the Coast Guard proposes to amend part 117 of title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.703 is revised to read as follows:

§ 117.703 Bass River.

The draw of the US 9 bridge, mile 2.6, at New Gretna, shall operate as follows:

(a) Public vessels of the United States and state and local vessels used for public safety missions shall be passed as soon as possible.

(b) The owners of this bridge shall provide and keep in good legible condition clearance gauges for the draw span with figures not less than 12 inches high designed, installed and maintained according to the provisions of § 118.160 of this chapter.

(c) The owners of this bridge shall sign both upstream and downstream of the bridge summarizing the opening requirements and where to call to provide advance notice.

(d) The draw shall open on signal only if at least six hours notice is given by commercial or recreational vessels.

Dated: July 31, 1991.

W.T. Leland,

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

[FR Doc. 91–20001 Filed 8–20–91; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 334

Danger Zone, San Pablo Bay, CA

AGENCY: U.S. Army Corps of Engineers, DoD

ACTION: Notice of proposed rulemaking.

SUMMARY: The Corps of Engineers proposes to amend the regulations which establish a danger zone in the waters of San Pablo Bay, California, with respect to the period of use and hours of operation of the gunnery range. The period of operation of the range would be changed from "April 1 through September 30" to year around, and the hours of operation would be changed from "* * * between the hours of 10 a.m. and 3 p.m. on the first Wednesday of the month and the third full weekend (Saturday and Sunday) of June" to "between the hours of 8 a.m. and midnight". During the time(s) that the gunnery range is in use the area will be closed to all vessels except those actually involved in the exercise. We are also taking this opportunity to make several editorial changes to the regulations.

DATES: Written comments must be submitted on or before September 20, 1991.

ADDRESSES: HQUSACE, Attn: CECW-OR, Washington, DC 21314-1000.

FOR FURTHER INFORMATION CONTACT: Mr. Calvin Fong at (415) 744-3036 ext. 233 or Mr. Ralph Eppard at (202) 272-1783.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and chapter XIX of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3), the Corps of Engineers is proposing to amend the regulations in 33 CFR 334.1170.

The Commanding Officer, Special Boat Unit Eleven, U.S. Navy, has requested the danger zone be amended to reflect changes in the use of the area. The area will be closed to the public only when the range is in use and after notice of the closure is published in the Notice to Mariners by the U.S. Coast Guard.

Editorial changes being made to the regulations in 33 CFR 334.1170 include the removal of the note which states that the danger zone would be used until September 30, 1982, after which it shall be subject to review to determine its continuing need, and the name of the Commanding Officer, Coastal River Division Eleven is changed to Commanding Officer, Special Boat Unit Eleven.

Economic Assessment and Certification

This proposed rule is issued with respect to a military function of the Defense Department and the provisions of E.O. 12291 do not apply. I hereby certify that if adopted, this regulation will have no significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 334

Navigation (water), Transportation, Restricted areas.

In consideration of the above, the Corps of Engineers is proposing to amend the regulations in 33 CFR 334.1170 as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266; (33 U.S.C. 1) and 40 Stat. 892; (33 U.S.C. 3).

2. Section 334.1170 is amended by revising paragraph (b) and adding paragraph (c) to read as follows:

§ 334.1170 San Pablo Bay, Calif.; gunnery range, Naval Inshore Operation Training Center, Mare Island, Vallejo.

* * * * *

(b) *The regulations.* The Commanding Officer, Special Boat Unit Eleven, may conduct gunnery practice in the danger zone between the hours of 8 a.m. and midnight. The public will be notified prior to each firing by a Notice to Mariners issued by the U.S. Coast Guard and the area will be patrolled by boat and searched by radar to insure a clear range. All firing will be from the southerly portion of the danger zone in a northerly direction and only during periods of good visibility. No vessel shall enter or remain the danger zone during such times that the range is in use.

(c) *Enforcement.* The regulations in this section shall be enforced by the Commander, Naval Base, San Francisco and such agencies as he/she may designate.

Dated: August 5, 1991.

Approved:

Hugh F. Boyd III,

Colonel, Corps of Engineers, Executive Director of Civil Works.

[FR Doc. 91-19994 Filed 8-20-91; 8:45 am]

BILLING CODE 3710-52-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3986-4]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: As required by section 110 of the Clean Air Act, the state of Missouri has submitted a State Implementation Plan (SIP) for lead to EPA for approval. The lead SIP provides for attainment of the (NAAQS) in the vicinity of the Doe Run Herculaneum lead smelter in Herculaneum, Missouri. EPA's approval of this SIP revision provides federal enforceability of its requirements with respect to attainment of the lead NAAQS.

DATES: Comments must be received on or before September 20, 1991.

ADDRESSES: Copies of the state submittal and the EPA-prepared Technical Support Document are available for public inspection during normal business hours at: The Environmental Protection Agency, Region VII, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and at the Missouri Department of Natural Resources, Air Pollution Control Program, Jefferson State Office Building, 205 Jefferson Street, Jefferson City, Missouri 65101.

FOR FURTHER INFORMATION CONTACT: Stanley A. Walker at (913) 551-7494 (FTS 276-7494).

SUPPLEMENTARY INFORMATION:

I. Background

On October 5, 1978, the NAAQS for lead were promulgated by EPA (43 FR 46246). Both the primary and secondary standards were set at a level of 1.5 micrograms of lead per cubic meter of air averaged over a calendar quarter. During 1986, the ambient air monitoring data showed that the Herculaneum vicinity was violating the NAAQS for lead. In response to the violation of the lead standard, EPA called for a revision to the Missouri SIP on June 3, 1986.

In response to the SIP call, the state submitted a SIP revision for the Doe Run Herculaneum smelter on September 6, 1990. The submittal contained two consent orders dated March 9, 1990, and August 17, 1990. The consent orders initiated a control strategy in response to the monitored violations of the lead

standard. The submittal also contained an emission inventory, air quality monitoring data, and a demonstration of attainment. The plan was adopted by the Missouri Air Conservation Commission (MACC) after proper notice and public hearing.

The state submitted the final portion of the Doe Run Lead SIP on May 8, 1991. The state submittal included an amended rule 10 CSR 10–6.120 and a work practice manual. The submittal was adopted by the MACC after proper notice and public hearing and the rule, as amended, became effective on March 14, 1991. The original version of CSR 10–6.120 was adopted by the MACC after proper notice and public hearing and became effective on December 29, 1988.

II. Criteria for Approval

The basic requirements for a SIP are outlined in section 110 of the Clean Air Act and EPA regulations at 40 CFR part 51, subparts F and G. Part D of the Clean Air Act, as amended in 1990, contains additional SIP requirements applicable to nonattainment areas. These provisions require the submission of ambient air quality monitoring data, emission inventory data, air quality modeling, a control strategy including all reasonably available control measures, a attainment demonstration, and contingency measures.

Additional criteria for lead SIP development are contained in a July 1983 draft report prepared by a contractor for EPA entitled "Updated Information on Approval and Promulgation of Lead Implementation Plans." Also, a May 31, 1991, guidance memorandum from EPA's Office of Air Quality Planning and Standards constitutes the final EPA staff work product regarding lead nonattainment SIP requirements pursuant to the 1990 Clean Air Act Amendments.

As provided by the 1990 Amendments to the Clean Air Act, EPA expects to designate the Herculaneum, Missouri, area as nonattainment with respect to the NAAQS for lead; thus, the part D requirements of the Act will apply to the facility. In accordance with section 191(a) of the Act, the state of Missouri must, within 18 months after the effective date of the nonattainment designation, submit a SIP revision for Doe Run Herculaneum which meets the applicable requirements of part D.

In view of the impending applicability of the requirements of part D, EPA is proposing a "limited approval" of the state submittal. A March 22, 1991, guidance memorandum from EPA's Office of Air Quality Planning and Standards provides for a limited approval in instances where a SIP provides progress toward improving air quality, but does not meet all the requirements of part D. EPA's full and final action on this SIP will be contingent on the state meeting the part D requirements.

III. Review of State Submittal

A. Control Strategy

Missouri rule 10 CSR 10–6.120, as amended, establishes the maximum allowable rates of emissions of lead from stacks in primary lead smelter installations. Source owners and operators are required to maintain all lead emission control equipment and are required to document any periods in which operation malfunctions occur. The rule references specific methods for measuring visible emissions, stack gases, and ambient lead concentrations.

In addition to the provisions for stack emissions, the rule also requires the source owner or operator to develop and implement a work practice manual, which contains specific operation and maintenance procedures to control fugitive lead emissions; i.e., those emissions which are not vented to stack collection systems. The work practice manual serves as means to enforce measures which restrict the fugitive emissions of lead into the ambient air. The manual provides that fugitive lead emissions are restricted to those levels used in the attainment demonstration. Detailed work practices are used to prevent excess process emissions. An example of a work practice would be to hose down an area, at a specified frequency, to prevent fugitive emissions from becoming reentrained into the air.

The work practice manual is a specific requirement of rule 10 CSR 10–6.120 and, thus, is an integral part of the Doe Run Herculaneum lead SIP. The rule provides the MDNR Director with the authority to approve changes to the work practice manual. EPA proposes approval of this SIP revision with the understanding that any future changes to the manual will be submitted to, and approved by, EPA as SIP revisions. Thus, any existing federally approved work practices remain in effect, until such time that subsequent changes are submitted to EPA and approved as SIP revisions. In its May 8, 1991, SIP submittal letter, the state agreed with EPA's position that subsequent changes to the work practice manual necessitate SIP approval, and agreed to submit any changes as proposed revisions to the SIP.

The Doe Run Herculaneum lead SIP contains a March 9, 1990, consent order and an August 17, 1990, supplemental consent order which were entered into by MDNR and the Doe Run Company. The consent orders required the company to install numerous additional control measures, on an expeditious and specific schedule, to further reduce lead emissions at the Herculaneum facility. The reader is referred to the aforementioned Technical Support Document for a more complete discussion of the consent orders.

B. Attainment Demonstration

Section 192(a) requires that SIPs must provide for attainment of the lead NAAQS as expeditiously as practicable but no later than five years from the date of an area's nonattainment designation. The lead nonattainment designation for the Herculaneum area will become effective in 1991; therefore, the latest attainment date permissible by statute would be in 1996. The Doe Run lead SIP demonstrates attainment by February 1, 1993, which meets the statutory requirement. This plan shows a predicted maximum ambient air lead concentration of 1.43 micrograms per cubic meter which is within the NAAQS standard of 1.5 micrograms per cubic meter.

C. Air Quality Data and Emission Inventory

To meet the federal requirements, a detailed emissions inventory was provided by using stack testing and portable samplers for fugitive process emissions. An evaluation of equipment and procedures installed during 1985–1987 was also performed. This SIP provides air quality data from the third quarter of 1982 through the fourth quarter of 1989. The air quality data showed numerous violations of the NAAQS for lead.

The emissions inventory addressed both the baseline scenario and the post-control emissions which reflect the control strategy and the attainment demonstration.

D. Modeling

The modeling was done to comply with 40 CFR 51.115. To comply with this requirement, air dispersion modeling was used to predict the impact of the lead emissions from the smelter and to identify the sources which needed additional controls to reach attainment of the lead NAAQS. The air dispersion modeling followed the procedures recommended in EPA's "Guideline on Air Quality Models (Revised)," and Supplement A to this document (EPA/2–78–027R). The company used the EPA's Industrial Source Complex (ISC) Long-Term (ISCLT) Model, version 6 Designation 90008. The ISCLT was used because the lead standard is based on a

quarterly averaging time period. This ISCLT model was again used to predict the maximum ground level concentration of lead resulting from the new control strategy. Even with the consideration of background lead concentrations, the predicted maximum lead value was 1.43 micrograms per cubic meter.

EPA Action: EPA proposes a limited approval of Missouri's September 6, 1990, and May 8, 1991, submittals which constitute the Doe Run Herculaneum Lead SIP. Rule 10 CSR 10–6.120 contains provisions which are applicable to other lead smelters in the state. Lead SIP revisions for these other facilities are still under development, and Missouri has stated that the above SIP submittals are only intended for approval as they relate to Doe Run; thus, EPA proposes limited approval of this SIP revision only insofar as the Doe Run Herculaneum lead smelter is concerned. EPA's decision to approve or disapprove this SIP revision will be based on comments received and on a determination of whether the revision meets the requirements of section 110 and part D of the Clean Air Act and 40 CFR part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

Under 5 U.S.C. 605(b), EPA certifies that this SIP revision will not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

The action has been classified as a table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived tables 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years.

List of Subjects in 40 CFR Part 52

Air pollution control, Lead, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7642.

Dated: July 31, 1991.

Morris Kay,

Regional Administrator.

40 CFR part 52, subpart AA, is proposed to be amended as follows:

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

Subpart AA—Missouri

2. Section 52.1320 is amended by adding paragraph (c)(76) to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

(76) In submittals dated September 6, 1990, and May 8, 1991, the Missouri Department of Natural Resources (MDNR) submitted a lead NAAQS attainment plan for the Doe Run Herculaneum primary lead smelter. Although Missouri rule 10 CSR 10–6.120 contains requirements which apply statewide to primary lead smelting operations, only the portions relating to Doe Run were submitted for approval, and EPA takes action on this rule only insofar as it pertains to the Doe Run Herculaneum facility. Plan revisions to address the other lead smelters in the state are under development.

(i) Incorporation by reference.

(A) New rule 10 CSR 10–6.120 (except for Section (2)(A)), Restriction of Emissions of Lead from Primary Lead Smelter-Refinery Installations, effective December 29, 1988, with amendments, effective March 14, 1991.

(B) Consent order, between the Doe Run Company and MDNR, dated March 9, 1990.

(C) Supplemental consent order, signed by the Doe Run Company on July 16, 1990, and by MDNR on August 17, 1990.

(ii) Additional material.

(A) Narrative SIP material, submitted on September 9, 1990. This submittal includes the emissions inventory and attainment demonstration.

(B) The Doe Run Herculaneum Work Practice Manual was submitted on May 8, 1991. In the May 8, 1991, submittal letter, the state agreed that any subsequent changes to the work practice manual would be submitted to EPA as SIP revisions.

(C) In a July 24, 1991, letter, the state confirmed the May 8, 1991, SIP submittal of rule 10 CSR 10–6.120 pertained only to the Doe Run Herculaneum SIP.

3. Section 52.1323 is amended by adding paragraphs (f) and (g) to read as follows:

§ 52.1323 Approval status.

* * * * *

(f) the Administrator approves Rule 10 CSR 10–6.120 as identified under § 52.1320, paragraph (c)(76), under the following terms, to which the state of Missouri has agreed. Subparagraph (2)(B)2.B.(IV) contains a provision whereby the Director of the MDNR has discretion to approve revisions to the Doe Run Herculaneum work practice manual. Any revisions to the work practice manual, pursuant to this rule, must be submitted to EPA for approval as an individual SIP revision. Thus, any federally approved work practices continue to be the federally enforced plan, until such time that subsequent revisions are submitted to EPA and approved as SIP revisions.

(g) The Administrator's approval of the Doe Run Herculaneum lead SIP, as identified under § 52.1320, paragraph (c)(76), constitutes a "limited approval" in accordance with a March 22, 1991, guidance memorandum from EPA's Office of Air Quality Planning and Standards. Pursuant to the 1990 Clean Air Act Amendments, EPA designated the Herculaneum, Missouri, area as nonattainment with respect to the National Ambient Air Quality Standards for lead; thus, the part D (nonattainment provisions) requirements of the Act now apply. In accordance with section 191(a) of the Act, the state of Missouri must, within 18 months after the effective date of the nonattainment designation, submit a supplemental SIP revision for Doe Run Herculaneum which meets the applicable requirements of part D. EPA's full and final action on the Doe Run Herculaneum SIP is contingent on the state meeting the part D requirements.

[FR Doc. 91–20045 Filed 8–20–91; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 1, 2, and 95

[PR 89–599; FCC 91–245]

Establishment of a Personal Emergency Locator Transmitter Service (PELTS)

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of petition.

SUMMARY: This Memorandum Opinion and Order dismisses a petition for rulemaking (55 FR 315, January 4, 1990) to amend parts 0, 1, 2, and 95 to establish a PELTS. This action responds to a petition filed by Kenneth J. Seymour to provide individuals in remote areas a means to alert others of an emergency situation and to help search and rescue personnel locate those in distress. This action concludes that, at this time,

PELTS would not adequately meet the public's needs for emergency communications in remote areas nor assist search and rescue personnel in locating individuals in distress.

FOR FURTHER INFORMATION CONTACT: James A. Shaffer, Special Services Division, Private Radio Bureau, Federal Communications Commission, Washington, DC 20554; or telephone (202) 632–7197.

SUPPLEMENTARY INFORMATION: This is a summary of an Memorandum Opinion and Order adopted July 31, 1990, and released August 21, 1991. The complete text of the Memorandum Opinion and Order is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The full text also may be purchased from the Commission's copy contractor: Downtown Copy Center, 1114 21st Street NW., Washington, DC 20036; telephone 202–452–1422.

Summary of Order

a. This Memorandum Opinion and Order dismisses a Petition for rule making (rm–6681) filed by Kenneth J. Seymour to provide individuals in remote areas a means to alert others of an emergency situation and to help search and rescue personnel locate those in distress. After careful consideration of the comments we conclude that, at this time, PELTS would not adequately meet the public's needs for emergency communications in remote areas nor assist search and rescue personnel in locating individuals in distress. Therefore, we are terminating this proceeding and return the frequencies to the Land Mobile Radio Service. We will continue to look to the Interagency Committee for Search and Rescue for guidance on the matter of personal locating beacons.

b. Accordingly, *It Is Ordered,* That the petition for rule making filed by Kenneth J. Seymour, RM–6681, *Is Dismissed. It is Further Ordered,* That this proceeding *Is Terminated.*

List of Subjects

47 CFR Part 0

Administrative practice and procedure.

47 CFR Part 1

Administrative practice and procedure.

47 CFR Part 2

Frequency allocation, Radio.

47 CFR Part 95

Communications equipment, Radio.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91–19918 Filed 8–20–91; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 56, No. 162
Wednesday, August 21, 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 AGRICULTURE

Commodity Credit Corporation

Market Promotion Program, Fiscal Year 1992

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: This notice announces the Market Promotion Program for Fiscal Year 1992.

FOR FURTHER INFORMATION CONTACT: Marketing Operations Staff, Commodity and Marketing Programs, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, DC 20250–1000, Telephone: (202) 447–5521.

SUPPLEMENTARY INFORMATION: Section 203 of the Agricultural Trade Act of 1978, as amended by section 1531 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Pub. L. 101–624), directs the Commodity Credit Corporation (CCC) to "carry out a program to encourage the development, maintenance and expansion of commercial export markets for agricultural commodities through cost-share assistance to eligible trade organizations that implement a foreign market development program". It further requires the Secretary to provide assistance under the Market Promotion Program (MPP) on a priority basis to those commodities which have been affected by an "unfair trade practice". Assistance under this program may be provided in the form of funds of, or commodities owned by, the CCC, as determined appropriate by the Secretary.

The MPP will be implemented in accordance with the regulations set forth in 7 CFR part 1485, subpart B (56 FR 40745), 8/16/91. The Administrator of the Foreign Agricultural Service, who is Vice President of CCC, is authorized to enter into agreements with nonprofit commodity specific trade associations, regional associations of state departments of agriculture, state groups, and U.S. private firms and cooperatives to provide cost-share assistance to carry-out approved export promotion activities. Eligibility for promotional support will be limited to those agricultural commodities or products which are at least 50 percent U.S. origin by weight, excluding added water. Promotional activities will be undertaken which offer the greatest potential in terms of creating, maintaining or expanding export markets for U.S. agricultural commodities. Assistance may be provided for brand promotion activities when such activities are determined by the Administrator, FAS, to be an effective means of carrying out the purposes of the MPP.

To be considered by CCC, applicants must fully comply with the procedures specified in 7 CFR 1485.12(b)2. Criteria for the allocation of CCC resources in the MPP are set forth at 7 CFR 1485.15.

The applicant must provide the information required by the regulations and may include any other factors the applicant deems appropriate. All applications must be received by 5 p.m. eastern standard time, October 21, 1991 at the following address: Marketing Operations Staff, Commodity and Marketing Programs, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, DC 20250–1000.

For more detailed information regarding application procedures, suggested strategic plan formats, and other aspects of the Market Promotion Program, contact the Marketing Operations Staff, Foreign Agricultural Service, at the address above or telephone (202) 447–5521. Comments regarding the conduct of the MPP Program may be directed to the same address.

Signed at Washington, DC August 16, 1991.

Duane Acker,

Administrator, Foreign Agricultural Service, and Vice President, Commodity Credit Corporation.

[FR Doc. 91–20031 Filed 8–20–91; 8:45 am]

BILLING CODE 3410–10–M

Rural Electrification Administration

Seminole Electric Cooperative, Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Finding of no significant impact related to the Rural Electrification Administration approval of a 230 kV transmission line project in northeastern Florida.

SUMMARY: Notice is hereby given that the Rural Electrification Administration, pursuant to the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality Regulations (40 CFR parts 1500–1508), and the Rural Electrification Administration Environmental Policies and Procedures (7 CFR part 1794) has made a Finding of No Significant Impact with respect to a 239 kV transmission line project in northeastern Florida. The project is to be known as the JEA Project. Seminole Electric Cooperative, Inc., and Jacksonville Electric Authority will participate in the construction, operation and use of the project.

The Rural Electrification Administration's Federal action related to this project may include the approval of financing assistance to Seminole Electric Cooperative, Inc., for its share of the project costs, approval of contractual agreements between Seminole Electric Cooperative, Inc., and Jacksonville Electric Authority concerning construction, ownership and operation of the project, or approval for Seminole Electric Cooperative, Inc., to use its general funds for part or all its share of the project costs.

FOR FURTHER INFORMATION CONTACT: Mr. Alex M. Cockey, Jr., Director, Southeast Area—Electric, room 0270, South Agriculture Building, Rural Electrification Administration, Washington, DC 20250, telephone (202) 382–8436.

SUPPLEMENTARY INFORMATION: The proposed project involves the construction of approximately 70 miles of 230 kV transmission line between Seminole Electric Cooperative, Inc.'s, Seminole Power Plant and Jacksonville Electric Authority's Firestone Substation. The transmission line will originate at the Seminole Power Plant

located north of Palatka in Putnam County and traverse in a westerly direction to Clay Electric Cooperative's Riverview Substation in Putnam County. From the Riverview Substation, the line will continue west to Clay Electric Cooperative's Florahome Substation and then on to the City of Keystone Heights which are both located in Clay County. The line will turn in a northerly direction in Keystone Heights and traverse to Clay Electric Cooperative's Black Creek Substation located north of Middleburg in Clay County and on to Jacksonville Electric Authority's Firestone Substation located in south Jacksonville, Duval County. Part of the project will be the upgrading of the Riverview, Florahome, Keystone, Black Creek and Firestone Substations.

Alternatives considered to the project as proposed included no action, upgrading the existing transmission system, various intertie options with Jacksonville Electric Authority and alternate transmission line corridors.

The Rural Electrification Administration has determined that the JEA Project is needed by Seminole Electric Cooperative, Inc., and Jacksonville Electric Authority to improve the reliability of service to their consumers in Northeast Florida. It is also needed to improve transfer capability of the Seminole Electric Cooperative, Inc., and Jacksonville Electric Authority's systems. The JEA Project will give Seminole Electric Cooperative, Inc., the benefit of serving a portion of its load directly thus avoiding wheeling service charges. The project will allow both Seminole Electric Cooperative, Inc., and Jacksonville Electric Authority to exchange power without wheeling through a third utility.

The Rural Electrification Administration has prepared an Environmental Assessment of the JEA Project and has concluded therefrom that its action related to this project will have no significant impact on the quality of the human environment and has subsequently reached a Finding of No Significant Impact.

Although there will be no significant impacts on the 100-year floodplain or wetlands, both are within the project area and will be crossed by the transmission line. Rural Electrification Administration has concluded that there is no practicable alternative that completely avoids the 100-year floodplain or wetlands.

Copies of the Environmental Assessment and Finding of No Significant Impact can be obtained from the Rural Electrification Administration at the address provided herein or from Mr. Michael Opalinski, Seminole Electric Cooperative, Inc., P.O. Box 272000, Tampa, Florida 33688–2000, telephone number (813) 963–0994.

There will be a 30-day period which will begin on either the date this notice is published in the Federal Register or it is published in newspapers with general circulation in the project area—whichever is later. Those wishing to comment on the Finding of No Significant Impact should do so within this 30-day comment period to ensure their comments are taken into consideration prior to the Rural Electrification Administration's final action related to the project. The Rural Electrification Administration will take no action that would approve clearing or construction activities to the expiration of the 30-day comment period. Comments should be sent to the Rural Electrification Administration at the address given in this notice.

Date: August 14, 1991.

Frank W. Bennett,

Acting Assistant Administrator, Electric.

[FR Doc. 91–19979 Filed 8–20–91; 8:45 am]

BILLING CODE 3410–15–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 36–91]

Foreign-Trade Zone 65—Panama City, FL; Request for Manufacturing Authority; Wellstream Corporation Flexible Pipe Plant; Extension of Public Comment

The comment period for the above case, requesting authority for the manufacture of flexible pipe under zone procedures within FTZ 65, Panama City, Florida (56 FR 29463, 6/27/91), is extended to September 26, 1991, to allow interested parties additional time in which to comment on the proposal.

Comments in writing are invited during this period. Submissions should include 5 copies. Material submitted will be available at: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 3716, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: August 15, 1991.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 91–20034 Filed 8–20–91; 8:45 am]

BILLING CODE 3510–DS–M

[Order No. 531]

Resolution and Order Approving the Application of the Richland-Lexington Airport District for a Special-Purpose Subzone at the High-Technology Automotive Electronic Components Manufacturing Facility of Automotive Electronic Control Systems, Inc., in Anderson, SC; Proceedings of the Foreign-Trade Zones Board, Washington, DC

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Richland-Lexington Airport District, grantee of FTZ 127, filed with the Foreign-Trade Zones Board (the Board) on January 28, 1991, requesting special-purpose subzone status at the high-technology automotive electronic components manufacturing plant of Automotive Electronic Control Systems, Inc., located in Anderson, South Carolina (Greenville-Spartanburg area), the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the FTZ Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the Richland-Lexington Airport District, Grantee of Foreign-Trade Zone No. 127, has made application (filed January 28, 1991, FTZ Docket 6–91, FTZ Docket 6–91, 56 FR 5974, 02–14–91) in due and proper form

to the Board for authority to establish a special-purpose subzone at the high-technology automotive electronic components manufacturing plant of Automotive Electronic Control Systems, Inc., in Anderson, South Carolina;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations are satisfied;

Now, therefore, in accordance with the application filed January 28, 1991, the Board hereby authorizes the establishment of a subzone at the Automotive Electronic Control Systems, Inc., plant in Anderson, South Carolina, designated on the records of the Board as Foreign-Trade Subzone 127A, at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, DC, this 14th day of August, 1991, pursuant to Order of the Board.

Eric I. Garfinkel,

Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

[FR Doc. 91-20035 Filed 8-20-91; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party as defined in section 771(9) of the Tariff Act of 1930 may request, in accordance with §§ 353.22 or 355.22 of the Commerce Regulations, that the Department of Commerce ("the Department") conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity To Request a Review

Not later than August 31, 1991, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in August for the following periods:

Antidumping Duty Proceedings	*Period*
Belgium: Industrial Phosphoric Acid (A-423-602)	08/01/90-07/31/91
France: Industrial Nitrocellulose (A-427-009)	08/01/90-07/31/91
Israel: Industrial Phosphoric Acid (A-508-604)	08/01/90-07/31/91
Italy: Granular Polytetrafluoroethylene Resin (A-475-703)	08/01/90-07/31/91
Italy: Tapered Roller Bearings, and Parts Thereof, Finished and Unfinished (A-475-603)	08/01/90-07/31/91
Japan: Acrylic Sheet (A588-055)	08/01/90-07/31/91
Japan: Brass Sheet and Strip (A-588-704)	08/01/90-07/31/91
Japan: Cadmium (A-588-035)	08/01/90-07/31/91
Japan: Certain High-Capacity Pagers (A-588-007)	08/01/90-07/31/91
Japan: Granular Polytetrafluoro- ethylene Resin (A-588-707)	08/01/90-07/31/91
Mexico: Gray Portland Cement and Clinkers (A-201-802)	04/12/90-07/31/91
Netherlands: Brass Sheet and Strip (A-421-701)	08/01/90-07/31/91
Taiwan: Clear Sheet Glass (A-583-023)	08/01/90-07/31/91
Thailand: Malleable Cast Iron Pipe Fittings (A-549-601)	08/01/90-07/31/91
The People's Republic of China: Petroleum Wax Candles (A-570-504)	08/01/90-07/31/91
Turkey: Acetylsalicylic Acid (Aspirin) (A-489-602)	08/01/90-07/31/91
Union of Soviet Socialist Republics: Titanium Sponge (A-461-008)	08/01/90-07/31/91
Venezuela: Certain Electrical Conductor Aluminum Redraw Rod (A-307-701)	08/01/90-07/31/91
Yugoslavia: Tapered Roller Bearings, and Parts Thereof, Finished or Unfinished (A-479-601)	08/01/90-07/31/91
Countervailing Duty Proceeding	
Canada: Live Swine (C-122-404)	04/01/90-03/31/91
Israel: Industrial Phosphoric Acid (C-508-605)	01/01/90-12/31/90
New Zealand: Low-Fuming Brazing Copper Rod and Wire (C-614-501)	08/01/90-07/31/91
Thailand: Certain Circular Welded Steel Pipes and Tubes (C-549-501)	01/01/90-12/31/90
Turkey: Acetylsalicylic Acid (Aspirin) (C-489-603)	01/01/90-12/31/90
Venezuela: Certain Electrical Conductor Aluminum Redraw Rod (C-307-702)	01/01/90-12/31/90
Zimbabwe: Carbon Steel Wire Rod (C-796-601)	01/01/90-12/31/90

In accordance with § 353.22(a) of the Commerce Regulations, an interested party may request in writing that the Secretary conduct an administrative review of specified individual producers or resellers covered by an order, if the requesting person states why the person desires the Secretary to review those particular producers or resellers. If the interested party intends for the Secretary to review sales of merchandise by a reseller (or a producer if that producer also resells merchandise from other suppliers) which was produced in more than one country of origin, and each country of origin is subject to a separate order, then the interested party must state specifically which reseller(s) and which countries of origin for each reseller the request is intended to cover.

With respect to Tapered Roller Bearings Four Inches or Less in Outside Diameter and Components Thereof from Japan (A-588-054), interested parties may request an administrative review of this finding in October 1991 for the period August 1, 1990, through September 30, 1991.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230. Further, in accordance with § 353.31 of the Commerce regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review", for requests received by August 31, 1991.

If the Department does not receive by August 31, 1991, a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute, but is published as a service to the international trading community.

Dated: August 13, 1991.

Joseph A. Spetrini,

Deputy Assistant Secretary for compliance.

[FR Doc. 91-19959 Filed 8-20-91; 8:45 am]

BILLING CODE 3510-05-M

[A-614-801]

Postponement of Preliminary Antidumping Duty Determination: Fresh Kiwifruit From New Zealand

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

EFFECTIVE DATE: August 21, 1991.

FOR FURTHER INFORMATION CONTACT: V. Irene Darzenta (202-377-0186), Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

POSTPONEMENT: On May 15, 1991, the Department of Commerce (the Department) initiated an antidumping duty investigation of fresh kiwifruit from New Zealand. The notice stated that we would issue our preliminary determination on or before October 1, 1991 (56 FR 23273, May 21, 1991).

We have since determined that this investigation involves transactions that are both numerous and complex. Specifically, the Department must determine the appropriate adjustments to sales that involve over 4000 New Zealand growers, as well as the cost of production for the New Zealand industry. This investigation also presents certain novel issues, such as the implications of fruit shelf life on the period of investigation.

For these reasons, we determine that this investigation is extraordinarily complicated and that additional time is necessary to make the preliminary determination. Therefore, in accordance with section 733(c)(1) of the Act, we are postponing the deadline for issuing this determination until not later than November 21, 1991.

This notice is published pursuant to section 733(c)(2) of the Act and 19 CFR 353.15(d).

Dated: August 16, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91-20032 Filed 8-20-91; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-028]

Roller Chain, Other Than Bicycle, From Japan; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On May 22, 1991, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on roller chain, other than bicycle, from Japan. The review covers one manufacturer/exporter of this merchandise to the United States, Pulton Chain Co., Ltd., including sales made through I&OC of Japan Co., Ltd., and the period April 1, 1985, through March 31, 1986.

We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received, we have changed the margin from that presented in our preliminary results.

EFFECTIVE DATE: August 21, 1991.

FOR FURTHER INFORMATION CONTACT: Michael Diaz, Edward Haley, or Robert Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On May 22, 1991, the Department of Commerce (the Department) published in the **Federal Register** (56 FR 23559) the preliminary results of its administrative review of the antidumping finding on roller chain, other than bicycle, from Japan (38 FR 9226; April 12, 1973). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act).

Scope of the Review

Imports covered by this review are shipments of roller chain, other than bicycle, from Japan. The term "roller chain, other than bicycle," as used in this review includes chain, with or without attachments, whether or not plated or coated, and whether or not manufactured to American or British standards, which is used for power transmission and/or conveyance. Such chain consists of a series of alternately-assembled roller links and pin links in which the pins articulate inside the bushings and the rollers are free to turn on the bushings. Pins and bushings are press fit in their respective link plates. Chain may be single strand, having one row of roller links, or multiple strand, having more than one row of roller links. The center plates are located between the strands of roller links. Such chain may be either single or double pitch and may be used as power transmission or conveyor chain.

This review also covers leaf chain, which consists of a series of link plates alternately assembled with pins in such a way that the joint is free to articulate between adjoining pitches. This review further covers chain model numbers 25 and 35. Roller chain, other than bicycle, was classified under various provisions of the Tariff Schedules of the United States Annotated (TSUSA) from item numbers 652.1400 through 652.3800, and is currently classifiable under Harmonized Tariff System (HTS) item numbers from 7315.11.00 through 7616.90.00. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The Department initiated a review covering seven manufacturers/exporters of roller chain to the United States and the period April 1, 1985, through March 31, 1986. Of these seven firms, the review of three companies has been deferred, the finding has been revoked with respect to one company, the review of another company has been terminated, and the review of I&OC of

Japan Co., Ltd. (I&OC), has been incorporated into the review of Pulton Chain Co., Ltd. (Pulton). We have deferred the review of Daido Kogyo Co., Ltd. (Daido), and Enuma Chain Manufacturing Co., Ltd. (Enuma), pending the final results of the review for April 1, 1986, through March 31, 1987. Sugiyama Chain Co., Ltd. (Sugiyama), is not included in this review because we are conducting all outstanding reviews of Sugiyama concurrently. The finding was revoked with respect to Tsubakimoto Chain Co., Ltd. (Tsubakimoto), effective September 1, 1983 (54 FR 33259; August 14, 1989), and the review of Nissan Motor Co., Ltd. (Nissan), was terminated May 7, 1991 (56 FR 21128).

This review covers the one remaining manufacturer/exporter of roller chain, other than bicycle, from Japan, Pulton (including sales made through I&OC), and the period April 1, 1985, through March 31, 1986.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results. The Department received two comments from the petitioner, the American Chain Association (the ACA).

Comment 1: The petitioner has requested that the Department make the proper adjustment for packing by subtracting home market packing from constructed value and adding U.S. packing.

Department's Position: We agree. Home market packing has been eliminated from the formula for calculating constructed value, and U.S. packing has been added when calculating FMV.

Comment 2: In the preliminary results, we made an adjustment for commissions on all FMV sales. However, commissions were paid only in the case of third-country sales. The petitioner has requested that the U.S. offset for commissions be allowed only in cases where US sales are compared with third-country sales.

Department's Position: The Department agrees, and has revised its calculations to allow an offset for commissions only where U.S. sales are compared with third-country sales.

Final Results of Review

As a result of our analysis of the comments received, we determine that a weighted-average margin of 1.74 percent exists for the period April 1, 1985, through March 31, 1986, for Pulton Chain Co., Ltd., including sales made through I&OC.

The Department will instruct the Customs Service to 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 for Pulton directly to the Customs Service.

Given the interval between the period of review covered by this notice and the actual conduct of this review, and the fact that final margins have been published for reviews in some of the intervening periods, the dumping margin determined in this final results notice will have no impact on the current cash deposit rates. As provided by section 751(a)(1) of the Tariff Act, the Customs Service shall continue to require a cash deposit of estimated antidumping duties for all merchandise produced or exported by Pulton, Daido, Enuma, Sugiyama, or Nissan, based on the final rates published for each firm's most recent administrative review period.

These deposit requirements are effective for all shipments of Japanese roller chain, other than bicycle, 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 § 353.53a(a) of the Commerce Regulations (19 CFR 353.53a(a)) (1985).

Dated: August 12, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91-19960 Filed 8-20-91; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-604]

Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, From Japan; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On April 3, 1991, the Department of Commerce published the preliminary results of its 1987-88 administrative review of the antidumping duty order on tapered roller bearings, finished and unfinished, and parts thereof, from Japan. The review covers two manufacturers/exporters of this merchandise to the United States during the period March 27, 1987, through September 30, 1988.

We gave interested parties the opportunity to comment on our preliminary results. Based on our analysis of the comments received, we have adjusted the margins for some companies.

EFFECTIVE DATE: August 21, 1991.

FOR FURTHER INFORMATION CONTACT: Chip Hayes, Laurel LaCivita, or Paul McGarr, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-4733.

SUPPLEMENTARY INFORMATION:

Background

On April 3, 1991, the Department of Commerce (the Department) published the preliminary results of this administrative review of the antidumping duty order (52 FR 37352, October 6, 1987) on tapered roller bearings, finished and unfinished, and parts thereof, from Japan, in the **Federal Register** (56 FR 13618). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act).

Scope of the Review

Imports covered by the review are sales or entries of tapered roller bearings (TRBs), and parts thereof, which are flange, take-up cartridge, and hanger units incorporating tapered roller bearings, and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use. Products subject to the outstanding dumping finding covering certain tapered roller bearings from Japan, four inches or less in outside diameter, and certain components thereof (A-588-054) (the 1976 finding), are not included within the scope of this order. However, this order includes all tapered roller bearings, and parts thereof, as described above, that are manufactured by NTN Toyo Bearing Co., Ltd. (NTN). During the review period, such merchandise was classifiable under item numbers 680.30, 680.39, 681.10, and 692.32 of the Tariff Schedules of the United States Annotated (TSUSA). This merchandise is currently classifiable under the Harmonized Tariff Schedule (HTS) item numbers 8482.99.30, 8483.20.40, 8482.20.00, 8483.20.80, 8482.91.00, 8483.30.80, 8483.90.20, 8483.90.30, and 8383.90.80. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers TRB sales and entries by Koyo Seiko, K.K. (Koyo), and

sales by NTN to Caterpillar during the period March 27, 1987, through September 30, 1988.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. At the request of the Timken Company (Timken), the petitioner in this proceeding, respondents Koyo and NTN, and Caterpillar, Inc. (Caterpillar), an importer of the subject merchandise, we held a hearing on May 24, 1991. We received case and rebuttal briefs from all interested parties.

Comments are addressed in the following order:

1. Model Match, Difference in Merchandise Adjustments, and Set Splitting.
2. Clerical Errors and Use of Best Information Available.
3. Level of Trade.
4. Packing and Movement.
5. Adjustments to Foreign Market Value.
6. Adjustments to U.S. Price.
7. Cost of Production.
8. Cost Test Methodology.
9. Miscellaneous Issues Regarding Related Parties, Sample Sales, Contemporaneity, Foreign Trade Zones, and Cash Deposits.

Comments Regarding Model Match, Difference in Merchandise Adjustments, and Set Splitting

Comment 1: Timken argues that the methodology for matching similar merchandise used in this proceeding is inconsistent with the methodology the Department used in the final determination of sales at less than fair value on Tapered Roller Bearings Over Four Inches from Japan (52 FR 30700, August 17, 1987) (the 1987 LTFV determination). It argues that the model match methodology should be consistent from one TRB proceeding to another, regardless of the size or type of bearing being examined. Respondents argue that the same methodology should be used in both this TRB proceeding and the proceeding pursuant to the 1976 finding.

Department's Position: We agree that, absent good reason, the model match methodology for determining similar merchandise should be consistent for all TRB reviews. Because of concerns expressed by petitioner and respondents involving the aforementioned inconsistency, the Department extensively reevaluated the selection methodology before issuing the preliminary results of review for this segment of the proceeding. We requested all parties to both TRB proceedings to comment on the selection of a model match methodology: Timken favored the "greatest single deviation" method; two respondents had no preference; and one respondent favored the "sum of the deviations" method.

After analyzing these responses, and after conducting an analysis of the differences in the model match selections according to each methodology, we found that, in the vast majority of cases, the sum of the deviations methodology and the greatest single deviation methodology identified the same home market model as most similar to the model sold in the United States. For the reasons explained below, we concluded that the sum of the deviations methodology best identifies the home market model most like the U.S. model in component materials, the purposes for which it is used, and commercial value according to section 771(16)(B) of the Tariff Act.

The sum of the deviations methodology determines the home market model that is most like the U.S. merchandise by comparing the physical characteristics of every model sold in the home market to the physical characteristics of each model sold in the United States. In our analysis, we compare sets to sets, cups to cups, and cones to cones. We further compare only models with the same number of rows of rolling elements. Since the purpose of all TRBs is to reduce friction, all TRBs are alike in the purposes for which they are used, and may be compared to each other.

We determine the percentage difference between each of the five physical characteristics (inner diameter, outer diameter, width, Y factor and basic load rating) of the home market model and the target U.S. model. We add the percentage differences for each of the five criteria to obtain a sum of the deviations figure for each home market model. We then rank every model sold in the home market in comparison to the target U.S. model by the sum of the deviations, in order from the smallest deviation to the largest. We identify the model with the lowest sum of the deviations as the most similar model sold in the home market.

On occasion, two or more models have the same value for the sum of the deviations. For example, a sum of the deviations of zero means that there is no difference in the five physical criteria between the home market and the target U.S. model. Therefore, if two or more models have the same value for the sum of the deviations, we have to conduct further analysis in order to determine which of two equal candidates is most similar to the U.S. model.

To ensure that the home market model selection with the lowest sum of the deviations value is also the home market model the most like the U.S. merchandise in component materials, we compare the variable cost of manufacturing of all the home market models with equal values for the sum of the deviations to the variable cost of manufacturing of the U.S. model. We choose the home market model whose variable cost of manufacturing most closely approximates the variable cost of manufacturing of the U.S. model as the most similar, since the variable cost of manufacturing represents the costs associated with creating the unique physical characteristics of the merchandise.

To ensure that the home market selection with the lowest sum of the deviations is approximately equal in commercial value to the U.S. model, we eliminate from our analysis any potential comparisons for which the difference in the variable costs between the home market and target U.S. model exceeds twenty percent (see Tapered Roller Bearings Four Inches or Less in Outside Diameter from Japan, 55 FR 22369, June 1, 1990).

As we explain below, we have determined that the "sum of the deviations" methodology is preferable to the "greatest single deviation" methodology for purposes of determining the correct model match in this review. Furthermore, we agree that, absent good reason, the model match methodology should be consistent for all TRB reviews. Therefore, in all proceedings pursuant to the 1976 finding, we employed the "sum of the deviations" methodology, in which the sum of the differences in U.S. and home market model criteria are measured (see 55 FR 22369, June 1, 1990) (1974–1988 review), 55 FR 38720, September 20, 1990, (the 1988–1987 review), 56 FR 38721, June 3, 1991 (the 1987–1988 review). In addition, this method has been upheld by the Court of International Trade (CIT) (*Timken* versus *United States*, Slip. Op 84–63 (7 CIT 319) (June 5, 1984) (*Timken*), (*Timken* versus *United States*, 630 F. Supp. 1327 (CIT 1986) (*Timken I*), and *Timken* versus *United States*, 673 F. Supp. 495 (CIT 1987) (*Timken II*)). We also used the sum of the deviations methodology for each of the preliminary results of review covering this 1987 order: 56 FR 13618, April 3, 1991 (the 1987–1988 review), and 56 FR 20593, May 6, 1991 (the 1988–1989 review). Therefore, the 1987 LTFV determination, in which the Department used five criteria to match models employing the "greatest single deviation" methodology, is the only segment of the proceeding to do so.

Comment 2: Timken insists that the "greatest single deviation" methodology yields the home market bearing that is most like the bearing sold in the United States, according to section 771 (16)(B)(ii) of the Tariff Act, since it more closely approximates the concerns of customers, who focus on the degree of difference in specific physical criteria when making a purchase. Timken believes that customers evaluate each criterion independently to ensure that the application requirements for size and performance are properly met. Timken also believes that there are non-linear interrelationships between the criterion with the largest deviation and the rest of the criteria. For example, a ten percent change in one performance factor may lead to a thirty percent change in the performance characteristics of the other factors. Thus, Timken believes that the greatest single deviation methodology is sufficient to produce the most similar match. Further, Timken argues that, because the criterion with the greatest single deviation has a relationship with the other model match criteria, the sum of the deviations method is redundant, since it uses criteria already accounted for by the criterion with the greatest single deviation. Timken urges the Department to reevaluate the selection methodology and use the "greatest single deviation" technique used in the 1987 LTFV determination.

Department's Position: Although Timken asserts that customers choose a bearing by a single criterion, Timken does not specify which criterion is the controlling factor. The criterion that may be important for one customer may be different from what is important to another, since there is no evidence that any particular single criterion should be the deciding factor, or that all customers would rely on the same single criterion in deciding which model to purchase. Therefore, even if customer preference were a factor in the determination of the most similar model, the single deviation method does not address the issue of customer preference.

The greatest single deviation methodology measures the percentage difference between each of the five physical characteristics of the home market model and the target U.S. model. It identifies the largest percentage differences for each home market model without taking into account the characteristic that produced the deviation. This largest deviation is known as the "greatest single deviation." It then ranks all models sold in the home market in comparison to the target U.S. model in order from the smallest to the largest single deviation. Therefore, the most similar model is the model whose greatest single deviation is smaller than the greatest single deviation of any other model sold in the home market. In this way, the model match selection relies on a single arbitrary criterion, since the criterion that produces the largest single deviation changes from one match to another for the same U.S. model.

Timken's contention that the interrelationships between the criterion with the largest deviation and the rest of the criteria make it unnecessary to analyze the other four criteria, is not supported by the facts. The record shows that the parties to this proceeding have agreed that all five criteria are important factors to use when determining the similarity of merchandise. In addition, our analysis indicates that one must analyze the differences in all criteria in order to determine the most similar home market match.

Furthermore, the Department cannot select models based on performance expectations—whether those expectations are redundant, proportional, linear, or non-linear—since expectations are not subject to objective analysis. Since the greatest single deviation methodology ignores the relative value of four out of five criteria, it does not take all of the objective factors into account in selecting the most similar match.

Therefore, since the sum of the deviations methodology objectively measures all five criteria before identifying the most similar match, we determine that it is the preferable methodology for these reviews.

Comment 3: Timken notes that one of the Department's concerns with respect to the greatest single deviation methodology is that the greatest single deviation methodology does not provide a mechanism for distinguishing between any two choices when the single greatest deviation is the same for two or more matches. Timken notes that one way to break the tie between two separate choices is to examine the next greatest deviation factor from the reference bearing and to select the TRB with the least next highest deviating factor. It states that this process can be repeated until all factors have been compared.

Department's Position: We agree that Timken has provided a method of breaking the tie among two or more matches with the same greatest single deviation from the reference bearing. However, this does not alter the Department's analysis or conclusion. Therefore, for the reasons mentioned above, we have used the sum of the deviations methodology for the final results of review.

Comment 4: Timken argues that one of the Department's reasons for using the sum of the deviations methodology was based on an alleged lack of data which would require the Department to collect more data than had been collected.

Department's Position: We note that Timken is quoting the Department's position with respect to the 1986–1987 review of the 1976 finding, which does not apply to this review. As the record in this review demonstrates, we collected the information required to determine the most similar home market match according to either the sum of the deviations or the greatest single deviation methodology, and we analyzed the difference between the two methodologies before drawing a conclusion with respect to the most appropriate model match methodology for the TRB proceedings.

Comment 5: Timken notes that the Department's model match program erroneously eliminates home market matches of identical models whose variable costs exceed plus or minus twenty percent of the variable costs of the U.S. model. Therefore, it proposes that the Department first test the potential U.S. and home market matches to determine whether they are identical before eliminating those matches whose variable costs exceed plus or minus twenty percent of the U.S. model in order to identify as many matches of identical models as possible.

Department's Position: We agree and have corrected this error for the final results of review. The purpose of the five criteria and the sum of the deviations methodology is to determine the comparability of similar merchandise after exhausting identical matches according to the nomenclature of the bearings.

Comment 6: Koyo argues that the Department's model match methodology compares U.S. sales of TRBs with home market products that do not constitute such or similar merchandise. It argues that the Department should apply a ten percent cap on deviations between each of the five criteria in order to meet statutory requirements for price comparisons of such or similar merchandise in an antidumping review.

Koyo further claims that, without the ten percent deviation cap, certain matches resulted in the comparison of products that look very different, have dissimilar components, construction and capabilities, and are used by very different customers and for different

purposes. In addition, Koyo notes that models which are used for different purposes are priced for sale in very different markets, and, therefore, are not approximately equal in commercial value. It further notes that, because TRB customers have machines that require bearings with certain characteristics, substitution across different models of bearings is very limited. Therefore, Koyo argues that bearing models with more than an insignificant deviation in any one or more of the critical criteria will not normally be considered commercially similar.

NTN supports the Department's use of the sum of the deviations model match methodology and a twenty percent difference in merchandise cap, but believes a ten percent cap should be used in calculating deviations on each physical criterion to ensure that physical parameters are within reasonable limits. Caterpillar asserts that the Department's failure to use a ten percent cap on deviations for the five physical characteristics renders its model match methodology invalid.

Department's Position: We disagree that our decision not to apply a ten percent criterion cap results in the comparison of models which do not constitute such or similar merchandise.

Since we have determined that all TRBs are alike in the Purposes for which they are used, and we have eliminated models that are not of equal commercial value, we have based the determination of physical similarity on the five physical criteria regardless of the deviation among those criteria. It is not necessary for the purpose of calculating dumping margins to ensure that home market models are technically substitutable, purchased by the same type of customers, or applied to the same end use as the U.S. model.

Throughout the extended history of the two TRB proceedings, the Department evolved the use of these five physical criteria to identify and compare models sold in the U.S. and home markets. These criteria do not specify appearances and/or end use, beyond the reduction of friction. We are aware that these five characteristics are not substitutes for the technical specifications of the products under review, since TRB product manuals list more than 25 statistics for each bearing. However, we have determined that, for the purposes of selecting similar merchandise in a dumping calculation, these five criteria are the pertinent data to be collected and analyzed.

Comment 7: NTN posits that the Department should not split sales of sets in the home market to derive a foreign market value (FMV) for cups and cones since the statute does not allow the creation of fictitious sales to calculate FMV.

Department's Position: We disagree. Our set-splitting methodology is used to apportion the price of a set to its component parts based on a ratio of the cost of production of each part to the cost of production of the set. Set splitting was specifically upheld by the CIT (See *Timken II* at 504). At no time do we create a fictitious sale; we allot portions of the price of actual sales to their component parts.

Comments Regarding Clerical Errors and the Use of Best Information Available

Comment 8: Timken argues that, in its computer program, the Department erroneously treated the reported figures for Koyo's financing expenses as a percent of the cost of production, as a decimal value rather than a percentage, thereby reducing the cost of production by an excessive amount. Timken argues that the Department should divide the reported value of financing expense by one hundred in order to obtain the appropriate value.

Department's Position: We agree and have corrected the error for the final results of review.

Comment 9: Timken argues that the Department incorrectly split Koyo's home market sales of sets so that the derived values for net price and other variables for cones is represented as a percentage of the home market price for cups. Timken proposes that the Department correct this error by splitting the home market sets in two steps rather than one.

Department's Position: We agree and have corrected this error for the final results of review.

Comment 10: Timken contends that NTN's sales, cost, and model match data are incomplete and should be rejected in favor of best information otherwise available. NTN avers that the Department either did not use all of its submitted information in the preliminary analysis or did not request necessary information for the analysis. Thus the Department is obliged to exhaust these sources before resorting to best information available.

Department's Position: We have incorporated additional data from NTN's original and supplemental responses in our final results of review. We requested and received adequate constructed value information from NTN, and we have used that data in our results.

Comment 11: Timken claims that the Department should apply the highest margin calculated for either respondent to Koyo's U.S. sales for which the Department was unable to match either a home market sale or constructed value due to incomplete data.

Department's Position: Because the volume and value of sales by Koyo for which we were unable to find an appropriate home market or constructed value match are considerably less than one-half of one percent, we determined that the best information available for these sales is the weighted-average margin determined for Koyo's sales to the United States for this period of review.

Comment 12: Timken claims that the data in NTN's response for this review are unusable because they were not verified. Petitioner contends that, because a timely request for verification was submitted and because no verification has occurred in either of two prior annual reviews, the statute requires that the Department verify NTN's response.

Department's Position: We disagree. Section 776(b)(3) of the Tariff Act states that the administering authority shall verify all information relied upon in making a review and determination under section 751(a) if verification is timely requested and no verification was made during the two immediately preceding reviews and determination, except where good cause is shown. This administrative review is the first review of the antidumping duty order in this case. Thus, despite the petitioner's assertions to the contrary, the verification requirement of section 776(b)(3) of the Tariff Act does not apply.

Comment 13: Koyo argues that the Department's calculations contain the following clerical errors: (1) The value of net price and other variables for split cones were erroneously defined as a percentage of the cup price rather than as a percentage of the set price; (2) the value of the indirect selling expenses incurred in the home market for U.S. exports were erroneously included in the direct selling expenses rather than the indirect selling expenses for ESP sales; (3) the cost of packing in Japan and the cost of reboxing in the United States were omitted from the calculation of the total cost of manufacturing used in the calculation of further manufacturing and the allocation of profit; and (4) there was no circumstance of sale adjustment for direct selling expenses when U.S. sales were compared to constructed value.

Department's Position: We agree that the first three items noted above were made in error and have corrected them for the final results of review. However,

we disagree that our decision not to make a circumstance of sale adjustment for the sales compared to constructed value constitutes a clerical error. In this instance, Koyo did not quantify the amount of direct selling expenses attributable to commissions and credit in its calculation of constructed value. Therefore, we did not make an adjustment to constructed value for direct selling expenses. Instead, we added total direct selling expenses to indirect selling expenses and included them in the exporter's sales price (ESP) cap.

Comment 14: Timken claims that the Department's search for such or similar merchandise at the same level of trade, then at different levels, is correct and should be continued. It argues that the Department should use sales of identical merchandise at different levels of trade before resorting to sales of similar merchandise and then use similar sales at different levels of trade before going to constructed value. NTN argues that the Department should not compare sales across levels of trade or, if it does, should grant an adjustment based on the difference in prices across levels rather than on the difference in expenses across levels.

Department's Position: We agree with the petitioner. Section 353.58 of the Department's regulations directs us to compare sales at different levels of trade when sales at the same commercial level are insufficient, and to make adjustments for differences that affect "price comparability" across levels. NTN's contention that a level of trade adjustment should be based on the measurable difference in prices across levels does not address the issue of whether the difference in price is due purely to the difference in level of trade, or whether any other factors are affecting the difference in price. The only quantifiable information submitted by NTN that accounts for the difference in prices across levels of trade are selling expenses. Because we already make adjustments for direct selling expenses, it would be double counting to deduct them again in the context of a level of trade adjustment. Therefore, where comparison sales in the home market were insufficient at the same level of trade as the U.S. sale, we crossed levels of trade in search of such or similar merchandise, and allowed a level of trade adjustment to FMV based only on the difference in indirect selling expenses between levels of trade for NTN.

Comment 15: Timken asserts that the Department should deny Koyo's claim for an adjustment to FMV for differences in levels of trade since Koyo failed to demonstrate that it incurs different selling expenses in selling to different levels of trade in the home market.

Department's Position: As Timken noted in its case brief, Koyo was not able to demonstrate at verification that the level of trade of a customer had any influence on the amount of selling expenses at all. In addition, Koyo dropped its claim to a level of trade adjustment as well. Therefore, we have not made a level of trade adjustment to the FMV.

Comment 16: Timken notes that the computer program used to calculate the preliminary results of review for Koyo failed to cross levels of trade. It further notes that this error was corrected in a program released at disclosure. Timken presumes that this correction will be used for the final results of review.

Department's Position: We have corrected the error and used the corrected program as the basis for our calculations in the final results of review.

Comments Regarding packing and Movement Expenses

Comment 17: Timken alleges that, since Koyo's U.S. inland freight adjustment is based on the sales value of bearings, not weight, the freight figure is inherently distortive. Timken claims that Koyo's calculation results in a misallocation of freight expenses between sales at different levels of trade. Timken also notes that the Department has a stated preference for an allocation of freight based on the unit weight of the individual products (Final Determination of Sales at Less Than Fair Value, Antifriction Bearings from Various Countries, 54 FR 19044, May 3, 1989). Timken also alleges that Koyo mixed the freight costs it incurred with those incurred by its related distributors. Timken claims that the freight costs for shipping from the related distributors' warehouses must be different than the freight costs of shipping from Koyo's warehouses. Therefore, Timken charges that Koyo's reported freight expenses are inconsistent with actual experience so that the Department should not make an adjustment.

Department's Position: We agree that allocations of freight costs by volume, weight, distance, or a combination of these, are preferable to allocations based on sales value. However, we verified that Koyo does not maintain, and cannot separate, its records based on volume, weight or destination. Therefore, since we have no evidence on the record that Koyo's sales prices by level of trade or relatedness are distorted, we determined that the allocation of freight expense based on sales value is reasonable (see Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings Four Inches or Less in Outside Diameter from Japan, 55 FR 22372, June 1, 1990, and Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings Four Inches of Less in Outside Diameter from Japan, 56 FR 38721, June 3, 1991).

Comment 18: Timken asserts that NTN's adjustment for home market packing costs should be rejected because respondent refused to supply additional information on those costs.

Department's Position: We agree. We have made no adjustment for home market packing in calculating our final results.

Comment 19: NTN maintains that the Department should use the entire home market freight expense to adjust FMV rather than limit the adjustment to the cost incurred in shipping the merchandise to the unrelated customer.

Department's Position: We agree. In the preliminary results the Department treated pre-sale movement expenses incurred on home market sales as either production costs or indirect selling expenses. However, we have reconsidered our treatment of these expenses, since no distinction is made between pre-sale and post-sale movement charges in calculating U.S. price (USP). To ensure an equitable comparison, we have deducted all movement charges from FMV.

Comments Regarding Adjustments to Foreign Market Value

Comment 20: Timken maintains that the Department should reject respondents' claims for an adjustment to FMV for inventory carrying costs. Timken argues that the purpose of an adjustment to USP for inventory carrying costs is to account for financing costs directly related to U.S. sales incurred by the foreign producers on behalf of their subsidiaries when allowing extended payment terms on goods maintained in inventory after importation to the U.S. however, this situation is not extant in the home market. Inventory expenses are not incurred on behalf of, or related to the sale to, the purchaser. Therefore, it is not an appropriate expense for an adjustment to home market price.

Department's Position: We need not address this point because the issue is moot. Koyo did not make a claim for such an adjustment, and, because we are analyzing only purchase price sales

by NTN, no adjustments for indirect expenses are appropriate. Therefore, we did not make any adjustments for inventory carrying costs for the final results of review.

Comment 21: Timken argues that the Department should not adjust FMV for post-sale rebates that Koyo gave to its home market customers, since Koyo failed to present any evidence that the rebates were part of a sales contract or were directly related to sales of the merchandise within the meaning of 19 CFR 353.56(a). Timken asserts that Koyo must demonstrate that customers were aware at the time of purchase that such rebates might be granted, and that the rebates are tied to specific sales. Timpken alleges that Koyo has not demonstrated that the prices for which post-sale price adjustments were granted were not actually modified, rather than fixed, after the merchandise was shipped. Timken also claims that the Department should reject NTN's after-sale price adjustments as inadequately explained. Petitioner states that NTN has failed to establish that these adjustments are directly related to sales under review.

Department's Position: We disagree. The record demonstrates that Koyo's post-sale price adjustments are an established and accepted commercial practice in the TRB industry (see Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings Four Inches or less in Outside Diameter from Japan, 56 FR 38721, June 3, 1991). We have verified that these price adjustments were made on a customer-specific basis. However, we have also verified that Koyo cannot make a direct tie between the post-sale price adjustment and the sale for which it was granted. Therefore, we have classified these post-sale price adjustments as indirect, rather than direct, selling expenses. We are also satisfied that there is enough information in NTN's responses to demonstrate that these adjustments are the same as those verified and accepted during the investigation of this case, and that the adjustments are attributable to sales of TRBs.

Comment 22: Timken claims that the Department should deny Koyo's claim for an adjustment to FMV for technical expenses since Koyo cannot distinguish between its technical services expenses and its warranty expenses. Timken claims that, since some of the expenses are travel expenses incurred by Koyo's engineers to confer with customers on design and production issues, rather than to assist customers in the selection or use of existing bearings, the Department should not make the adjustment.

Department's Position: We agree that Koyo was unable to show how its technical services and warranty expenses are directly related to the sale of covered merchandise. Therefore, we have classified them both as indirect selling expenses.

Comment 23: Timken argues that the Department should not accept Koyo's reported credit expense because Koyo based its calculation of the number of days for which credit was extended for its major customers, which may not be representative of all of its sales. Timken notes discrepancies in the verification report that demonstrate that, while Koyo overstated the number of credit days for six out of thirteen of the selected transactions at verification, it appears to have understated the number of credit days by an average of eight days.

Department's Position: We agree that respondents bear the burden of reporting the full number of days that credit is extended to all customers. We verified that the information provided in the response is based on the average credit days outstanding on a customer-specific basis. While discrepancies in the data exist, Koyo did not overstate the number of days for which it extended credit to its customers in the home market. Therefore, given the massive number of transactions and the fact that respondent reported the number of credit days outstanding on a customer-specific basis, we accepted respondent's methodology and adjusted FMV for the number of credit days reported by respondent (see Final Results of Antidumping Duty Administrative Review; Antifriction Bearings from the Federal Republic of Germany, et al. (56 FR 31721, July 11, 1991)).

Comment 24: Petitioner avers that NTN's interest rate for calculating credit costs should be recalculated without any adjustment for compensating deposits. NTN contends that factoring for compensating deposits is correct, but if respondent's argument is to be rejected, the Department should use NTN's nominal interest rate on loans.

Department's Position: We agree with petitioner that there is inadequate justification to accept NTN's credit cost calculation based on compensating deposits. In our preliminary results we recalculated NTN's credit costs based on the firm's net interest expense (interest expense minus interest income) as most representative of the firm's internal cost of funds. Because only purchase price sales by NTN are being analyzed in this review, the recalculated interest expense forms the basis of the credit cost adjustment for both home market and U.S. sales. We consider this the proper methodology for the final results (see Final Results of Antidumping Duty Administrative Review, Antifriction Bearings from the Federal Republic of Germany, et al., 56 FR 31721, July 11, 1991).

Comment 25: Timken argues that the Department should disregard commissions that Koyo paid to related parties in the home market. Timken argues that commissions paid to related parties should be regarded as intracompany transfers and not as an adjustment to price.

Department's Position: We agree. An adjustment for commissions paid to related parties is not a proper basis for adjusting home market price, since such commissions are viewed as intracompany transfers of funds and are considered part of the general expenses of the company (Final Determination of Sales at Less Than Fair Value, Porcelain-on-Steel Cooking Ware from Mexico (51 FR 36435, October 10, 1986)). Since neither Koyo nor NTN has demonstrated that the commissions paid to related parties are arm's length in nature, we have not allowed the claim for an adjustment to home market price for commission expenses *(LMI—LaMetalli Industriale* versus *United States, Court* No. 89–1532 (CAFC, August 17, 1990)).

Comment 26: Koyo argues that, in its calculation of the ESP offset, the Department included commissions in direct selling expenses when commissions were paid in one market but not in the other market. Koyo claims that the Department inappropriately applied to ESP sales the portion of 19 CFR 353.56(b)(1) that provides for the deduction of indirect selling expenses as an offset to commissions in purchase price transactions. Koyo further notes that, if the resulting combination of home market commissions and indirect selling expenses exceeds the U.S. indirect selling expenses, the Department limits the home market deductions from FMV by the amount of the U.S. selling expenses. Koyo claims that, by using this methodology, the Department deprives Koyo of the full amount of its adjustment for commissions in the situation that the home market indirect selling expenses plus commissions were greater than the indirect selling expenses in the United States. Koyo maintains that the Department separately calculated a separate circumstance of sale adjustment for commissions and an ESP offset for indirect selling expenses in its

Final Results of Antidumping Duty Administrative Review, Certain Fresh Cut Flowers From Mexico (56 FR 1794, January 17, 1991).

Department's Position: We disagree that we have included home market commissions in indirect selling expenses in the calculation of the ESP offset. We have clearly classified commissions paid to unrelated parties for home market sales of the subject merchandise as direct selling expenses which qualify for a circumstance of sale adjustment.

However, we agree with Koyo that the ESP offset was inappropriately calculated in the instance in which a commission existed in one market and not another. Therefore, we have changed our calculations to provide for a separate calculation of the circumstance of sale adjustment for commissions and the ESP offset (see Final Results of Antidumping Duty Review, Certain Fresh Cut Flowers From Mexico (56 FR 1794, January 17, 1991)).

Comment 27: Koyo argues that rebates and warranties in the home market are not indirect selling expenses and should be classified as direct selling expenses in the calculation of FMV. Koyo notes that it calculated the warranty expense factor by allocating the warranty expenses incurred for bearing products only to the sales of bearings products. With respect to rebates, Koyo claims that rebates it paid to its customers and applied to the total sales of those customers demonstrate a direct relationship between the rebate and the sales under consideration.

Department's Position: We disagree that Koyo's warranty expenses qualify as a direct selling expense. Koyo's calculations for warranty expenses do not demonstrate that any warranty expenses were paid on covered products during the review period. Therefore, we classified warranty expense as an indirect selling expense for the final results of review. With respect to rebates, we are not satisfied that Koyo's rebates constitute a circumstance of sale adjustment, since Koyo applied the total rebates granted to each customer to the total sales of that customer. Therefore, since Koyo was not able to demonstrate that the rebates applied to specific sales of covered products, we have reclassified these expenses as indirect selling expenses for the final results of review.

Comments Regarding Adjustments to U.S. Price

Comment 28: Timken contends that the Department should reject Koyo's calculation of credit expenses in the U.S. Timken notes that Koyo initially failed to account for all of its loans in its credit submission, that the verified interest rate was slightly higher than the rate provided in the questionnaire response, that Koyo did not use a transaction-specific methodology to determine the credit rate, and that Koyo combined inventory carrying costs and accounts receivable regardless of level of trade into a single adjustment to USP.

Department's Position: We used verified information to make this adjustment. Although Koyo presented corrections at verification concerning the total number of loans outstanding and the interest rate received by the company, we determined that these were insignificant changes which did not abrogate the integrity of the questionnaire response. As Timken acknowledged in its case brief, the corrections reported by Koyo at verification, did not affect the calculations. Furthermore, as we explained in our final results of review on Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany, et al. (56 FR 31721, 11,1991), the Department prefers to have credit calculated on a transaction-by-transaction basis. However, given the massive number of transactions in these review, we consider calculations based on average credit days outstanding on a customer-specific basis to be reasonable. Therefore, we have not changed our calculation of this adjustment for the final results of review.

Comment 29 Timken argues that Koyo should apply the technical service expenses incurred in the U.S. market to OEM sales rather than to all sales of covered products during the review period, since it is unlikely that Koyo provides technical services to aftermarket customers.

Department's Position: We disagree. We had the opportunity to verify the information provided in the questionnaire response and found Koyo's information reasonable and accurate. Therefore, we did not change our calculations for the final results of review.

Comment 30: Timken argues that the Department should classify discounts and rebates in U.S. as direct selling expenses as Koyo reported them in its original questionnaire response.

Department's Position: We disagree. Koyo was not able to tie its reported discounts and rebates directly to its sales of covered merchandise. Therefore, we have classified them as indirect selling expenses and have not changed our calculations for the final results of review.

Comments Regarding Cost of Production

Comment 31: Timken contends that Koyo's cost system used in its Japanese operations is flawed and does not accurately reflect the cost of producing the products under review. Timken states that respondent's basic cost system does not appropriately attribute the actual cost of production to either production lines manufacturing covered products or the specific models under review. Timken also notes that Koyo did not distinguish the difference between the cost of producing bearings which are continually produced and bearings which are produced in lots, or among commodity and high precision bearings, and bearings made of unusual materials. Timken further claims that Koyo's production costs and cost of goods sold are mismatched since Koyo's standard costs and inventory costs were based on prior costs. Finally, Timken alleges that Koyo used a single corporate-wide variance to account for the differences between actual and standard costs.

Department's Position: We verified Koyo's cost system and found it acceptable. Koyo based its costs on the standard cost system used in its normal course of business. The standard costs were adjusted by the variances which occurred between these standards and its actual costs. The submission was not based on prior period costs. The variances were calculated by comparing the basic cost to the actual cost of production. The Department reviewed Koyo's model-specific basic costs and variances by reconciling them to the financial statements. Koyo did not use a corporate-wide variance calculation. Its standard costs are adjusted for variances incurred at each factory. Koyo calculated the plant-wide variance by comparing the total plant-wide cost of production with the plant-wide basic costs, which we determined did not distort model-specific costs of production. Furthermore, Koyo demonstrated at verification that its cost system appropriately accounts for the different types of bearings. Therefore, in light of the above findings, we relied on the reported cost of production to calculate the final results of review.

Comment 32: Timken alleges that Koyo's cost response for its U.S. manufacturing operations is wanting in that the cost system used to prepare the cost submission covering those operations in the United States was entirely different from its normal cost accounting system. Petitioner maintains that koyo did not explain how the alternative system affects product costs or allocation methods compared to its

usual accounting system. In addition, Timken contends that the cycle times reported by AKBMC, Koyo's further manufacturing facility in the United States, are inaccurate since there were discrepancies between the reported times and the cycle times contained in the company's "Standard Cycle Time and Machine Efficiency Report", and, therefore, basic costs and distorted to the extent that Koyo relied on its (mis)reported cycle times in the development of its basic cost system. Timken also claims that Koyo's methodology for allocating direct and indirect selling expenses to the cost of production is not acceptable, since Koyo allocated its corporate expenses to production on the basis of headcount.

Department's Position: The Department verified the overall methodology for the costs submitted by Koyo's U.S. subsidiary and found those costs reliable. Koyo did not use the cost accounting system used to value inventory to prepare the questionnaire response, since that system does not account for current costs. Koyo based its submission on the financial statements from the period of review. The relevant costs were appropriately allocated on a model-specific basis. We verified that cycle times measure the time required to perform a specific manufacturing operation in Koyo's U.S. manufacturing facility. In the few instances where errors were noted in the cycle times, we adjusted Koyo's figures and incorporated the changes into our final calculations. Koyo's term "basic costs" refers to the unit cost of producing TRBs in Japan; the cycle times reported in the United States are not related to Koyo's basic costs. Finally, we verified the information used to make the adjustments for direct and indirect selling expenses. We are satisfied that Koyo's allocation of selling expenses based on headcount does not misallocate the expenses of the company away from covered products.

Comment 33: Timken maintains that Koyo's method of determining material cost is inaccurate since Koyo allocated its accumulated plant-level costs according to "gross weight per unit times the basic unit material cost." It notes that an allocation based on weight does not accommodate certain differences in design or type of metal input.

Department's Position: The Department verified that Koyo's system of valuing material costs adequately distinguishes between the different design or type of metal since the basic unit material cost does vary by design and type of metal. Accordingly, Koyo has accounted adequately for these differences in cost.

Comment 34: Timken alleges that Koyo's purchase prices of certain materials are not arm's-length transactions because Koyo purchased materials from related suppliers at prices lower than similar materials from unrelated suppliers. In addition, Timken claims that subcontracting performed by related entities was sold to Koyo at less than the related subcontractors' cost of production.

Koyo alleges that the Department should not have rejected the comparisons of material and subcontractor costs to transfer prices paid by Koyo to a related subcontractor.

Department's Position: In situations where material or subcontracting expenses were not at arm's-length prices, the Department adjusted Koyo's submission. We rejected the costs of one related subcontractor because Koyo provided annual costs based on one month's data. The Department does not consider this to be a reasonable amount of information to determine the accuracy of the costs in light of the fact that the costs do not indicate the same profitability as the financial statements.

Comment 35: Timken alleges that at least one of Koyo's related contractors failed to provide verifiable costs, since the related contractor did not have a cost accounting system. Timken maintains that the figures provided were merely cost estimates based on production cycle times for one month.

Timken also alleges that a second related subcontractor did not adequately report the costs required to produce covered products since it calculated fabrication costs by multiplying the net weight of total output by a fabrication cost per kilogram. Timken alleges that, since these costs are neither model-specific nor production-line specific, they may not reflect the costs actually incurred for covered merchandise.

Department's Position: The Department agrees with Timken and did not use the information submitted by the first related contractor in question. Instead, we used the expenses reported by another related subcontractor as the best information available.

The second related subcontractor conducted basic, one-step manufacturing operations. Given the simplicity of the manufacturing operations performed by this subcontractor, we found that his calculation methodology adequately accounted for the cost of manufacturing for the covered products and used these costs for our final results of review.

Comment 36: Timken claims that the distribution of the subcontractor's variances over plant-wide production is highly distortive and inaccurate, since they are distributed without regard to whether the models in question incorporated any subcontracted costs. Timken maintains that the Department should reject these variances entirely.

Department's Position: Koyo did not allocate its subcontractor's variances to the plant-wide cost of production. Instead, Koyo based its subcontracting expenses on the actual purchase price between Koyo and its subcontractors. Therefore, there are no subcontracting variances affecting the reported costs.

Comment 37: Koyo alleges that the Department made a clerical error in calculating its adjustment to material costs with respect to the Japanese manufacturing operations. In addition, Koyo contends that the Department erred in its calculation of an adjustment to material cost for roller materials purchased from a related entity at its U.S. facility.

Department's Position: With respect to the adjustment for material cost in Japan, we determined at verification that the prices Koyo paid for parts purchased from a related subcontractor were below the subcontractor's cost of production. Therefore, we increased the reported transfer prices using the average amount by which the transfer prices understated the subcontractor's cost of production as the best information available.

With respect to the cost for roller materials purchased from a related entity at the U.S. manufacturing facility, we agreed and have made the corrections for the final results of review.

Comment 38: Timken argues that Koyo's reported labor costs are inaccurate since they are based on corporate-wide, rather than TRB-specific wage rates. Timken claims that it cannot determine whether Koyo's average hourly wage figures include the full complement of fringe benefits that should be represented in the direct cost of labor. Timken further claims that these labor costs are not adjusted for variances. Timken also claims that Koyo's standard labor costs are based on prior period, rather than current, costs.

Department's Position: The Department disagrees with Timken. The Department accepted the corporate-wide labor rate because the other products produced by Koyo involve manufacturing process similar to the processes for the subject merchandise. The Department believes that no

distortion occurred as a result of using this rate or the associated corporate-wide variance.

Any standard labor costs that were based on prior period costs were adjusted for known differences between the periods. These standards were then adjusted for variances from actual costs during the applicable period. The Department also determined at verification that fringe benefits were appropriately included in manufacturing costs.

Comment 39: Timken argues that Koyo's description of overhead expense categories between variable and fixed costs and its allocation of these expenses to subject and non-subject merchandise in its U.S. manufacturing facility is not clear. It maintains that any under-allocation of variable costs will have an immediate effect on each unit's cost of production.

Department's Position: We examined Koyo's overhead expenses at verification and determined that they were appropriately allocated to each unit based on the cycle time. Accordingly, the Department did not revise Koyo's allocation methodology with respect to overhead expenses.

Comment 40: Timken argues that Koyo's calculation of general and administrative expenses (G&A) is inaccurate. It notes that Koyo paid bonuses for directors and statutory auditors from retained earnings, so that the period cost of these expenses is not correctly represented. Timken claims that Koyo failed to include certain non-operating expenses and extraordinary expenses related to production in its submission. It further claims that such expenses should be represented in the cost of sales for the period of review. In addition, Timken notes that G&A expenses incurred at the U.S. production and sales facilities were allocated based on sales value rather than on cost of goods sold. Finally, Timken alleges that the G&A figures for the U.S. operations could not be tied to financial statements.

Department's Position: We determined that bonuses for directors and statutory auditors' fees were similar to a dividend payment and, accordingly, not a production cost. We adjusted Koyo's submission to include the non-operating and extraordinary expenses related to production. With respect to the last three claims, the Department based its calculation of Koyo's G&A expenses on the cost of sales as derived from the financial statements in both the Japanese and U.S. manufacturing facilities.

Comment 41: Timken argues that, since Koyo's actual selling, general and administrative expenses and profits were less than the statutory minimums of ten and eight percent of the cost of manufacture, the Department should apply the statutory minimums in the final results of review as it did in the preliminary results of review.

Department's Position: The Department used the statutory minimums in the final results of review.

Comment 42: Koyo asserts that the Department erred by failing to amortize "non-operating and extraordinary expenses" in calculating the value added by further manufacturing.

Department's Position: While the Department has amortized start-up costs in prior cases, Koyo did not submit information describing the start-up costs. The Department first learned of these costs during verification. Accordingly, without submitted information describing the nature and amount of these costs, the Department accounted for these costs in the same manner that Koyo accounted for these costs in its financial statements.

Comments Concerning the Cost Test Methodology

Comment 43: Koyo asserts that the Department excluded certain home market sales which were sold at prices below the cost of production where such sales did not occur "over an extended period of time" during the period of review. Koyo notes that the Department defined an "extended period of time" as sales occurring below the cost of production in more than two months of the review period (*i.e.*, in three or more months of the review period). Koyo suggests that the definition of "extended period of time" be changed to mean sold below cost in *each month* of the review period.

NTN disagrees with the Department's conclusion that three or more months during a period of review represents an extended period of time for sales made below the cost of production. Respondent contends that an extended period must be defined as a majority of the period, or in excess of 50 percent of the period.

Department's Position: We disagree. Section 773(b)(1) of the Tariff Act is designed to ensure that below-cost sales are not disregarded if these sales occurred over a short period of time or resulted from normal business practices, such as selling obsolete or end-of-year merchandise at below-cost prices. TRBs are a commodity item that do not demonstrate perishability, seasonality, or frequent generational changes in models. No information on the record in this case indicates that below-cost sales are a normal practice or characteristic in the industry. We used the period of three months to define an extended period of time since three months is commonly used to measure corporate, financial and economic performance. Use of three months to measure frequency of below-cost sales shows that sales below the cost of production are not random, accidental, or sporadic. This time measurement also ensures that the Department uses home market prices that are above the cost of production in its price-to-price comparisons in all but random or sporadic situations.

Therefore, we have determined below-cost sales occurring in three or more months of the review period to have been made over an extended period of time.

Comment 44: Koyo argues that the Department should allocate losses as well as profits in its calculation of further manufacturing, rather than setting the allocated profit to zero for those sales which had a profit of less than zero (see Color Picture Tubes from Japan, 55 FR 37915, 1990).

Department's Position: We agree and have changed our calculations for the final results of review.

Miscellaneous Comments Regarding Related Parties, Sample Sales, Contemporaneity, Foreign Trade Zones, and Cash Deposits

Comment 45: Timken claims that the Department should exclude Koyo's sales to related parties from its home market data base because Koyo has not demonstrated that its sales to related parties are arm's-length transactions.

Department's Position: We tested Koyo's sales to related and unrelated parties at verification and found that the sales to related parties were made at prices greater than or equal to the prices to unrelated parties. In addition, we compared the gross prices less discounts and rebates to related and unrelated parties and found the related parties did not receive preferential pricing treatment from Koyo. Therefore, we included sales to related parties in our home market database for the final results of review.

Comment 46: Timken argues that the Department should include Koyo's sample sales in its home market database since Koyo made sample and real sales at the same prices. Furthermore, Timken alleges that Koyo has not demonstrated that sample sales are out of the "ordinary course of trade."

Department's Position: We disagree. We examined Koyo's sales practices with respect to sample sales at verification and determined that the prices of samples were negotiated

separately from the standard price agreements. We confirmed the details of the information reported on the computer tape and in the questionnaire response. We found no discrepancies or deficiencies. Therefore, as in the final results of review on Tapered Roller Bearings Four Inches or Less in Outside Diameter from Japan, 56 FR 38721, June 3, 1991, we have not included sample sales in Koyo's home market database for the purpose of determining model match and FMV for the final results of review.

Comment 47: Timken contends that the Department must not exclude sample sales or sales NTN has classified as not in the ordinary course of trade in the home market.

Department's Position: Due to the significant number of home market sales transactions, we are satisfied that the results of this review are not meaningfully affected by the exclusion of sample sales and sales NTN identified as not in the ordinary course of trade. These transactions are comprised of trial sales for evaluation by customers, sales of sample merchandise, and sales of very small quantities on a spot basis in unusual circumstances. Consequently, we are satisfied that these are sales not in the ordinary course of trade, and we have not included them in our analysis.

Comment 48: Timken notes that Koyo failed to report sales of a small number of extremely high precision bearings which were only sold in the home market for machine tool use since Koyo believed that these models would not be used for comparison purposes. Timken proposes that the Department require Koyo to provide a revised submission prior to the publication of the final results, or, alternatively, apply the highest margin found for any respondent as the best information otherwise available for an incomplete home market response.

Department's Position: We examined these sales at verification and determined that these bearings are either produced at such great cost that they would not pass the twenty percent difference in merchandise test in order to be used in comparison to U.S. models, or are sold below cost so that they would not be used as comparison merchandise, and are so few in number that they would not skew our analysis of below-cost sales. Therefore, we did not require Koyo to provide an additional listing of its home market sales.

Comment 49: It is petitioner's conclusion that TRBs entering a foreign trade zone or subzone (FTZ) are not exempt from the antidumping law. Therefore, Timken asserts that the Department should require the reporting on the date and status of admission and liquidation, and the collection of duties, for any of NTN's purchase price sales of TRBs brought into FTZs during the period of review. Importer Caterpillar contends that TRBs admitted to an FTZ, or transferred between FTZs, or re-exported from FTZs, are not subject to the collection of antidumping duties until, and unless, they are entered for consumption in the United States. Caterpillar also contends that TRBs admitted into an FTZ in non-privileged status and then transformed into merchandise not covered by an antidumping duty order are not subject to antidumping duties.

Department's Position: We disagree with petitioner's assertion that TRBs admitted into an FTZ are subject to an antidumping review and the collection of duties regardless of whether they enter U.S. customs territory as merchandise subject to the antidumping duty order. Section 751 of the Tariff Act instructs the Department to determine "the foreign market value and United States price of each entry of merchandise subject to the antidumping duty order," and the "amount, if any, by which the foreign market value of each entry exceeds the United States price of the entry." As we stated in the final results of review on Antifriction Bearings from the Federal Republic of Germany, et al. (56 FR 31703, July 11, 1991), our understanding of the term "entry" in the antidumping law is that it unambiguously refers to release of merchandise into the customs territory of the United States. To the extent TRBs were admitted into an FTZ in a nonprivileged status and transformed into merchandise not subject to the order before entering U.S. Customs territory, the Department currently has no basis for the assessment of antidumping duties on the merchandise.

Comment 50: Koyo maintains that the Department erred in comparing actual U.S. sales transactions with a weighted-average FMV based on the entire eighteen-month period of review. Koyo believes that the Department's comparison of weighted-average FMVs for the entire period of review with individual U.S. prices yields margin calculations that are not representative. Koyo asserts that, particularly since negative margins are disregarded, the Department must calculate weighted-average U.S. prices on the same basis as FMV to produce fair and representative results.

Finally, Koyo argues that the Department's decision to replace the monthly weighted-average FMV with a weighted-average FMV for the entire eighteen-month period of review is contrary to the purpose of U.S. antidumping law. Koyo asserts that the methodology used by the Department to calculate FMV must be predictable to allow the foreign manufacturers the opportunity to adjust their pricing policies.

Department's Position: We agree that section 777A of the statute requires the Department to ensure that samples and averages shall be representative of the transactions under review. Therefore, before adopting use of a weighted-average FMV for the eighteen-month period of review, we conducted two studies to insure that the results produced would be representative. First, we compared the monthly weighted-average price to the weighted-average price for the entire review period. We found that the period's weighted-average price for more than ninety percent of the products sold came within ten percent of the monthly weighted-average price. Second, we tested whether home market prices of the subject merchandise consistently rose or fell during the period of review. We found that no significant correlation existed between price and time. That is, prices did not consistently rise or fall so as to make period weighted-average prices unrepresentative of home market prices.

Therefore, the results of these tests demonstrate that Koyo's pricing practices remained stable during the review period, thus insuring that a weighted-average FMV for the 18-month period of review is as representative of home market prices as the traditional monthly weighted-average FMV. We are satisfied that, if the weighted-average FMV is representative of the home market prices for the period of review, then the margins calculated using weighted-average prices are also representative.

We disagree with Koyo's assertion that, to insure representative results, we must average USPs on the same basis as FMV. An average USP has been, and continues to be, unacceptable, because it would allow a foreign producer to mask dumping margins by offsetting dumped prices with prices above FMV. That is, a foreign producer could sell half its merchandise in the U.S. at less than FMV, and the other half at more than FMV, and arrive at a zero dumping margin. Except in instances where the Department has conducted reviews of seasonal merchandise which has very significant price fluctuations due to perishability (Final Results of Antidumping Duty Administrative Review, Certain Fresh Cut Flowers from

Colombia, 55 FR 20495, May 17, 1990), the idea of averaging USP has been rejected (Final Results of Antidumping Administrative Review, Pressure Sensitive Plastic Tape from Italy, 54 FR 13091, March 30, 1989). Since the merchandise under review is not a perishable product and significant fluctuations in the price did not occur, there is no reason to believe that averaging of USP is needed.

We disagree with Koyo's assertion that our change in methodology has removed predictability from the process. Since such a high percentage of the sales have a weighted-average price for the entire eighteen-month period of review which falls within ten percent of the monthly weighted-average price, the calculation of a weighted-average FMV for the entire eighteen-month period of review, which the Department has used in this review, is no less predictable than the calculation of a monthly weighted-average FMV.

Comment 51: Koyo argues that the interests of justice require that all interested parties be given an opportunity to review the Department's computer programs prior to the issuance of the final results. Koyo contends that if the Department fails to release the program prior to issuing the final results, there will be insufficient time to identify and correct programming errors before litigation commences and the Department is divested of jurisdiction and cannot make changes to the record. Therefore, parties will not have the opportunity for meaningful comment on the clerical errors in the Department's calculations without a Court order.

Department's Position: We disagree that the parties are denied the opportunity for meaningful comment on the clerical errors in the computer program if they do not have access to the calculations prior to the issuance of the final results of review. The Department's regulations provide parties an opportunity to request disclosure after issuance of final results and to identify and comment on any clerical errors in the calculations (19 CFR 353.28).

Comment 52: Caterpillar contends that separate importer-specific margins, both for purposes of assessment and for purposes of establishing an estimated duty deposit rate, must be determined for importers who engage only in purchase price transactions.

Department's Position: The Department agrees that importer-specific assessment rates are appropriate. However, in general, we do not agree that importer-specific deposit rates are appropriate. Duty deposits are merely estimates of what future duty amounts will be. Therefore, we believe that the need for a precise, importer-by-importer estimate of duties is outweighed by the need to provide the Customs Service with a set of deposit rates that can be effectively administered. In this administrative review, we have limited our analysis to NTN's purchase price sales to Caterpillar. Therefore, we will issue a deposit rate for imports by Caterpillar from NTN based on our analysis. The cash deposit rate for the TRBs NTN exports to the U.S. for which Caterpillar is not the importer will remain at 36.53%, the rate established in the antidumping duty order, as amended.

Final Results of Review

As a result of our comparison of United States price to foreign market value, we determine that the following margins exist for the period March 27, 1987, through October 31, 1988:

Manufacturer/exporter	Margin (%)
Koyo Seiko, K.K.	35.20
NTN/Caterpillar	10.17

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences USP and FMV may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Furthermore, as provided for by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties, based on the above margins, shall be required on shipments of TRBs from Japan.

For any future entries of this merchandise from an exporter not covered in this review and who is unrelated to any reviewed firm, a cash deposit of 35.20 percent shall be required. These deposit requirements are effective for all shipments of the covered merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

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: August 13, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91-19961 Filed 8-20-91; 8:45 am]

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[A-485-602]

Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the Republic of Romania; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On May 21, 1991, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on tapered roller bearings and parts thereof, finished or unfinished, from the Republic of Romania. The review covers the sole exporter of this merchandise to the United States, Tehnoimportexport, and the period June 1, 1988 through May 31, 1989.

We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received, we have changed the final results from those presented in our preliminary results of review.

EFFECTIVE DATE: August 21, 1991.

FOR FURTHER INFORMATION CONTACT: Karin Price or Maureen Flannery, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

On May 21, 1991, the Department of Commerce (the Department) published in the Federal Register (56 FR 23280) the preliminary results of its administrative review of the antidumping duty order on tapered roller bearings and parts thereof, finished or unfinished (TRBs), from the Republic of Romania (Romania), 52 FR 23320 (1987). The Department has now completed that review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Review

Imports covered by this review are shipments of tapered roller bearings and parts thereof, finished or unfinished, from Romania. Prior to January 1, 1989, this merchandise was classifiable under item numbers 680.30, 680.39, 681.10, and 692.32 of the Tariff Schedules of the United States (TSUS). Effective January 1, 1989, this merchandise is classifiable

under Harmonized Tariff Schedule (HTS) item numbers 8482.20.00, 8482.91.00, 8482.99.30, 8483.20.40, 8483.30.40, and 8483.90.20. The TSUS and HTS item numbers are provided for convenience and Customs purposes only. The written description remains dispositive.

This review covers the sole Romanian exporter, Tehnoimportexport (TIE), and the period June 1, 1988 through May 31, 1989.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results. We received written comments from the respondent, TIE, and the petitioner, The Timken Company (Timken). At the request of Timken, a public hearing was held on July 10, 1991.

Comment 1

TIE argues that the Department should use the overhead rate for the metal processing industry in Slovenia, Yugoslavia. TIE contends that the Yugoslavian overhead rate represents the best information on the record because it pertains to the surrogate country in this review, is publicly available, relates to an industry similar to the bearings industry, and was calculated using the same methodology as that used by the Department.

According to TIE, the Department has previously argued, in TRBs from the People's Republic of China, 52 FR 19748 (1987), that overhead rates in less developed countries, which normally use less sophisticated technology, are lower than overhead rates for companies in developed countries. Thus, TIE claims that it is unfair to use a Portuguese overhead rate because Portugal is a developed country which utilizes expensive, modern equipment, and because the Portuguese manufacturer of bearings is related to FAG, one of the most highly sophisticated and technologically advanced bearing companies in the world. TIE notes that, by contrast, the bearings industry in Romania utilizes machines which were purchased over 20 years ago and which have been fully depreciated.

Timken responds that the Yugoslavian overhead rate suggested by TIE is inappropriate because it has been estimated for the metal fabricating industry in Yugoslavia, not the bearings industry, and because it does not include indirect labor. Timken argues that there is no basis for assuming that the metal fabricating industry has the capital intensity, the precision turning, honing and forming operations, or the heat treatment and hardening operations essential to the production of bearings. Moreover, Timken notes that this overhead rate was rejected for the final results of review of antifriction bearings (AFBs) from Romania, 56 FR 31757 (1991). Timken also contends that, because TIE uses old and unsophisticated equipment, TIE would have high, not low, overhead expenses due to increased maintenance, repairs, and inefficiencies.

Timken argues that the Department should instead use the overhead rate from a bearing producer in Thailand, as was used for the final results of review of AFBs from Romania, because it is an actual and accurate rate calculated from a detailed questionnaire response which was filed in a review of AFBs. Moreover, Timken contends that there is no basis for adopting an overhead rate inconsistent with the rate used in the review of AFBs from Romania.

Timken claims that the Portuguese overhead rate of 24.3 percent used for the preliminary results of this review is not accurate because it is based on a series of assumptions the Department made about how an unannotated page of the Portuguese bearing producer's financial statement should be segregated into overhead, direct labor, and direct materials expenses. Timken challenges the assumptions made by the Department, and argues that overhead is understated and cost of manufacturing (COM) overstated because the Department placed some expenses which should be classified as overhead expenses, such as indirect labor expenses, in COM rather than in overhead.

Timken also contends that use of the Portuguese overhead rate of 24.3 percent with the 15 percent indirect labor rate is called into question by a cable from the U.S. Embassy in Lisbon stating that overhead as a percentage of total COM is 30 percent and that indirect labor as a percent of total labor is 15 percent. Timken contends that the 24.3 percent overhead rate should therefore not be used with this 15 percent indirect labor rate, since they come from different sources. In support of this, Timken argues that the Court of International Trade (CIT) in *Timken Company* v. *United States*, 699 F. Supp. 300, 307 (1988), *aff'd* 894 F.2d 385 (Fed. Cir. 1990) ordered the Department to use a single, internally consistent source to the extent possible when confronted with mutually inconsistent sources for related factors values. Therefore, Timken contends that the Department should use the Thai overhead data (which include indirect labor), since they are internally consistent.

TIE responds that the Thai overhead data should not be used because they are not public figures which were put on the record of the Thai review, but are ranged numbers which were calculated for the Romanian AFB review from actual, proprietary costs. Thus, according to TIE, the underlying data cannot be released to counsel in order to verify how the ranged numbers were calculated. Moreover, TIE argues, counsel for the Thai company has not given its formal consent that this data could be used in this review. TIE cites the CIT ruling in *China National Metals and Minerals Import and Export* v. *United States*, 674 F. Supp. 1482, 1485 (1987) as evidence that these data cannot be used.

TIE also contends that the overhead costs for the Thai producer are overstated because the Thai producer manufactures miniature bearings for which raw material and labor costs are low, while TIE produces large bearings for which raw materials and labor costs are high. Moreover, the Thai overhead rate is high because the Thai producer has a highly automated production process with high equipment costs, and purchases materials, perhaps at prices less than market prices, from related companies.

Department's Position

We agree with TIE and have used the Yugoslavian overhead rate for the purposes of these final results. We prefer using the Yugoslavian overhead data to value Romanian factors of production because we have established Yugoslavia as the surrogate country for the purposes of this review. It is the Department's preference to use data, when available, from the surrogate country or countries before resorting to data from other countries. This is particularly important in the case of overhead, since the overhead rate is applied to Yugoslavian materials and labor.

Although the submitted Yugoslavian overhead data are not for the bearings industry, they are for the metal fabricating industry. Timken has provided no evidence that overhead expenses for the metal fabricating industry would be significantly different from overhead expenses in the bearings industry. Finally, evidence on the record (*see* the May 6, 1991 submission from counsel for TIE) indicates that the Yugoslavian overhead rate does include indirect labor costs, and Timken has not provided any evidence to the contrary.

The Thai data that Timken advocates were submitted untimely to the record of this review, and consequently, were

returned to counsel. (*See* the Department's letter of July 11, 1991 to counsel for both parties.) Therefore, we need not address the issues related to the use of these data, and we have not considered the data for the purposes of these final results.

Comment 2

Timken argues that the Thai producer's SG&A rate should be used in conjunction with the Thai producer's overhead rate. Timken contends that it is the Department's practice to use the statutory minimum of 10 percent in non-market-economy (NME) cases only when there is inadequate surrogate information. As evidence of this, Timken cites Sparklers from the People's Republic of China; Preliminary Determination of Sales at Less than Fair Value, 55 FR 51743 (1990), and sections 19 U.S.C. 1677(c)(1) and 1677(b)(e) of the statute concerning constructed value. Timken claims that the Department should use the Thai producer's rate for general expenses, since it reflects the experience of a bearing producer in a developing country. Timken cites Urea from the German Democratic Republic; Final Determination of Sales at Less Than Fair Value, 52 FR 19549 (1987), (*Urea*) as evidence that this rate should be used even if the nature of the expenses are somewhat different from those of TIE.

Timken also argues that the Department should use the profit rate for the bearing producer in Thailand if it is higher than the statutory minimum of 8 percent.

TIE responds that the Thai SG&A data cannot be used because SG&A is calculated as a percentage, not a specific amount, and is a comparative figure based on other factors such as raw materials and labor costs. Thus, TIE contends that because Thai raw materials and labor cost data have not been used in this review as surrogate values, it would not be reasonable to use Thai SG&A data.

TIE also argues that the statute provides that the mimimum 10 percent rate for SG&A shall be used if there is no information from a comparable country. Thus, since Thailand was not chosen as a potential surrogate country for Romania, the Department is compelled to use the 10 percent rate. Moreover, TIE notes that the Thai SG&A expense rate was used for the final results of review of AFBs from Romania for punitive reasons which are unrelated to this review. TIE also claims that the Thai data include accounts not properly included in a general expense calculation and expenses which are inappropriate for TIE.

TIE further argues that the Department should use the statutory minimum of eight percent for profit and cites as evidence the final results of review of AFBs from Romania, in which the Department used the statutory minimum because "profit data were not available for Romania or other countries determined to be comparable to Romania."

Department's Position

We disagree with Timken that the Thai SG&A and profit data should be used for the purposes of these final results. The data were untimely submitted to the record of this review and have been returned to counsel for Timken by letter dated July 11, 1991. Thus, we need not address the issues related to the use of the Thai data, and the data were not considered for the purposes of these final results. Because there are no surrogate SG&A or profit data, we have resorted to the use of the statutory minimums.

Comment 3

TIE argues that the Department should not use import prices to value steel inputs because imported steel is not used in the manufacture of TRBs from Romania. TIE contends that the Department has recognized, in previous NME cases, that when COM is dependent on a key material input, a major criterion to consider in choosing a surrogate country is comparability in terms of the supply of that input. TIE cites as evidence of this Unrefined Montan Wax from the German Democratic Republic; Final Determination of Sales at Less than Fair Value, 46 FR 24614 (1981), Urea from the Socialist Republic of Romania; Final Determination of Sales at Less than Fair Value, 52 FR 19553 (1987), and Urea from the German Democratic Republic; Final Determination of Sales at Less than Fair Value, 52 FR 19549 (1987). TIE argues that since Yugoslavia is a manufacturer of bearing quality steel, the Department should calculate steel prices based upon steel produced in Yugoslavia in order to reflect the comparative advantage of a nation endowed with its own supply of bearing quality steel. According to TIE, import prices of steel from the European Community (E.C.) into Yugoslavia reflect the costs of producing steel in the E.C.; this is shown by the fact that import prices of steel into Yugoslavia are as much as 50 percent higher than Yugoslavian export prices.

Moreover, TIE claims that there is no significant evidence of subsidization and dumping of relevant steel products from Yugoslavia. TIE argues that, with respect to Yugoslavia, there is only a "mere possibility" of dumping or subsidization. According to TIE, there are few outstanding dumping orders against Yugoslavian steel and no evidence that Yugoslavian exports of alloy steel bar, the main component in the manufacture of bearings, are subject to antidumping duties in any country. Moreover, TIE argues that there are no substantive findings as to Yugoslavian subsidies, as there has only been one case in the history of U.S. and E.C. countervailing duty law in which subsidies were alleged, on welded carbon pipe and steel tube, 51 FR 8863 (1986), and this case was later withdrawn. TIE also notes that Yugoslavian prices are close to the average world price as evidence that exports of alloy steel are not being dumped or subsidized.

Timken responds that the Department clearly explained, in the final results of the previous review of TRBs from Romania, 56 FR 1169 (1991), that the price TRB producers in Yugoslavia pay for steel is not the price of Yugoslavian steel exports which benefit from subsidies and/or are dumped. Moreover, Timken argues that as actual Yugoslavian market values are not available, import prices are the best prices with which to represent prices in the Yugoslavian market.

Department's Position

We disagree with TIE. In calculating foreign market value (FMV), the Department determines how much it costs to produce the merchandise in the surrogate country; therefore, the relevant issue is how much Yugoslavian bearings manufacturers pay for steel in the Yugoslavian market. Since domestic prices in Yugoslavia are unavailable, and no interested party has submitted them, the Department has used the price of steel imports into Yugoslavia, as the best estimate of the price that the Yugoslavian TRB manufacturers would pay for the steel. (*See* our response to comment 2 in Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from Romania; Final Results in Antidumping Administrative Review, 56 FR 1169 (1991).)

Comment 4

Timken argues that the Department should use the price of steel imports reported in the Statistics of Foreign Trade of the SFR Yugoslavia (Statistics of Foreign Trade), used for the preliminary results of review of TRBs from the Republic of Hungary, 56 FR 28525 (1991). According to Timken, this source is more comprehensive than the official Eurostat publication since it

reports all Yugoslavian imports, not just imports from countries in the E.C.

TIE responds that these data are inappropriate for valuing raw materials inputs. First, TIE contends that these data are based upon prices which include transportation, insurance, and other unknown costs which serve to increase the cost of the steel. According to TIE, use of these data is unreasonable given that Romania produces its own steel and does not incur these types of expenses. TIE also argues that these data are inconsistent with all other sources of steel prices, such as the E.C. data used for the preliminary results of this review. According to TIE, the prices reported in Statistics of Foreign Trade are too high because they reflect the high prices of specialty steel. Lastly, TIE claims that because these prices are given in dinars, their accuracy cannot be relied upon, and urges the Department to use the reported dollar figures if it decides to use this source of steel prices.

Department's Position

We disagree with Timken that the Statistics of Foreign Trade data should be used for the purposes of these final results. These data were untimely submitted to the record of this review and have been returned to counsel for Timken by letter dated July 11, 1991. Thus, we need not address the issues related to the use of these data, and the data have not been considered for the purposes of these final results.

Comment 5

Timken argues that the Department should not have used the steel classification NC 7213.5000 to value SAE 52100 steel, since SAE 52100 steel is an alloy steel and NC 7213.5000 is a carbon, non-alloy steel. According to Timken, SAE 52100 is properly classified as "other alloy steel," categories NC 7228.3090 or NC 7227.9090. As evidence that the use of carbon steel undervalues SAE 52100, Timken notes that the price of scrap steel is approximately 73 percent of the raw material input. Timken argues that the CIT has found a similar scrap value unreasonable in *Timken, supra,* 699 F. Supp., 300, 307.

TIE responds that if the Department decides not to use the category NC 7213.5000, an alternative category is NC 7227.9020.

Department's Position

We agree with Timken that an alloy steel should be used to value SAE 52100 steel. For the purposes of these final results, we have used the alloy steel category NC 7228.3090, which was recommended by Timken. There is evidence that this steel category best represents SAE 52100 steel, and TIE offers no evidence that the alloy steel category NC 7227.9020 is a better choice.

Comment 6

Timken argues that, since materials costs are based on the price of steel imports into Yugoslavia, the price of steel to the Yugoslavian bearing producer should be estimated by adding import duties payable in Yugoslavia to the steel price. According to Timken, steel costs plus the import tariffs more accurately reflect market prices in Yugoslavia for domestic production than would the import price alone.

TIE replies that the statute requires that raw materials costs be calculated exclusive of any internal taxes applicable to the surrogate country, since the Department is to determine how much it costs Yugoslavians to produce steel, not to import steel. TIE cites the Department's decision in the final results of review of AFBs from Romania as evidence.

Department's Position

We disagree with Timken. In determining FMV for companies in NME countries, section 773(c)(2) directs the Department to perform its calculations in accordance with section 773(e) of the Tariff Act. Section 773(e) of the Tariff Act, in turn, states that the cost of materials should be "exclusive of any internal tax applicable in the country of exportation directly to such materials or their disposition, but remitted or refunded upon exportation of the article in the production of which such materials are used." There is no evidence that duties assessed on raw material imports in Yugoslavia are not eligible for duty drawback upon exportation of the finished product. Thus, the Department has not added import tariffs to the price of the imported steel. (See our response to comment 4 of section 17, Romania-specific issues, of the Issues Appendix in Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany; Final Results of Antidumping Administrative Review, 56 FR 31692 (1991).)

Comment 7

Timken argues that the Department should use the Yugoslavian labor costs reported in the United Nations Industrial Statistics Handbook, used by the Department for the preliminary results of review of TRBs from the Republic of Hungary, 56 FR 28525 (1991). According to Timken, earnings reported in the 1989–1990 Yearbook of Labour Statistics, published by the International Labour Office (ILO), used for the preliminary results of this review, do not represent the full labor costs incurred by the employer. Timken argues that this is demonstrated by the fact that the ILO has only published earnings, not full labor costs, for Yugoslavia, and "earnings," as defined in the ILO publication, "exclude employer's contributions in respect of their employees paid to social security and pension schemes." According to Timken, these contributions represent a substantial portion of total labor cost. As evidence of this, Timken claims that for those countries for which the ILO has published both labor costs and earnings, labor costs are, on average, 63.71 percent higher than earnings. Therefore, Timken contends that if the ILO rates are used, a factor representing the additional labor costs should be applied to increase earnings to reflect labor costs.

Moreover, Timken contends that earnings include remuneration for time not worked, such as for annual vacation, other paid leave, or holidays. Therefore, the Department understated hourly compensation, which it calculated by dividing monthly earnings by total hours paid for by the employer, including holiday and vacation time. Timken argues that the Department should divide earnings by actual hours worked to calculate the hourly compensation rate.

TIE responds that since the ILO did not include Yugoslavia in its labor cost survey, there is no basis to determine if there is a difference between wages and labor costs in Yugoslavia. TIE also argues that the factors which Timken alleges are not included in the earnings data reported by the ILO, such as overtime, bonuses, and gratuities, are included in earnings, and that earnings include each labor cost listed in the Department's questionnaire. Moreover, TIE alleges that Timken's list of countries for which the ILO reported both labor costs and earnings is incomplete, and, therefore, that the calculation of the difference between earnings and labor costs is inaccurate. TIE notes that the ILO warns against interpretations of its labor cost data when it says "labor cost surveys are generally sample surveys * * * [s]uch data may be subject to bias, owing to the exclusion of establishments below a certain size * * * care should be taken when using the figures along with data from other chapters of the Yearbook or from other sources."

Moreover, TIE argues that the United Nations labor data is flawed because it relates to all individuals working in the

category, including proprietors, administrative personnel, sales personnel, upper management, and other highly paid individuals, which skew the data upward. TIE also notes that, unlike the ILO, the United Nations data simply provide global estimates rather than hourly, weekly, or monthly labor data, and argues that the U.N. data are not designed to provide hourly or monthly rates.

TIE further contends that the Department should calculate hourly labor rates by using the number of hours for which the employee is actually paid.

Department's Position

We disagree with Timken that these United Nations labor data should be used for the purposes of these final results. The data were untimely submitted to the record of this review and have been returned to counsel for Timken by letter data July 11, 1991. Thus, we need not address the issues related to the use of these data, and the data have not been considered for the purposes of these final results.

We also disagree with Timken that the hourly labor rate should be determined by using the number of hours actually worked. Since labor costs include payment for time not worked, the hourly labor rate should be calculated by taking these hours into account.

Final Results of the Review

As a result of our review, we have determined the margin to be:

Manufacturer/ exporter	Period of review	Margin (percent)
Tehnoimport-export	06/01/88–05/31/89	0.00

The Department will instruct the Customs Service to liquidate all appropriate entries without regard to antidumping duties.

Since the margin for TIE is zero, the Department shall not require a cash deposit of dumping duties on entries of this merchandise from TIE. For all other exporters/manufacturers not related to TIE, no cash deposit shall be required. These deposit requirements are effective for all shipments of TRBs from Romania 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 (1990).

Dated: August 14, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91–20033 Filed 8–20–91; 8:45 am]

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[C-307-804]

Preliminary Affirmative Countervailing Duty Determination: Gray Portland Cement and Clinker From Venezuela

AGENCY: Import Administration, International Trade Administration, Commerce.

EFFECTIVE DATE: August 21, 1991.

FOR FURTHER INFORMATION CONTACT: Beth Graham or Larry Sullivan, Office of Countervailing Investigations, Import Administration, U.S. Department of Commerce, room B099, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377–4105 or 377–0114, respectively.

PRELIMINARY DETERMINATION:

Case History

Since the publication of the notice of initiation in the **Federal Register** (56 FR 27498, June 14, 1991), the following events have occurred.

On June 20, 1991, we issued a questionnaire to the Government of Venezuela (GOV) in Washington, DC, concerning petitioner's allegations. At the GOV's request, the due date for the questionnaire responses was extended until July 29, 1991 and August 2, 1991. On July 2, 1991, the United States International Trade Commission issued its preliminary determination that imports of gray portland cement and clinker ("cement") from Venezuela materially injure, or threaten material injury to, a U.S. industry.

On July 29, 1991 and August 2, 1991, we received responses from the GOV and two companies: Cementos Caribe C.A. ("Caribe"), and Venezolana de Cementos ("Vencemos"). On August 5, 1991, we presented the GOV with a supplemental/deficiency questionnaire and received responses from the GOV, Caribe and Vencemos on August 9, 1991.

Scope of Investigation

The products covered by this investigation are gray portland cement and clinker. Gray portland cement and clinker are currently classifiable under subheadings 2523.29 and 2523.10 of the *Harmonized Tariff Schedule* (*HTS*). Gray portland cement has also been entered under *HTS* subheading 2523.90 as "other hydraulic cements." Gray portland cement is a hydraulic cement and the primary component of concrete. Cement clinker, an intermediate material produced when manufacturing cement, has no use of other than grinding into finished cement. Oil well cement is also included within the scope of this investigation; microfine cement is not included within the scope of this investigation. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Standing

The Department has received letters from National Portland Cement Company, Continental Cement Company of Florida, Inc., and Charles Redi-Mix Company opposing the petition. We issued questionnaires to Continental Cement and National Portland Cement Company, inquiring about their production of cement, in order to determine whether these companies should be considered part of the domestic industry producing cement and clinker. We did not issue a standing questionnaire to Charles Redi-Mix Company because it is an importer of Venezuelan cement. To date, we have only received a response from Continental Cement Company. We will be analyzing these responses and determining whether or not these companies have standing to represent the domestic industry by the date of our final determination.

Analysis of Programs

Consistent with our practice in preliminary determinations, when a response to an allegation denies the existence of a program, receipt of benefits under a program, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses, however, are subject to verification. If the response cannot be supported at verification, and the program is otherwise countervailable, the program will be considered a bounty or grant in the final determination.

For purposes of this preliminary determination, the period for which we are measuring bounties or grants ("the review period") is calendar year 1990, which also corresponds to Caribe's fiscal year. Based upon our analysis of the petition and the responses to our questionnaires, we preliminarily determine the following:

I. Programs Preliminarily Determined To Confer Bounties or Grants

We preliminarily determine that bounties or grants are being provided to manufacturers, producers, or exporters in Venezuela of cement under the following programs:

A. Export Bond Program

The Export Bond Program was established in 1973. The program was designed to provide partial compensation for the requirement that exporters convert foreign currency export earnings to bolivars at an official rate significantly lower than the free market rate. The export bonds can only be used for the payment of taxes; they cannot be redeemed for cash. However, these bonds are transferable. The value of the export bond is based on a percentage of the FOB value of the product exported. The applicable export bond percentage for a company corresponds to that company's national value-added percentage ("VAN"). Gray portland cement and clinker has a VAN percentage of 74 percent.

To receive an export bond, exporters must submit the following export documents to their commercial bank: (1) Commercial Invoice; (2) Bill of Lading; (3) Certificate of Income on Foreign Currency; (4) Export Manifest; and (5) *Classification de Valor Agregado Nacional* (includes VAN percentage). The application documents are reviewed by the commercial bank and forwarded to the Central Bank of Venezuela which issues the export bond.

Because this program is limited to exporters, we determine that this program is countervailable. To calculate the benefit for the review period, we divided the bolivar amount of bonds earned on export sales of cement to the United States by the export sales of cement to the United States. On this basis, we calculated estimated net bounties or grants of 10.77 percent *ad valorem*.

On April 9, 1990, the export bond percentages for companies with VAN percentages between 30 and 98 percent were reduced to 15 percent. On August 8, 1990, the export bond percentages for companies with VAN percentages between 39 and 98 percent were reduced to five percent. As of June 15, 1991, the export bond percentages for companies with VAN percentages between 30 and 98 percent were reduced to one percent. On June 13, 1991, the Ministry of Foreign Relations and the Ministry of Finance excluded all manufactured products, including cement, from eligibility for the Export Bond Program. Consistent with our policy of taking into account measurable program-wide changes that occur before the preliminary determination, we are taking into account the latest decrease in the applicable export bond percentages including the current ineligibility of the cement industry, for cash deposit purposes. Therefore, for purposes of the preliminary determination, the cash deposit rate for this program is equal to zero for all manufacturers, producers and exporters in Venezuela of cement.

B. Corporacion Venezolana de Fomento (CVF)

The CVF was created to improve the national industrial base, including the development and improvement of industrial and resource-based enterprises. It was authorized to provide loans and loan guarantees and to invest in shares or other obligations of private companies. CVF operated through a Board of Directors, coordinating with the Minister of Development and the President's Central Office for Coordination and Planning. CVF was dissolved in 1990 and its outstanding assets and liabilities were transferred to the *Fondo de Inversiones de Venezuela ("FIV")*.

On November 23, 1977, Caribe received from CVF a long-term loan for the funding of construction of its installations and plant and a loan guarantee for its U.S. dollar long-term debt. The term of the loan was seven years from 1981, when principal payments began. Interest payments commenced immediately at a fixed rate of eight and one-half percent. The loan guarantee was for ten years.

During the economic crisis of 1982–1983, payments on Caribe's loans were delayed. Through negotiations, the conditions for rescheduling Caribe's debt were agreed upon between Caribe and its creditors, both domestic and foreign. Unaware of Caribe's rescheduling of its foreign debt, in 1983 CVF called the loan guarantee, converted it to a loan, and demanded that Caribe pay CVF under the terms of the loan guarantee, *i.e.*, at a rate of 12 percent. At this point, the foreign creditors demanded and received payment from CVF. Caribe took CVF to court for improperly calling the guarantee. The legal proceeding lasted from 1983 to 1987, at which time CVF negotiated an out-of-court settlement with Caribe.

As a result of the out-of-court settlement, on June 3, 1987, Caribe and CVF agreed to consolidate the original loan and the loan guarantee. The amount of the loan guarantee was restated to reflect the devaluation of the bolivar at the point that CVF had mistakenly paid the foreign creditors. According to Caribe, the loan terms were restructured to compensate it for the harm suffered due to CVF's actions. The loan and loan guarantee were consolidated in June 1987, at which time a down payment was made. Between 1987 and 1990, interest accrued at a rate of three percent. According to Caribe, it is illegal in Venezuela to charge interest on interest. Therefore, the principal on which interest accrued at three percent did not change in value until 1990. At this time, Caribe indicated that accumulated interest was added to the loan principal, in apparent contradiction with their statement regarding interest charged on interest. The new loan principal was to be paid in 34 installments, payable every six months beginning in November 1990. Caribe provided information on principal payments for November 1990 and May 1991 only. Beginning in May 1990, the interest rate was fixed at six percent per year. The loan agreement further stipulated that if Caribe failed to make the loan payments, the interest rate would change to 12 percent per year. During the review period, Caribe made principal and interest payments on schedule.

We preliminarily determine that Caribe received the CVF loan on terms inconsistent with commercial considerations. In determining at what point this loan became relevant to our investigation, we have preliminarily determined that the out-of-court settlement reflected a fair value of the loan and loan guarantee, including the applicable interest owed. Therefore, we are calculating any benefit received from this loan from the time the out-of-court settlement was reached between CVF and Caribe. We plan to carefully examine this settlement at verification.

The terms of the consolidated loan, as stated above, called for three percent interest to be accrued between 1987 and 1990. In 1990, interest accrued was capitalized and the interest rate changed to six percent. Interest and principal payments began in November 1990 on a semi-annual basis. Despite the apparent contradiction between Venezuelan law regarding interest on interest and the capitalization of interest in May 1990, we accepted the outstanding principal amounts stated in Caribe's response for our calculations. Also, due to a lack of information relating to principal payments after May 1991, we assumed, for purposes of the preliminary determination, that principal was paid in equal installments starting in November 1991. To calculate the benefit from this loan, we used our standard

long-term loan methodology. We used as our benchmark the national average long-term corporate bond rate for 1987, as quoted by commercial banks, which was 12.87 percent. We determined that the corporate bond rate was most appropriate because (1) Caribe claimed that they did not take out any long-term loans in 1987; and (2) the GOV claimed that statistics on national average long-term loan rates were not available.

To calculate the benefit for the review period, we divided the value of the benefit from the loan in 1990 by the total sales of cement. On this basis, we calculated an estimated net subsidy of 0.78 percent *ad valorem* for all manufacturers, producers and exporters in Venezuela of cement. The duty deposit rate for this program is 3.83 percent *ad valorem* for Caribe and all other manufacturers, producers and exporters in Venezuela of cement, except for Vencemos which has a significantly different aggregate duty deposit rate. The aggregate duty deposit rate for Vencemos is zero.

II. Programs Determined Not To Confer Bounties or Grants

We determine that bounties or grants are not being provided to manufacturers, producers, or exporters of cement in Venezuela under the following programs:

A. The Industrial Credit Fund (FONCREI)

FONCREI was established to make long-term credits available to the Venezuelan industrial sector. FONCREI does not loan to applicant companies directly; it does so through commercial banks and financing societies. The fund extends credit to industrial businesses of all types to finance the installation, expansion and relocation of equipment and manufacturing facilities. FONCREI also purchases at a discount credit documents issued in connection with the purchase and assembly of machinery and equipment. In 1982, C.A. Vencemos Mara ("CAVM"), a subsidiary of Vencemos, received a loan from FONCREI for the purchase of environmental control equipment and to increase plant productivity.

FONCREI loans were found to be not countervailable in Final Countervailing Duty Determination; Certain Electrical Conductor Aluminum Redraw Rod from Venezuela (53 FR 24763, June 30, 1988). Based on the information provided in the responses, we have no reason to believe that the program's eligibility criteria have changed. Therefore, because this loan program is not limited to a specific enterprise or industry, or group of enterprises or industries, we determine that it is not countervailable.

B. Preferential Tax Incentives

Under Decree 1775, manufacturers of finished or intermediate goods were eligible for tax credits when acquiring capital equipment. Eligible companies received tax credits of ten percent of the value of new investments if the acquired asset contained a certain amount of domestic value-added. According to the responses, as of January 18, 1989, Decree 1775 was replaced by Decree 2707.

Decree 2707 was established on January 18, 1989, to provide tax credits in the amount of ten percent of any new capital investment in machinery and other equipment for all industries within the agricultural and industrial sector, as well as the transportation, hotel, and electricity industries. Qualified firms with qualified investments apply the credit against their annual income tax liability. The maximum tax credit allowable is the lesser of the investment or the total tax liability. Companies with losses in a particular year can carry forward the tax credit for up to two fiscal years.

Because this tax program is not limited to a specific enterprise or industry, or group of enterprises or industries, we preliminarily determine that it is not countervailable.

C. Banco Industrial de Venezuela

The Banco Industrial de Venezuela (BIV) is owned predominately by the GOV, but is organized and operated as a private commercial bank. BIV offers both short- and long-term loans and loan guarantees to a broad array of industries under ordinary commercial terms and conditions.

On September 17, 1982, Caribe took out a short-term BIV loan to refinance a letter of credit. In early 1983, due to the economic crisis in Venezuela and the subsequent government-imposed currency controls, Caribe was not permitted to make payments on its BIV loan. The GOV required all foreign currency loans to be registered and then be renegotiated into eight-year loans. Concurrently, the GOV was unable to meet its obligations of foreign currency supplies. In 1989, the GOV suspended all foreign currency payments to the private sector. The rules applying to the repayment of foreign currency loans from 1983 to the present apply to all foreign currency loans held by non-government Venezuelan entities and are not specific to the cement industry.

On November 30, 1990, the GOV issued new foreign currency debt rules, which required negotiations between creditors and debtors of foreign currency loans. Currently, Caribe and BIV are still negotiating the terms of the loan; however, interest has accrued on the BIV loan in accordance with its terms.

We compared the BIV loan to other long-term loans received by Caribe in order to determine if it was given at preferential terms. (Although the BIV loan was originally a short-term loan, we compared it to long-term loans, since it has been outstanding for nine years.) However, Caribe did not take out any long-term loans in 1982. The interest rate charged on the BIV loan was tied to LIBOR (London Interbank Offered Rate) and Caribe did take out long-term loans between 1979 and 1990 which were also tied to LIBOR. Therefore, despite the fact that Caribe did not take out any long-term loans in 1982, we considered it appropriate to compare the terms of this loan to other long-term loans which were also based on LIBOR. We found that the terms and interest rate of the BIV loan were comparable to other long-term loans received by Caribe. Because the BIV loan was not made on terms inconsistent with commercial considerations, we preliminarily determine that it is not countervailable.

III. Programs Preliminary Determined Not To Be Used

We preliminarily determine that producers or exporters in Venezuela of the subject merchandise did not receive benefits during the review period for exports of the subject merchandise to the United States under the following programs:

A. Short-Term FINEXPO Financing

Under this program, FINEXPO, in conjunction with Venezuelan commercial banks, provides short-term loans to Venezuelan exporters. FINEXPO provides up to 60 percent of the loan principal for these loans at five percent interest to the participating commercial bank. The commercial bank provides the remaining loan principal amount and is required to charge the exporter an average of the FINEXPO rate and its own commercial rate.

B. Preferential Export Financing

Under this program, FINEXPO provides eligible companies financing for operations or capital needs such as feasibility studies, market research, promotional expenses, fixed capital investment, working capital, inventory financing, and financing of services rendered abroad.

C. The Financing Company of Venezuela (FIVCA)

FIVCA was established in 1974, as a vehicle for the implementation of government investment in Venezuelan industries. FIVCA, a subsidiary of the Industrial Bank of Venezuela, provides long-term financing to the Venezuelan industrial sector in accordance with the economic policies of the Government of Venezuela.

Verification

In accordance with section 776(b) of the Act, we will verify the information used in making our final determination.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of cement from Venezuela which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register** and to require a cash deposit or bond for all entries of this merchandise equal to 3.83 percent *ad valorem* for Caribe and all other manufacturers, producers and exporters in Venezuela of cement, except Vencemos which, because its aggregate duty deposit rate is significantly different, has a zero duty deposit rate. This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

If our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Public Comment

In accordance with 19 CFR 355.38, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination on October 18, 1991 at 10 a.m. at the U.S. Department of Commerce, room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to request a hearing must submit such a request within ten days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, room B099, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, ten copies of the business proprietary version and five copies of the nonproprietary version of the case briefs must be submitted to the Assistant Secretary no later than October 7, 1991. Ten copies of the business proprietary version and five copies of the nonproprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than October 14, 1991. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal briefs. Written arguments should be submitted in accordance with § 355.38 of the Commerce Department's regulations and will be considered if received within the time limits specified above.

This determination is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)) and 19 CFR 355.15.

Dated: August 4, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91-19962 Filed 8-20-91; 8:45 am]

BILLING CODE 3510-DS-M

Minority Business Development Agency

Business Development Center Applications: Cherokee, North Carolina (Service Area)

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625, the Minority Business Development Agency (MBDA) is soliciting competitive applications under its American Indian Program to operate an Indian Business Development Center (IBDC) for approximately a 3-year period, subject to Agency priorities, recipient performance and the availability of funds. The cost of performance for the first budget period (12 months) is estimated as $193,000 in Federal funds. The IBDC will operate in the Cherokee, North Carolina geographic service area.

The funding instrument for the IBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The American Indian Program is designed to provide business development services to the American Indian business community for the establishment and operation of viable American Indian businesses. To this end, MBDA funds organizations that can identify and coordinate public and private sector resources on behalf of American Indian individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding American Indian business.

Applications will be evaluated initially by regional staff on the following criteria: the experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of American Indian businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive. The selection of an application for further processing by MBDA will be made by the Director based on a determination of the application most likely to further the purpose of the American Indian Program. The application will then be forwarded to the Department for final processing and approval, if appropriate. The Director will consider past performance of the applicant on previous Federal awards.

IBDCs performing satisfactorily may continue to operate after the initial competitive year for up to 2 additional budget periods. IBDCs with year-to-date "commendable" and "excellent" performance ratings may continue to be funded for up to 3 or 4 additional budget periods, respectively. Under no circumstances shall an IBDC be funded for more than 5 consecutive budget periods without competition. Periodic

reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an IBDC's performance, the availability of funds and Agency priorities.

Awards under this program shall be subject to all Federal and Departmental regulations, policies, and procedures applicable to Federal assistance awards.

In accordance with OMB Circular A-129, "Managing Federal Credit Programs," applicants who have an outstanding account receivable with the Federal Government may not be considered for funding until these debts have been paid or arrangements satisfactory to the Department of Commerce are made to pay the debt.

Applicants are subject to Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26.

The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the IBDC has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are unsatisfactory performance of IBDC work requirements; and reporting inaccurate or inflated claims of client assistance or client certification. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

On November 18, 1988, Congress enacted the Drug-Free Workplace Act of 1988 (Public Law 100-690, title V, subtitle D). The statute requires contractors and grantees of Federal agencies to certify that they will provide a drug-free workplace. Pursuant to these requirements, the applicable certification form must be completed by each applicant as a precondition for receiving Federal grant or cooperative agreement awards.

"Certification for Contracts, Grants, Loans, and Cooperative Agreements" and SF-LLL, the "Disclosure of Lobbying Activities" (if applicable) is required in accordance with section 319 of Public Law 101-121, which generally prohibits recipients of Federal contracts, grants, and loans from using Legislative Branches of the Federal Government in connection with a specific contract, grant or loan.

CLOSING DATE: The closing date for applications is September 24, 1991. Applications must be postmarked on or before September 24, 1991.

ADDRESSES: Proposals will be reviewed by the Dallas Regional Office. The mailing address for submission is: Dallas Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 1100 Commerce Street, room 7B23, Dallas, Texas 75242, 214/767-8001.

FOR FURTHER INFORMATION CONTACT: Carlton L. Eccles, Regional Director of the Atlanta Regional Office on (404) 730-3300 or U.S. Department of Commerce, Minority Business Development Agency, 401 W. Peachtree Street, room 1930, Atlanta, Georgia 30308-3516.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.801 American Indian Program
(Catalog of Federal Domestic Assistance)

Note: A pre-application conference, to assist all interested applicants, will be held at the U.S. Department of Commerce, Minority Business Development Agency, 401 West Peachtree St., NW., room 1930, Atlanta, Georgia, September 4, 1991, at 9 a.m.

Dated: August 15, 1991.

Carlton L. Eccles,

Regional Director, Atlanta Regional Office.

[FR Doc. 91-19973 Filed 8-20-91; 8:45 am]

BILLING CODE 3510-21-M

National Institute of Standards and Technology

[Docket No.: 910898-1198]

National Voluntary Laboratory Accreditation Program

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Request for comments on the need for establishing a laboratory accreditation program.

SUMMARY: The National Institute of Standards and Technology (NIST) has received a request to establish a laboratory accreditation program. In a letter dated June 13, 1991, the National Conference of Standards Laboratories, Boulder, CO, requested that NIST establish an accreditation program for calibration laboratories. A reprint of the request letter is set out as an appendix to this notice. Announcement of this request by the National Conference of Standards Laboratories (NCSL) and of the NIST request for comments with respect thereto, are being made under the procedures of the National Voluntary Laboratory Accreditation Program (NVLAP) (15 CFR 7.11(d)) of the referenced procedures.

DATES: Comments may be submitted on or before October 21, 1991.

ADDRESSES: Persons desiring to comment on the need for such an accreditation program are invited to submit their comments in writing within the 60 day comment period to Albert D. Tholen at the address provided below. Copies of comments received will be available for inspection and copying at the Department of Commerce Central Reference and Records Inspection Facility, room 6228, Hoover Building, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Albert D. Tholen, Chief, Laboratory Accreditation Program, National Institute of Standards and Technology, Building 411, room A124, Gaithersburg, MD 20899: phone (301) 975-4016.

SUPPLEMENTARY INFORMATION:

Scope of Laboratory Accreditation

The requestor referenced three standards or guides that might be used in association with the accreditation of calibration laboratories in the proposed program: (1) ANSI/ASQC M1-1987, American National Standard for Calibration Systems, (2) ISO Guide 25, General Requirements for the Technical Competence of Testing Laboratories, and ANSI/ASQC 90/ISO 9000 Series, Quality Assurance Standards. Potential fields of calibration accreditation include dimensional and mechanical, electromagnetic and time/frequency, thermodynamics, optical radiation, and ionizing radiation. NVLAP currently offers accreditation for laboratories conducting calibration in the area of ionizing radiation.

Procedure Following Receipt of Comments

After the 60-day comment period, NIST will thoroughly evaluate all comments pertaining to the proposed accreditation program and publish in the Federal Register an announcement of the decision by the Director of NIST, regarding development of this program. Those who submit comments and those who request future information will be placed on the NVLAP mailing list to receive a copy of that publication. If the decision is made to develop the program, technical assistance and input will be sought from all interested parties. Assistance will be sought in the

areas of: (1) Preparation of the technical criteria for the program, (2) establishment of the scope of the program (calibration parameters), and (3) establishment of appropriate proficiency testing programs. The NVLAP procedures also provide for public comment prior to publication of the final accreditation requirements.

Dated: August 14, 1991.

John W. Lyons,

Director.

Appendix

June 13, 1991.

Director, National Institute of Standards and Technology, Gaithersburg, MD 20899.

Dear Mr. Lyons: This letter is written on behalf of member organizations of the National Conference of Standards Laboratories (NCSL) requesting that a U.S. Calibration Laboratory Accreditation (USCLA) program be established through the National Voluntary Accreditation Program (NVLAP) of the National Institute of Standards and Technology (NIST). This request is generated as a result of NCSL sample polling their members as to preference for NIST or private sector serving as the accreditation body for calibration laboratory accreditation. The poll reflected nearly an even split in preference. Private sector availability currently exists for calibration laboratory accreditation and positive response to this request will establish NIST accreditation for member organizations having a need and/or desire for NIST accreditation through NVLAP.

The purpose of this program would be to accredit calibration laboratories to meet the requirements of the following standards, supporting guides, and other applicable documents:

- ANSI/ASQC M1–1987, American National Standard for Calibration Systems.
- ISO Guide 25, General Requirements for the Technical Competence of Testing Laboratories.
- ANSI/ASQC 90/ISO 9000 Series, Quality Assurance Standards.

The proposed USCLA program would be voluntary. Reasons for member organizations requesting establishing of such a program would include:

1. Provide a focused United States calibration laboratory accreditation program based on internationally recognized criteria which would provide mutual recognition between national laboratory accreditation systems.
2. Competitively position United States agencies and industries to respond to EC92 common standards, thus eliminating potential trade barriers.
3. Assist calibration laboratories in the examination of their existing capabilities and identification of opportunities for improvement when deficiencies are noted during accreditation assessment.
4. Potentially reduce the need and associated cost for oversight of calibration laboratories providing services to government agencies or other industrial organizations, domestic or international.

The NCSL is composed of over 1100 organizations and is willing to assist the National Institute of Standards and Technology in identifying the necessary technical resources to establish the requested accreditation program.

Your prompt attention to this request will be appreciated.

Sincerely,

Graham Cameron,

President.

[FR Doc. 91–19924 Filed 8–20–91; 8:45 am]

BILLING CODE 3510–13–M

[Docket No. 910785–1185]

National Voluntary Laboratory Accreditation Program

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice; publication of 1991 NVLAP Directory (NIST SP 810).

SUMMARY: The National Institute of Standards and Technology (NIST) announces the publication of the 1991 Directory of Accredited Laboratories of the National Voluntary Laboratory Accreditation Program (NVLAP). The Directory lists laboratories accredited as of March 1, 1991. Single copies of the Directory may be obtained by sending a self-addressed mailing label to NVLAP, National Institute of Standards and Technology, Bldg. 411, room A124, Gaithersburg, MD 20899. Additional copies may be ordered from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

Note: One (1) copy of the Directory will automatically be sent to each laboratory enrolled in the NVLAP program.

FOR FURTHER INFORMATION CONTACT: Albert D. Tholen, Chief, Laboratory Accreditation Program, National Institute of Standards and Technology, Bldg. 411, room A124, Gaithersburg, MD 20899 (301) 975–4016.

SUPPLEMENTARY INFORMATION: The NVLAP Directory of Accredited Laboratories is published annually pursuant to section 7.6(a) of the National Voluntary Laboratory Accreditation Program (NVLAP) Procedures (title 15, part 7 of the Code of Federal Regulations).

Dated: August 14, 1991.

John W. Lyons,

Director.

[FR Doc. 91–19923 Filed 8–20–91; 8:45 am]

BILLING CODE 3510–13–M

[Docket No. 910787–1187]

National Fire Codes; Request for Proposals for Revision of Standards

AGENCY: National Institute of Standards and Technology, DOC.

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, P.O. Box 9101, 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, P.O. Box 9101, 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 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 the 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: August 14, 1991.

John W. Lyons,

Director.

NEPA No.	Title	Proposal closing date
NFPA 20–1990	Installation of Centrifugal Fire Pumps	1/24/92
NFPA 30–1990	Flammable and Combustible Liquids Code	1/24/92
NFPA 30A–1990	Automotive and Marine Service Station Code	1/24/92
NFPA 30B–1990	Aerosol Products	1/24/92
NFPA 32–1990	Dry-cleaning Plants	7/15/92
NFPA 33–1989	Spray Application Using Flammable and Combustible Materials	7/15/92
NFPA 34–1989	Dipping and Coating Processes Using Flammable or Combustible Liquids	7/15/92
NFPA 35–1987	Manufacture of Organic Coatings	(1)
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 77–1988	Static Electricity	(1)
NFPA 85H–1989	Combustion Hazards in Atmospheric Fluidized Bed Combustion System Boilers	1/24/92
NFPA 99B–1990	Hypobaric Facilities	6/30/91
NFPA 105–1989	Smoke-Control Door Assemblies	1/24/92
NFPA 241–1989	Safeguarding Construction, Alteration and Demolition	1/24/92
NFPA 321–1991	Classification of Flammable and Combustible Liquids	1/24/92
NFPA 327A–Proposed*	Safe Entry into Tanks Containing Flammable or Combustible Liquids	1/24/92
NFPA 385–1990	Tank Vehicles for Flammable and Combustible Liquids	(1)
NFPA 386–1990	Portable Shipping Tanks for Flammable and Combustible Liquids	(1)
NFPA 395–1988	Flammable and Combustible Liquids on Farms and Isolated Construction Projects	1/24/92
NFPA 474–Proposed*	Competencies for Hazardous Materials Specialists	1/24/92
NFPA 501C–1990	Recreational Vehicles	9/3/91
NFPA 501D–1990	Recreational Vehicle Parks and Campgrounds	9/3/91
NFPA 664–1987	Wood Processing and Woodworking Facilities	1/24/92
NFPA 912–1987	Fire Protection in Places of Worship	1/24/92
NFPA 913–1987	Protection of Historic Structures and Sites	1/24/92
NFPA 914–1989	Rehabilitation and Adaptive Reuse of Historic Structures	1/24/92
NFPA 1002–1988	Fire Apparatus Driver/Operator Professional Qualifications	1/24/92
NFPA 1003–1987	Airport Fire Fighter Professional Qualifications	1/24/92
NFPA 1221–1991	Public Fire Service Communication Systems	1/24/92
NFPA 1410–1988	Initial Fire Attack	7/17/92

[1] Open.

[FR Doc. 91–19921 Filed 8–20–91; 8:45 am]
BILLING CODE 3510–13–M

[Docket No. 910786–1186]

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 1992 Annual 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 National Electrical Code (NEC) is published in a separate Technical Committee Report and was available about June 21, 1991. Comments received on or before November 1, 1991 will be considered by the National Electrical Code Committee before NFPA takes final action on the proposals. Forty-three other Reports are published in the 1992 Annual Meeting Technical Committee Reports and will be available on August 2, 1991. Comments received on or before October 11, 1991 will be considered by the respective NFPA Committees before final action is taken on the proposals.

ADDRESSES: The 1992 Annual Technical Committee Reports are available from NFPA, Publication Department, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269–9101. Comments on the reports should be submitted to Arthur E. Cote, P.E., Secretary, Standards Council, NFPA, 1 Batterymarch Park, P.O. Box 9101, 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, P. O. Box 9101, Quincy, Massachusetts 02269–9101. Persons 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 November 1, 1991 for the NEC and October 11, 1991 for the others, 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 April 3, 1992 for the NEC and March 27, 1992 for the others, prior to the Annual Meeting.

A copy of the Technical Committee Documentation will be sent automatically to each person who comments. Action on the Technical Committee Reports (adoption or rejection) will be taken at the Annual Meeting, May 18–21, 1992 in New Orleans, Louisiana by NFPA members.

Dated: August 14, 1991.

John W. Lyons,

Director.

1992 Annual Meeting—Technical Committee Reports

[P=Partial Revision; W=Withdrawal; R=Reconfirmation; N=New; C=Complete Revision]

Doc. No.	Title	Action
NFPA 1	Fire Prevention Code	C
NFPA 10R	Home Protable Fire Extinguishing Equipment	N
NFPA 12A	Halon 1301 Fire Extinguishing Systems	C
NFPA 31	Oil Burning Equipment	P
NFPA 52	Compressed Natural Gas (CNG) Vehicular Fuel Systems	P
NFPA 54	National Fuel Gas Code	P
NFPA 70*	National Electrical Code	P
NFPA 75	Electronic Computer/Data Processing Equipment	C
NFPA 78	Lightning Protection Code	P
NFPA 80	Fire Doors and Windows	P
NFPA 85A	Fuel Oil- and Natural Gas-Fired Single Burner Boiler-Furnances	P
NFPA 85F	Installation and Operation of Pulverized Fuel Systems	P
NFPA 85I	Stoker Operation	P
NFPA 97	Chimneys, Vents, and Heat-Producing Appliances	P
NFPA 211	Chimneys, Fireplaces, Vents, and Solid Fuel Burning Appliances	P
NFPA 214	Water-Cooling Towers	P
NFPA 264	Heat Release Rates Using Oxygen Consumption Calorimeter	N
NFPA 328	Flammable and Combustible Liquids and Gases in Manholes, Sewers, and Similar Underground Structures	P
NFPA 329	Underground Leakage of Flammable and Combustible Liquids	P
NFPA 415	Aircraft Fueling Ramp Drainage	P
NFPA 416	Airport Terminal Buildings	P
NFPA 419	Master Planning Airport Water Supply Systems for Fire Protection	R
NFPA 471	Responding to Hazardous Materials Incidents	P
NFPA 472	Professional Competence of Responders to Hazardous Materials Incidents	C
NFPA 495	Explosive Materials Code	P
NFPA 498	Explosives Motor Vehicle Terminals	R
NFPA 501A	Manufactured Home Installations, Sites, and Communities	R
NFPA 502	Limited Access Highways, Tunnels, Bridges, Elevated Roadways, and Air Right Structures	R
NFPA 505	Powered Industrial Trucks	P
NFPA 850	Fossil Fueled Steam and Combustion Turbine Electric Generating Plants	P
NFPA 851	Hydroelectric Generating Plants	P
NFPA 913	Protection of Historic Structures and Sites	R
NFPA 1001	Fire Fighter Professional Qualifications	C
NFPA 1021	Fire Officer Professional Qualifications	C
NFPA 1041	Fire Service Instructor Professional Qualifications	C
NFPA 1500	Fire Department Occupational Safety & Health Program	C
NFPA 1521	Fire Department Safety Officer (previously numbered 1501)	C
NFPA 1582	Medical/Physical Fitness Requirements for the Fire Service	N
NFPA 1972	Helments for Structural Fire Fighting	C
NFPA 1974	Protective Footwear for Structural Fire Fighting	C
NFPA 1976	Protective Clothing for Proximity Fire Fighting	N
NFPA 1981	Open-Circuit Self-Contained Breathing Apparatus for Fire Fighters	C
NFPA 1999	Protective Clothing for Emergency Medical Operations	N

* Published in a separate TCR.

[FR Doc. 91–19925 Filed 8–20–91; 8:45am]

BILLING CODE 3510–13–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of an Import Restraint Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Fiji

August 15, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit for the new agreement year.

EFFECTIVE DATE: August 22, 1991.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566–5810. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

A Memorandum of Understanding (MOU) dated October 12, 1990, between the Governments of the United States and the Republic of Fiji establishes a limit for cotton and man-made fiber textile products in Categories 351/651, produced or manufactured in Fiji and exported during the period beginning on January 1, 1991 and extending through December 31, 1991.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 55 FR 50756, published on December 10, 1990).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the MOU, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 15, 1991.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); pursuant to the Memorandum of Understanding dated October 12, 1990 between the Governments of the United States and the Republic of Fiji; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on August 22, 1991, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 351/651, produced or manufactured in Fiji and exported during the twelve-month period beginning on January 1, 1991 and extending through December 31, 1991, in excess of 135,000 dozen [1]

Imports charged to this category limit for the period January 1, 1990 through December 31, 1990, shall be charged against that level of restraint to the extent of any unfilled balance. In the event the limit established for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this directive.

The limit set forth above is subject to adjustment in the future pursuant to the provisions of the bilateral agreement between the Governments of the United States and the Republic of Fiji.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91–19958 Filed 8–20–91; 8:45 am]

BILLING CODE 3510–DR–F

[1] The limit has not been adjusted to account for any imports exported after December 31, 1990.

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency Advisory Board; Closed Meeting

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the provisions of subsection (d) of section 10 of Public Law 92–463, as amended by section 5 of Public Law 94–409, notice is hereby given that a closed meeting of a panel of the DIA Advisory Board has been scheduled as follows:

DATES: Thursday, September 26, 1991 (9 a.m. to 5 p.m.).

ADDRESSES: The DIAC, Bolling AFB, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel John G. Sutay, USAF, Chief, DIA Advisory Board, Washington, DC 20340–1328 (202/373–4930)

SUPPLEMENTARY INFORMATION: The entire meeting will be devoted to the discussion of classified information as defined in section 552b(c)(1), title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on Advanced Air Defense.

Dated: August 16, 1991.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91–19984 Filed 8–20–91; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

Availability (NOA) of the Draft Environmental Impact Statement (DEIS) for the Aerial Cable Test Capability (ACTC) Project To Be Located at White Sands Missile Range, NM

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: This announces the Notice of Availability of the Draft Environmental Impact Statement (DEIS) on the potential impact of the development, integration, and operation of the proposed Aerial Cable Test Capability facility at White Sands Missile Range, New Mexico. The proposed ACTC facility will be used to test ground-to-air missiles against targets suspended from an aerial cable, and the aerial tramway will also be used for testing of other DoD material as an alternative to some of the testing requiring airborne target drones and manned aircraft. The DEIS examines the potential impacts of the development, integration, and operation of this ACTC facility at alternative sites within White Sands Missile Range and the "no-action" alternative. The "no-action" alternative is considered to be a continuation of present missile testing using airborne drone targets and

manned aircraft delivery of DoD test material.

SUPPLEMENTARY INFORMATION: The Department of the Army published a Notice of Intent on April 26, 1990 (FR, No. 78, pp. 15262–15263) which provided notice that, pursuant to the National Environmental Policy Act and implementing regulations, it was preparing a Draft EIS for the Aerial Cable Test Capability project. Copies of this DEIS may be obtained by writing to the Commander, U.S. Army White Sands Missile Range, attn: STEWS–ID–DC (Mr. Henry B. Stephenson, Jr.), White Sands Missile Range, New Mexico, 88002.

ADDITIONAL INFORMATION: The Environmental Protection Agency also will publish a Notice of Availability for the DEIS in the **Federal Register.** This DEIS will have a 45-day comment period from the date that the Environmental Protection Agency files a Notice of Availability in the **Federal Register.** Public Hearings are scheduled to receive comments on this DEIS. The first Public Hearing will be held on 10 September 1991 at Socorro, New Mexico, and the second Public Hearing will be held at Carrizozo, New Mexico, on 11 September 1991. Comments on the DEIS will be considered by the Army in developing the Final EIS for the ACTC project. Comments should be provided in writing to Mr. Henry B. Stephenson, Jr., at the address given above.

Lewis D. Walker,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) OASA (I, L&E).

[FR Doc. 91–19974 Filed 8–20–91; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

CNO Executive Panel; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Long Range Planning Task Force will meet August 30, 1991 from 9 a.m. to 5 p.m. at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to review maritime issues as they impact national security policy and requirements. The entire agenda of the meeting will consist of discussions for drafting a final report of long range issues regarding national security policy, and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

This notice is being published late because of administrative delays which constitute an exceptional circumstance, not allowing Notice to be published in the Federal Register at least 15 days before the date of the meeting.

For further information concerning this meeting, contact: Judith A. Holden, Executive Secretary to the CNO Executive Panel, 4401 Ford Avenue, room 601, Alexandria, Virginia 22302-0268, phone (703) 756-1205.

Dated: August 15, 1991.

Wayne T. Baucino,

Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Register Liaison Officer.

[FR Doc. 91-19968; Filed 8-20-91; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before September 20, 1991.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Mary P. Liggett, Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Mary P. Liggett (202) 708–5174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Acting Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement;

(2) Title;

(3) Frequency of collection;

(4) The affected public;

(5) Reporting burden; and/or

(6) Recordkeeping burden; and

(7) Abstract.

OMB invites public comment at the address specificed above. Copies of the requests are available from Mary P. Liggett at the address specified above.

Dated: August 15, 1991.

Mary P. Liggett,

Acting Director, Office of Information Resources Management.

Office of Elementary and Secondary Education

Type of Review: Revision.
Title: Follow Through Program Final Report Form.
Frequency: One time.
Affected Public: State or local governments; non-profit institutions.
Reporting Burden:
Responses: 63
Burden Hours: 1,260
Recordkeeping Burden:
Recordkeepings: 0
Burden Hours: 0
Abstract: This form is needed to report project accomplishments and student achievements over a 3-year period. The Department will use the information to assess the impact of the program and for future planning

[FR Doc. 91–19954 Filed 8–20–91; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER91-572-000, et al.]

Alabama Power Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

August 14, 1991.

Take notice that the following filings have been made with the Commission:

1. Alabama Power Co.

[Docket No. ER91-572-000]

Take notice that on August 5, 1991, Alabama Power Company ("Company") tendered for filing a Firm Power Purchase Contract between it and the Alabama Municipal Electric Authority ("AMEA"). The Contract provides for a firm capacity sale by the Company to AMEA for a period through December 31, 2005, the amount of which increases according to a specified schedule. The price to be paid by AMEA reflects a prepayment of the capacity costs relating to production (generation) facilities of the Company.

Comment date: August 28, 1991, in accordance with Standard Paragraph E at the end of this notice.

2. PacifiCorp Electric Operations

[Docket No. ER91-578-000]

Take notice that PacifiCorp Electric Operations ("PacifiCorp"), on August 8, 1991, tendered for filing, in accordance with 18 CFR 35.13 of the Commission's Rules and Regulations, Sixth Revised Sheet No. 5D superseding Fifth Revised Sheet No. 5D (Index of Purchasers Executing Service Agreements) under PacifiCorp's FERC Electric Tariff, Original Volume No. 3 ("Tariff"), and a Service Agreement between PacifiCorp and the City of Anaheim ("Anaheim") dated June 26, 1991 under Service Schedule PPL-3 of the Tariff.

The Service Agreement provides for the sale of non-firm power and energy for resale in accordance with Service Schedule PPL-3 of the Tariff. PacifiCorp's filing herein is provided to add Anaheim to the Index of Purchasers Executing Service Agreements under the Tariff.

PacifiCorp respectfully requests, pursuant to 18 CFR 35.11 of the Commission's Rules and Regulations, that a waiver of prior notice be granted and that an effective date of June 1, 1991 be assigned to the Service Agreement, this date being consistent with the effective date shown on the Service Agreement. The waiver will have no effect upon purchasers under other rate schedules.

Copies of this filing were supplied to Anaheim and the Public Utilities Commission of the State of California.

Comment date: August 28, 1991, in accordance with Standard Paragraph E at the end of this notice.

3. Northern States Power Co. (Minnesota Co.)

[Docket No. ER91-581-000]

Take notice that on August 8, 1991, Northern States Power Company (NSP) tendered for filing a Transmission Service Letter Agreement dated September 13, 1990 and a Supplemental Agreement dated November 9, 1990, between NSP and Citizens Power & Light Corporation, Massachusetts ("Citizens").

The Transmission Service Letter Agreement essentially provides that NSP shall deliver on an interruptible basis up to 50 MW per hour of energy from United Power Association ("UPA"), at the NSP-UPA points of interconnection, to Wisconsin Power & Light Company ("WPL") at the NSP-WPL points of interconnection, subject to NSP's right to curtail and/or interrupt such delivery at NSP's sole discretion, at any time, for any reason. The rates and charges provided for this service were accepted for filing in FERC Docket Nos. ER86-523-000 and ER86-591-000 and were on file with the Commission at the time service was provided to Citizens for similar interruptible service agreements with other similarly situated third party wheeling customers.

NSP requests the Transmission Services Letter Agreements be accepted for filing effective September 13, 1990 and November 9, 1990, respectively, and requests waiver of Commission's notice requirements in order for the Agreements to be accepted for filing on those dates.

Comment date: August 28, 1991, in accordance with Standard Paragraph E at the end of this notice.

4. Consumers Power Co., The Detroit Edison Co., The Toledo Edison Co.

[Docket No. ER91-291-000]

Take notice that The Toledo Edison Company on August 8, 1991, filed revised cost information to reflect peak load information and revised rates within the Service Schedule C (Interchange Power) and Service Schedule D (Short Term Power) as requested by the Commission Staff in regard to Amendment No. 9 to the "Operating Agreement Among Consumers Power Company, The Detroit Edison Company and The Toledo Edison Company".

Copies of the filing were served upon the Ohio Public Utilities Commission and the Michigan Public Service Commission.

Comment date: August 28, 1991, in accordance with Standard Paragraph E at the end of this notice.

5. Central Vermont Public Service Corp.

[Docket No. ER91-573-000]

Take notice that Central Vermont Public Service Corporation ("CVPS") on August 5, 1991, tendered for filing as an initial rate schedule a contract under which CVPS has agreed to sell up to 403 KW, monthly, of transmission capacity in the Phase I/II Quebec Interconnection to Barton Village, Inc.

CVPS requests the Commission to waive its notice of filing requirements to permit the rate schedule to become effective as of May 1, 1991.

Comment date: August 28, 1991, in accordance with Standard Paragraph E at the end of this notice.

6. Potomac Electric Power Co.

[Docket No. ER91-574-000]

Take notice that on August 6, 1991, Potomac Electric Power Company (PEPCO) filed on behalf of itself and Virginia Power new Schedules to (1) the Facilities Agreement Dated April 1, 1965 Between Virginia Electric and Power Company and Potomac Electric Power Company, and (2) the Interconnection Agreement Between Virginia Electric and Power Company and Potomac Electric Power Company, dated May 25, 1983.

The purpose of the new Schedules is (1) to designate emergency points of interconnection between PEPCO's 69 kV circuits and Virginia Power's War Substation and between Virginia Power's 69 kV circuit and PEPCO's Potomac River Station, and (2) to specify operating conditions whereby the 69 kV interconnections will be closed to provide Local Emergency Service. Waiver of notice is requested so that the new schedules may become effective as of May 3, 1991.

Comment date: August 28, 1991, in accordance with Standard Paragraph E at the end of this notice.

7. Niagara Mohawk Power Corp.

[Docket No. ER91-571-000]

Take notice that on August 5, 1991, Niagara Mohawk Power Corporation ("Niagara Mohawk") tendered for filing a proposed change to Niagara Mohawk Rate Schedule No. 165, an agreement

between Niagara Mohawk and the New York State electric & Gas Corporation.

Rate Schedule No. 165 provides for the wheeling of certain loads by Niagara Mohawk to NYSEG. The proposed change revises the rates for the wheeling of power and energy by Niagara Mohawk. Niagara Mohawk proposes an effective date of July 1, 1991 and requests waiver of the Commission's notice requirements. In support thereof, Niagara Mohawk states that NYSEG has consented to this proposed effective date.

Copies of this filing were served upon the following:

Public Service Commission, State of New York, Three Empire State Plaza, Albany, NY 12233,
and
New York State Electric & Gas Corp., 4500 Vestal Parkway East, Binghamton, NY 13903.

Comment date: August 28, 1991, in accordance with Standard Paragraph E at the end of this notice.

8. West Texas Utilities Co.

[Docket No. ER91-582-000]

Take notice that on August 8, 1991, West Texas Utilities Company ("WTU") tendered for filing an Amendment, dated March 12, 1990, to the September 13, 1990 Transmission Service Agreement between WTU and Tex-La Electric Cooperative of Texas, Inc. ("Tex-La") and an Amendment, dated March 12, 1990, to the Transmission Service Agreement, dated November 27, 1990, between WTU and Tex-La.

The two Transmission Service Agreements, accepted for filing by Commission orders of December 17, 1990 and May 22, 1991, respectively, provide that neither party may assign the Agreement without the prior written consent of the other party. The Amendments permit Tex-La to assign the Agreement under certain limited circumstances to create a security interest in the United States acting through the Rural Electrification Administration ("REA").

WTU requests waiver of the notice requirement in order that the Amendment may become effective as of January 1, 1990 for the September 13, 1990 Transmission Service Agreement and July 1, 1990 for the November 27, 1990 Transmission Service Agreement. The effective dates requested for the Amendments are the effective dates of the respective Transmission Service Agreements.

Copies of the filing were served upon Tex-La and the Public Utility Commission of Texas.

Comment date: August 28, 1991, in accordance with Standard Paragraph E at the end of this notice.

9. Canal Electric Co.

[Docket Nos. El91-39-000 and ER90-245-000]

Take notice that on July 25, 1991, the Commission issued an order in the above-indicated dockets initiating a proceeding in Docket No. EL91-39-000 under section 206 of the Federal Power Act, as amended by the Regulatory Fairness Act of 1988.

The refund effective date will be 60 days after publication of this notice in the **Federal Register.**

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-19949 Filed 8-20-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ST91-9344-000 through ST91-9857-000]

Delhi Gas Pipeline Corp. Self-Implementing Transactions

August 14, 1991.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to part 284 of the Commission's regulations, section 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA) and Section 5 of the Outer Continental Shelf Lands Act.[1]

[1] Notice of a transaction does not constitute a determination that the terms and conditions of the proposed service will be approved or that the noticed filing is in compliance with the Commission's regulations.

The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "part 284 subpart" column in the following table indicates the type of transaction.

A "B" indicates transportation by an interstate pipeline on behalf of an intrastate pipeline or a local distribution company pursuant to § 284.102 of the Commission's regulations and section 311(a)(1) of the NGPA.

A "C" indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.122 of the Commission's regulations and section 311(a)(2) of the NGPA.

A "D" indicates a sale by an intrastate pipeline to an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.142 of the Commission's Regulations and section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline to any interstate pipeline or local distribution company pursuant to § 284.163 of the Commission's regulations and section 312 of the NGPA.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.222 and a blanket certificate issued under § 284.221 of the Commission's regulations.

A "G-S" indicates transportation by interstate pipelines on behalf of shippers other than interstate pipelines pursuant to § 284.223 and a blanket certificate issued under § 284.221 of the Commission's regulations.

A "G-LT" or "G-LS" indicates transportation, sales or assignments by a local distribution company on behalf of or to an interstate pipeline or local distribution company pursuant to a blanket certificate issued under § 284.224 of the Commission's regulations.

A "G-HT" or "G-HS" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.224 of the Commission's regulations.

A "K" indicates transportation of natural gas on the Outer Continental Shelf by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.303 of the Commission's regulations.

A "K–S" indicates transportation of natural gas on the Outer Continental Shelf by an interstate pipeline on behalf of shippers other than interstate pipelines pursuant to § 284.303 of the Commission's regulations.

Lois D. Cashell,

Secretary.

BILLING CODE 6717-01-M

DOCKET NUMBER *	TRANSPORTER/SELLER	RECIPIENT	DATE FILED	PART 284 SUBPART	EST. MAX. DAILY QUANTITY **	AFFILIATED Y/N	DATE COMMENCED	PROJECTED TERMINATION DATE
		1						
ST91-9344	DELHI GAS PIPELINE CORP.	NORTHERN NATURAL GAS CO.	07-01-91	C	2,000	N	06-01-91	INDEF.
ST91-9345	PANHANDLE EASTERN PIPELINE CO.	CENTRAL ILLINOIS LIGHT CO.	07-01-91	B	150,000	N	06-01-91	INDEF.
ST91-9346	PANHANDLE EASTERN PIPELINE CO.	CONSUMERS POWER CO.	07-01-91	B	250	N	06-01-91	INDEF.
ST91-9347	PANHANDLE EASTERN PIPELINE CO.	BATTLE CREEK GAS CO.	07-01-91	B	25,000	N	06-01-91	INDEF.
ST91-9348	PANHANDLE EASTERN PIPELINE CO.	CENTRAL ILLINOIS LIGHT CO.	07-01-91	B	10,000	N	06-01-91	INDEF.
ST91-9349	PANHANDLE EASTERN PIPELINE CO.	PANHANDLE TRADING CO.	07-01-91	G-S	50,000	N	06-01-91	09-29-91
ST91-9350	PANHANDLE EASTERN PIPELINE CO.	ILLINOIS POWER CO.	07-01-91	B	170,000	N	06-01-91	INDEF.
ST91-9351	PANHANDLE EASTERN PIPELINE CO.	EAST OHIO GAS CO.	07-01-91	B	100,000	N	06-01-91	INDEF.
ST91-9352	PANHANDLE EASTERN PIPELINE CO.	WESTERN GAS MARKETING USA LTD.	07-01-91	G-S	26,500	N	06-01-91	09-29-91
ST91-9353	PANHANDLE EASTERN PIPELINE CO.	COMMONWEALTH GAS SER., INC., ET AL.	07-01-91	B	50,000	N	06-01-91	INDEF.
ST91-9354	PANHANDLE EASTERN PIPELINE CO.	WESTERN GAS MARKETING USA LTD.	07-01-91	G-S	100,000	N	06-01-91	09-29-91
ST91-9355	PANHANDLE EASTERN PIPELINE CO.	NORTHERN INDIANA PUBLIC SERVICE CO.	07-01-91	B	50,000	N	06-01-91	INDEF.
ST91-9356	PANHANDLE EASTERN PIPELINE CO.	ILLINOIS POWER CO.	07-01-91	B	65,000	N	06-01-91	INDEF.
ST91-9357	PANHANDLE EASTERN PIPELINE CO.	MARATHON OIL CO.	07-01-91	G-S	4,000	N	06-01-91	09-29-91
ST91-9358	PANHANDLE EASTERN PIPELINE CO.	KRUPP & ASSOCIATES	07-01-91	G-S	50,000	N	06-01-91	09-29-91
ST91-9359	PANHANDLE EASTERN PIPELINE CO.	BATTLE CREEK GAS CO.	07-01-91	B	15,000	N	06-01-91	INDEF.
ST91-9360	PANHANDLE EASTERN PIPELINE CO.	SOUTHEASTERN MICHIGAN GAS CO.	07-01-91	G-S	15,000	N	06-01-91	09-29-91
ST91-9361	PANHANDLE EASTERN PIPELINE CO.	ACCESS ENERGY CORP.	07-01-91	G-S	20,000	N	06-01-91	09-29-91
ST91-9362	MISSISSIPPI RIVER TRANS. CORP.	LOUISIANA INTRASTATE GAS CORP.	07-01-91	B	75,000	N	06-01-91	INDEF.
ST91-9363	MISSISSIPPI RIVER TRANS. CORP.	TERRE HAUTE GAS CORP.	07-01-91	B	30,000	N	11-01-90	INDEF.
ST91-9364	MISSISSIPPI RIVER TRANS. CORP.	SHELL OIL CO.	07-01-91	G-S	10,000	N	06-01-91	09-28-91
ST91-9365	MISSISSIPPI RIVER TRANS. CORP.	JACKSON UTILITY DIVISION	07-01-91	B	30,000	N	11-01-90	INDEF.
ST91-9366	MISSISSIPPI RIVER TRANS. CORP.	EXCEL GAS MARKETING, INC.	07-01-91	G-S	50,000	N	06-01-91	09-28-91
ST91-9367	NORTHWEST PIPELINE CORP.	SOUTHWEST GAS CORP.	07-01-91	B	300	N	05-31-91	INDEF.
ST91-9368	NATURAL GAS P/L CO. OF AMERICA	AMERADA HESS CORP.	07-01-91	G-S	100,000	N	06-01-91	09-29-91
ST91-9369	NATURAL GAS P/L CO. OF AMERICA	MERIDIAN OIL TRADING INC.	07-01-91	G-S	100,000	N	06-01-91	09-29-91
ST91-9370	NATURAL GAS P/L CO. OF AMERICA	ENRON GAS MARKETING, INC.	07-01-91	G-S	150,000	N	06-01-91	09-29-91
ST91-9371	NATURAL GAS P/L CO. OF AMERICA	NORTECH ENERGY CORP.	07-01-91	G-S	75,000	N	06-01-91	09-29-91
ST91-9372	COLUMBIA GULF TRANSMISSION CO.	CHEVRON U.S.A., INC.	07-01-91	G-S	30,000	N	04-01-91	07-29-91
ST91-9373	STINGRAY PIPELINE CO.	ENRON GAS MAREKTING, INC.	07-01-91	G-S	50,000	N	06-01-91	09-29-91
ST91-9374	TENNESSEE GAS PIPELINE CO.	EAST OHIO GAS CO.	07-01-91	B	5,000	N	06-22-91	INDEF.
ST91-9375	TENNESSEE GAS PIPELINE CO.	PENNZOIL GAS MARKETING CO.	07-01-91	G-S	35,000	N	06-25-91	10-23-91
ST91-9376	TENNESSEE GAS PIPELINE CO.	MERIDIAN OIL INC.	07-01-91	G-S	250,000	N	06-08-91	10-06-91
ST91-9377	TENNESSEE GAS PIPELINE CO.	EAST OHIO GAS CO.	07-01-91	B	20,000	N	06-01-91	INDEF.
ST91-9378	TENNESSEE GAS PIPELINE CO.	CHEVRON U.S.A., INC.	07-01-91	G-S	7,000	N	01-01-90	05-01-90
ST91-9379	GREAT LAKES GAS TRANSMISSION, L.P.	CANADIAN OXY MARKETING, INC.	07-01-91	G-S	50,000	N	06-01-91	09-28-91
ST91-9380	GREAT LAKES GAS TRANSMISSION, L.P.	NORTHRIDGE PETRO. MARKETING, INC.	07-01-91	G-S	100,000	N	06-01-91	09-28-91
ST91-9381	SONAT INTRASTATE-ALABAMA INC.	TENNESSEE GAS PIELINE CO.	07-01-91	C	1,300	N	06-05-91	INDEF.
ST91-9382	K N ENERGY, INC.	EXXON CORP.	07-02-91	G-S	55,000	N	05-31-91	09-27-91
ST91-9383	UNITED GAS PIPE LINE CO.	POLARIS PIPELINE CORP.	07-02-91	G-S	51,500	N	05-17-91	10-15-91
ST91-9384	UNITED GAS PIPE LINE CO.	SEAGULL MARKETING SERVICES	07-02-91	G-S	515,000	N	06-19-91	10-17-91
ST91-9385	UNITED GAS PIPE LINE CO.	PENNZOIL GAS MARKETING CO.	07-02-91	G-S	206,000	N	06-19-91	10-17-91
ST91-9386	UNITED GAS PIPE LINE CO.	POLARIS PIPELINE CORP.	07-02-91	G-S	25,750	N	06-17-91	10-15-91
ST91-9387	TENNESSEE GAS PIPELINE CO.	EASTEX GAS TRANSMISSION CO.	07-02-91	G-S	20,000	N	03-09-89	07-07-89
ST91-9388	TENNESSEE GAS PIPELINE CO.	DIAMOND SHAMROCK OFFSHORE PAR. L.P.	07-02-91	G-S	42,000	N	06-01-89	09-29-89

DOCKET NUMBER *	TRANSPORTER/SELLER	RECIPIENT	DATE FILED	PART 284 SUBPART	EST. MAX. DAILY QUANTITY **	AFFILIATED Y/N	DATE COMMENCED	PROJECTED TERMINATION DATE
ST91-9389	PANHANDLE EASTERN PIPELINE CO.	BP GAS, INC.	07-02-91	G-S	30,000	N	06-02-91	09-30-91
ST91-9390	COLORADO INTERSTATE GAS CO.	WESTERN NATURAL GAS & TRANS. CORP.	07-02-91	G-S	3,000	N	06-05-91	10-03-91
ST91-9391	COLORADO INTERSTATE GAS CO.	WESTERN NATURAL GAS & TRANS. CORP.	07-02-91	G-S	4,000	N	06-10-91	10-08-91
ST91-9392	COLORADO INTERSTATE GAS CO.	PRESIDIO GAS RESOURCES, INC.	07-02-91	G-S	10,000	N	06-01-91	09-30-91
ST91-9393	COLORADO INTERSTATE GAS CO.	WESTERN GAS RESOURCES, INC.	07-02-91	G-S	10,000	N	05-29-91	07-01-92
ST91-9394	COLORADO INTERSTATE GAS CO.	CELSIUS ENERGY CO.	07-02-91	G-S	40,000	N	06-01-91	09-30-91
ST91-9395	COLORADO INTERSTATE GAS CO.	WESTAR MARKETING CO.	07-02-91	G-S	40,000	N	06-01-91	09-30-91
ST91-9396	COLORADO INTERSTATE GAS CO.	JOHN BROWN E&C, INC.	07-02-91	G-S	8,000	N	06-01-91	09-30-91
ST91-9397	ONG TRANSMISSION CORP.	PANHANDLE EASTERN PIPE LINE CO.	07-02-91	C	10,000	N	05-31-91	05-30-93
ST91-9398	COLUMBIA GAS TRANSMISSION CORP.	VOLUNEER ENERGY CORP.	07-02-91	G-S	10,000	N	06-10-91	10-08-91
ST91-9399	TEXAS GAS TRANSMISSION CORP.	O&R ENERGY, INC.	07-03-91	G-S	40,000	N	06-27-91	10-24-91
ST91-9400	TEXAS GAS TRANSMISSION CORP.	ASPHALT MATERIALS	07-03-91	B	150	N	06-01-91	INDEF.
ST91-9401	TEXAS GAS TRANSMISSION CORP.	BASF CORP.	07-03-91	G-S	10,000	N	07-01-91	10-28-91
ST91-9402	TEXAS GAS TRANSMISSION CORP.	BRIDGELINE GAS DISTRIBUTION CO.	07-03-91	B	50,000	N	07-01-91	INDEF.
ST91-9403	NATURAL GAS P/L CO. OF AMERICA	GRAIN PROCESSING CORP.	07-03-91	G-S	4,000	N	05-01-91	08-29-91
ST91-9404	NATURAL GAS P/L CO. OF AMERICA	MERIDIAN OIL TRADING INC.	07-03-91	G-S	200,000	N	06-07-91	10-05-91
ST91-9405	NATURAL GAS P/L CO. OF AMERICA	GASMARK, INC.	07-03-91	G-S	25,000	N	06-04-91	10-02-91
ST91-9406	TENNESSEE GAS PIPELINE CO.	KERR-MCGEE CORP.	07-03-91	G-S	185,000	N	07-01-91	10-29-91
ST91-9407	TENNESSEE GAS PIPELINE CO.	ENDEVCO MARKETING CO.	07-03-91	G-S	10,000	N	06-25-91	10-23-91
ST91-9408	TENNESSEE GAS PIPELINE CO.	TRANSAMERICAN NATURAL GAS CORP.	07-03-91	G-S	50,000	N	07-01-91	10-29-91
ST91-9409	NORTHERN BORDER PIPELINE CO.	NORTHERN NATURAL GAS CO., ET AL.	07-03-91	G	100,000	N	07-01-91	04-30-91
ST91-9410	NORTHERN BORDER PIPELINE CO.	NORTHERN NATURAL GAS CO., ET AL.	07-03-91	G	200,000	N	07-01-91	04-30-91
ST91-9411	PACIFIC GAS TRANSMISSION	TRANS AM ENERGY, INC.	02-19-91	G-S	200,000	N	12-08-89	08-01-91
ST91-9412	NORTHWEST PIPELINE CORP.	SOUTHERN CALIFORNIA GAS CO.	07-03-91	B	35,000	N	06-01-91	INDEF.
ST91-9413	NORTHWEST PIPELINE CORP.	AJO INPROVEMENT CO., ET AL.	07-03-91	B	15,000	N	06-01-91	01-31-94
ST91-9414	LOUISIANA-NEVADA TRANSIT CO.	HIGHLAND ENERGY CO.	07-05-91	G-S	4,500	N	06-01-91	09-28-91
ST91-9415	DELHI GAS PIPELINE CORP.	UNITED GAS PIPE LINE CO.	07-05-91	C	2,000	N	06-21-91	INDEF.
ST91-9416	NATURAL GAS P/L CO. OF AMERICA	SOUTHERN CALIFORNIA GAS CO.	07-05-91	B	250,000	N	05-09-91	INDEF.
ST91-9417	WESTAR TRANSMISSION CO.	EL PASO NATURAL GAS CO.	07-05-91	C	50,000	N	06-09-90	INDEF.
ST91-9418	TENNESSEE GAS PIPELINE CO.	KERR MCGEE CORP.	07-05-91	G-S	380,000	N	07-01-91	10-29-91
ST91-9419	GAS CO. OF NEW MEXICO	EL PASO NATURAL GAS CO.	07-05-91	G-HT	75	N	07-01-91	05-31-92
ST91-9420	TRUNKLINE GAS CO.	VALERO TRANSMISSION, L.P.	07-05-91	B	200,000	N	06-22-91	INDEF.
ST91-9421	TRUNKLINE GAS CO.	MIDCON MARKETING CORP.	07-05-91	G-S	50,000	N	06-25-91	10-23-91
ST91-9422	TRUNKLINE GAS CO.	MIDCON MARKETING CORP.	07-05-91	G-S	50,000	N	06-25-91	10-23-91
ST91-9423	TRUNKLINE GAS CO.	PEOPLES GAS LIGHT AND COKE CO.	07-05-91	B	50,000	N	06-14-91	INDEF.
ST91-9424	TRUNKLINE GAS CO.	KANSAS POWER & LIGHT CO.	07-05-91	B	30,000	N	06-04-91	INDEF.
ST91-9425	PANHANDLE EASTERN PIPE LINE CO.	COASTAL GAS MARKETING CO.	07-05-91	G-S	100,000	N	06-04-91	10-02-91
ST91-9426	PANHANDLE EASTERN PIPE LINE CO.	PANHANDLE TRADING CO.	07-05-91	G-S	100,000	N	06-06-91	10-04-91
ST91-9427	PANHANDLE EASTERN PIPE LINE CO.	TENNGASCO CORP.	07-05-91	G-S	50,000	N	06-01-91	09-29-91
ST91-9428	PANHANDLE EASTERN PIPE LINE CO.	KANSAS POWER & LIGHT CO.	07-05-91	B	30,000	N	06-04-91	INDEF.
ST91-9429	PANHANDLE EASTERN PIPE LINE CO.	KANSAS POWER & LIGHT CO.	07-05-91	B	30,000	N	06-04-91	INDEF.
ST91-9430	TRUNKLINE GAS CO.	LOUIS DREYFUS ENERGY CORP.	07-05-91	G-S	30,000	N	05-01-91	08-29-91
ST91-9431	TRUNKLINE GAS CO.	MEMPHIS LIGHT, GAS & WATER DIV.	07-05-91	B	40,000	N	07-01-91	INDEF.
ST91-9432	TRUNKLINE GAS CO.	MIDCON MARKETING CORP.	07-05-91	G-S	50,000	N	06-25-91	10-23-91
ST91-9433	TRUNKLINE GAS CO.	CENTRAL ILLINOIS LIGHT CO., ET AL.	07-05-91	B	30,000	N	06-13-91	INDEF.
ST91-9434	TRUNKLINE GAS CO.	BALTIMORE GAS & ELECT. CO., ET AL.	07-05-91	B	100,000	N	06-12-91	INDEF.

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ST91-9435	TRUNKLINE GAS CO.	V.H.C. GAS SYSTEMS, L.P.	07-05-91	G-S	200,000	N	06-22-91	10-20-91
ST91-9436	NORTHERN NATURAL GAS CO.	WEST TEXAS GAS, INC.	07-08-91	B	10,000	N	06-07-91	INDEF.
ST91-9437	NORTHERN NATURAL GAS CO.	CITY OF DULUTH	07-08-91	B	100,000	N	06-07-91	INDEF.
ST91-9438	TENNESSEE GAS PIPELINE CO.	SOUTHERN CONNECTICUT GAS CO.	07-08-91	B	60,000	N	07-01-91	INDEF.
ST91-9439	NATURAL GAS P/L CO. OF AMERICA	ENDEVCO PIPELINE CO.	07-08-91	B	3,500	N	09-17-90	INDEF.
ST91-9440	ONG TRANSMISSION CORP.	WILLIAMS NATURAL GAS CO.	07-08-91	C	50,000	N	07-01-91	06-30-93
ST91-9441	TEXAS GAS GATHERING	GULF STATES TRANSMISSION CORP.	07-08-91	C	10,000	N	06-01-91	07-30-91
ST91-9442	TRANSAMERICAN GAS TRANS. CORP.	NEW OLEANS PUBLIC SERVICE, INC.	07-08-91	C	5,000	N	01-18-91	INDEF.
ST91-9443	TRANSAMERICAN GAS TRANS. CORP.	BAY STATE GAS CO.	07-08-91	C	20,000	N	03-13-91	INDEF.
ST91-9444	TRANSAMERICAN GAS TRANS. CORP.	TRUNKLINE GAS CO.	07-08-91	C	10,000	N	02-01-91	INDEF.
ST91-9445	TRANSAMERICAN GAS TRANS. CORP.	TRUNKLINE GAS CO.	07-08-91	C	10,000	N	05-01-91	INDEF.
ST91-9447	TRANSAMERICAN GAS TRANS. CORP.	PETROLEOS MEXICANOS	07-08-91	C	35,000	N	01-10-91	INDEF.
ST91-9449	TRANSAMERICAN GAS TRANS. CORP.	EL PASO NATURAL GAS CO.	07-08-91	C	10,000	N	01-14-91	INDEF.
ST91-9450	SOUTHERN NATURAL GAS CO.	HARBERT OIL & GAS CORP.	07-08-91	G-S	30,000	N	06-18-91	10-16-91
ST91-9451	SOUTHERN NATURAL GAS CO.	HARBERT OIL & GAS CORP.	07-08-91	G-S	30,000	N	06-19-91	10-17-91
ST91-9452	SOUTHERN NATURAL GAS CO.	HARBERT OIL & GAS CORP.	07-08-91	G-S	30,000	N	06-20-91	10-18-91
ST91-9453	SOUTHERN NATURAL GAS CO.	AMOCO ENERGY TRADING CO.	07-08-91	G-S	35,000	N	06-22-91	10-20-91
ST91-9454	SEA ROBIN PIPELINE CO.	SOUTHERN NATURAL GAS CO.	07-08-91	G-S	200,000	N	06-04-91	10-02-91
ST91-9455	SEA ROBIN PIPELINE CO.	CITRUS MARKETING INC.	07-08-91	G-S	60,000	N	05-28-91	10-26-91
ST91-9456	SEA ROBIN PIPELINE CO.	AMERADA HESS CORP.	07-08-91	G-S	10,000	N	06-01-91	09-29-91
ST91-9457	TEXAS EASTERN TRANSMISSION CORP.	CLINTON GAS TRANSMISSION, INC.	07-08-91	G-S	100,000	N	06-02-91	09-30-91
ST91-9458	TRANSCONTINENTAL GAS P/L CORP.	ORANGE AND ROCKLAND UTILITIES, INC.	07-08-91	B	100,000	N	12-01-89	09-30-90
ST91-9459	COLUMBIA GAS TRANSMISSION CORP.	ATLAS GAS MARKETING, INC.	07-08-91	G-S	67	Y	06-11-91	10-09-91
ST91-9460	TENNESSEE GAS PIPELINE CO.	POLARIS PIPELINE CORP.	07-09-91	G-S	100,000	N	12-01-89	03-31-90
ST91-9461	TENNESSEE GAS PIPELINE CO.	EXXON CORP.	07-09-91	G-S	80,000	N	01-23-90	05-23-90
ST91-9462	TENNESSEE GAS PIPELINE CO.	AQUILA ENERGY MARKETING CORP.	07-09-91	G-S	1,000,000	N	07-02-91	10-30-91
ST91-9463	ARKLA ENERGY RESOURCES	LOUISIANA INTRASTATE GAS CORP.	07-09-91	B	95,000	Y	03-01-91	INDEF.
ST91-9464	ARKLA ENERGY RESOURCES	ARKLA ENERGY MARKETING CO.	07-09-91	G-S	240,000	Y	02-01-91	05-01-91
ST91-9465	UNITED GAS PIPE LINE CO.	TEXAS SCHOOL LAND BOARD	07-09-91	G-S	1,030	N	06-26-91	10-24-91
ST91-9466	UNITED GAS PIPE LINE CO.	GRAHAM ENERGY MARKETING CORP.	07-09-91	G-S	123,600	N	06-24-91	10-22-91
ST91-9467	TENNESSEE GAS PIPELINE CO.	APPALACHIAN GAS SALES	07-10-91	G-S	15,000	N	06-12-91	10-10-91
ST91-9468	ANR PIPELINE CO.	ENTRADE CORP.	07-10-91	G-S	100,000	N	06-01-91	09-28-91
ST91-9469	TRANSCONTINENTAL GAS P/L CORP.	CITIZENS GAS SUPPLY CORP.	07-08-91	G-S	100,000	N	09-21-90	01-18-91
ST91-9470	UNITED GAS PIPE LINE CO.	ENRON GAS MARKETING, INC.	07-10-91	G-S	515,000	N	06-19-91	10-17-91
ST91-9471	NORTHERN NATURAL GAS CO.	HELMERICH & PAYNE ENERGY SERVICES	07-10-91	G-S	30,000	N	06-12-91	10-10-91
ST91-9472	NORTHERN NATURAL GAS CO.	WILLIAMS NATURAL GAS CO.	07-10-91	G	200,000	N	06-18-91	INDEF.
ST91-9473	TEXAS GAS TRANSMISSION CORP.	RIVER GAS CO.	07-10-91	B	3,073	N	07-01-91	INDEF.
ST91-9474	TEXAS GAS TRANSMISSION CORP.	WESTERN KENTUCKY GAS CO.	07-10-91	B	2,500	N	07-01-91	INDEF.
ST91-9475	TEXAS GAS TRANSMISSION CORP.	INDIANA GAS CO., INC.	07-10-91	G-S	8,000	N	07-01-91	10-31-91
ST91-9476	TEXAS GAS TRANSMISSION CORP.	TXG GAS MARKETING CO.	07-10-91	G-S	3,062	N	07-02-91	10-29-91
ST91-9477	TEXAS GAS TRANSMISSION CORP.	TEJAS POWER CORP.	07-10-91	G-S	100,000	N	07-01-91	10-20-91
ST91-9478	TRUNKLINE GAS CO.	ENSERCH GAS CO.	07-10-91	G-S	100,000	N	02-01-91	06-01-91
ST91-9479	TRUNKLINE GAS CO.	ENSERCH GAS CO.	07-10-91	G-S	50,000	N	01-01-91	05-01-91
ST91-9480	TRUNKLINE GAS CO.	MERIDIAN OIL TRADING, INC.	07-10-91	G-S	100,000	N	05-01-91	08-29-91
ST91-9481	MONTANA POWER CO.	WILLISTON BASIN INTERSTATE P/L CO.	07-10-91	G-HT	20,000	N	06-14-91	09-30-91
ST91-9482	WILLISTON BASIN INTERSTATE P/L CO.	NORTH CANADIAN RESOURCES, INC.	07-10-91	G-S	189,000	Y	06-10-91	11-30-92

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ST91-9483	WILLISTON BASIN INTERSTATE P/L CO.	PRAIRIELANDS ENERGY MARKETING, INC.	07-10-91	G-S	7,004	Y	06-04-91	10-14-91
ST91-9484	CNG TRANSMISSION CORP.	POLLIO DAIRY PRODUCTS CORP.	07-11-91	G-S	20,000	N	06-26-91	10-24-91
ST91-9485	TENNESSEE GAS PIPELINE CO.	POLARIS PIPELINE CORP.	07-11-91	G-S	100,000	N	07-08-91	11-05-91
ST91-9486	ANR PIPELINE CO.	MICHIGAN CONSOLIDATED GAS CO.	07-11-91	B	500,000	N	06-12-91	INDEF.
ST91-9487	ANR PIPELINE CO.	OLYMPIC PIPELINE CO.	07-11-91	B	20,000	N	06-14-91	INDEF.
ST91-9488	ANR PIPELINE CO.	NORTHERN ILLINOIS GAS CO.	07-11-91	B	100,000	N	06-21-91	INDEF.
ST91-9489	ANR PIPELINE CO.	PUBLIC SERVICE ELECTRIC & GAS CO.	07-11-91	B	100,000	N	06-28-91	INDEF.
ST91-9490	ANR PIPELINE CO.	CONOCO, INC.	07-11-91	G-S	75,000	N	06-22-91	10-19-91
ST91-9491	ANR PIPELINE CO.	TRANSCO ENERGY MARKETING CO.	07-11-91	G-S	15,000	N	06-14-91	10-11-91
ST91-9492	TRUNKLINE GAS CO.	COLUMBIA GAS OF VIRGINIA	07-11-91	B	10,000	N	05-01-91	INDEF.
ST91-9493	TRUNKLINE GAS CO.	CITIZENS GAS SUPPLY CORP.	07-11-91	G-S	75,000	N	05-31-91	09-28-91
ST91-9494	TRUNKLINE GAS CO.	COLUMBIA GAS OF MARYLAND, INC.	07-11-91	B	10,000	N	05-01-91	INDEF.
ST91-9495	TRUNKLINE GAS CO.	COLUMBIA GAS OF OHIO, INC.	07-11-91	B	80,000	N	05-01-91	INDEF.
ST91-9496	TRUNKLINE GAS CO.	COLUMBIA GAS OF KENTUCKY, INC.	07-11-91	B	10,000	N	05-01-91	INDEF.
ST91-9497	TRUNKLINE GAS CO.	COLUMBIA GAS OF PENNSYLVANIA, INC.	07-11-91	B	25,000	N	05-01-91	INDEF.
ST91-9498	LOUISIANA RESOURCES CO.	LOUISIANA GAS MARKETING CO.	07-11-91	C	50,000	N	07-01-91	INDEF.
ST91-9499	LOUISIANA RESOURCES CO.	SEA ROBIN PIPELINE CO.	07-11-91	C	25,000	N	07-01-91	INDEF.
ST91-9500	PANHANDLE EASTERN PIPE LINE CO.	CITIZENS GAS SUPPLY CORP.	07-11-91	G-S	50,000	N	06-14-91	10-12-91
ST91-9501	ONG TRANSMISSION CO.	PHILLIPS GAS PIPELINE CO.	07-11-91	C	50,000	N	06-25-91	06-24-93
ST91-9502	ACADIAN GAS PIPELINE SYSTEM	SABINE PIPELINE CO.	07-12-91	C	50,000	N	07-01-91	INDEF.
ST91-9503	ACADIAN GAS PIPELINE SYSTEM	TEXAS EASTERN TRANSMISSION CORP.	07-12-91	C	30,000	N	07-01-91	INDEF.
ST91-9504	ACADIAN GAS PIPELINE SYSTEM	TRANSCONTINENTAL GAS PIPELINE CORP.	07-12-91	C	60,000	N	07-01-91	INDEF.
ST91-9505	ACADIAN GAS PIPELINE SYSTEM	NATURAL GAS P/L CO. OF AMERICA	07-12-91	C	15,000	N	07-01-91	INDEF.
ST91-9506	UNITED GAS PIPE LINE CO.	ENERGY MARKETING EXCHANGE, INC.	07-12-91	G-S	77,250	N	07-02-91	10-30-91
ST91-9507	TENNESSEE GAS PIPELINE CO.	BHP PETROLEUM CO., INC.	07-12-91	G-S	20,000	N	07-01-91	10-29-91
ST91-9508	TENNESSEE GAS PIPELINE CO.	CNG TRANSMISSION CORP.	07-12-91	G	27,500	N	07-01-91	INDEF.
ST91-9509	TENNESSEE GAS PIPELINE CO.	ASSOCIATED NATURAL GAS, INC.	07-12-91	G-S	40,000	N	07-01-91	10-29-91
ST91-9510	NATURAL GAS P/L CO. OF AMERICA	ARCO NATURAL GAS MARKETING, INC.	07-12-91	G-S	300,000	N	06-01-91	09-29-91
ST91-9511	NATURAL GAS P/L CO. OF AMERICA	GREAT NORTHERN CORP.	07-12-91	G-S	10,000	N	06-12-91	10-10-91
ST91-9512	MORAINE PIPELINE CO.	GREAT NORTHERN CORP.	07-12-91	G-S	150,000	N	06-12-91	10-10-91
ST91-9513	FLORIDA GAS TRANSMISSION CO.	CITY OF VERO BEACH	07-12-91	G-S	786	N	07-01-91	10-28-91
ST91-9514	FLORIDA GAS TRANSMISSION CO.	CITY OF VERO BEACH	07-12-91	G-S	2,160	N	07-01-91	10-28-91
ST91-9515	COLUMBIA GAS TRANSMISSION CORP.	INTERSTATE NATURAL GAS CO.	07-12-91	G-S	2,160	N	07-10-91	11-07-91
ST91-9516	ONG TRANSMISSION CO.	NORTHERN NATURAL GAS CO.	07-15-91	C	50,000	N	06-28-91	06-27-93
ST91-9517	ONG TRANSMISSION CO.	PANHANDLE EASTERN PIPE LINE CO.	07-15-91	C	50,000	N	07-01-91	06-30-93
ST91-9518	ONG TRANSMISSION CO.	NATURAL GAS P/L CO. OF AMERICA	07-15-91	C	75,000	N	07-03-91	07-02-93
ST91-9519	ONG TRANSMISSION CO.	PANHANDLE EASTERN PIPE LINE CO.	07-15-91	C	50,000	N	06-28-91	06-27-93
ST91-9520	NORTHWEST PIPELINE CORP.	SOUTHERN CALIFORNIA GAS CO.	07-15-91	C	2,400	N	06-15-91	02-01-06
ST91-9521	TENNESSEE GAS PIPELINE CO.	PSI GAS MARKETING, INC.	07-15-91	G-S	150,000	N	07-01-91	10-29-91
ST91-9522	TENNESSEE GAS PIPELINE CO.	NGC TRANSPORTATION, INC.	07-15-91	G-S	500,000	N	07-01-91	10-29-91
ST91-9523	TENNESSEE GAS PIPELINE CO.	NGC TRANSPORTATION, INC.	07-15-91	G-S	500,000	N	07-01-91	10-29-91
ST91-9524	TENNESSEE GAS PIPELINE CO.	HOUGEX GAS MARKETING CO.	07-15-91	G-S	100,000	N	07-01-91	10-29-91
ST91-9525	TENNESSEE GAS PIPELINE CO.	HOUGEX GAS MARKETING CO.	07-15-91	G-S	100,000	N	07-01-91	10-29-91
ST91-9526	HOUSTON PIPE LINE CO.	TRANSCONTINENTAL GAS P/L CORP.	07-15-91	C	100,000	N	05-02-91	INDEF.
ST91-9527	HOUSTON PIPE LINE CO.	TRANSCONTINENTAL GAS P/L CORP.	07-15-91	C	100,000	N	06-01-91	INDEF.
ST91-9528	HOUSTON PIPE LINE CO.	EL PASO NATURAL GAS CO.	07-15-91	C	50,000	N	05-01-91	INDEF.

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ST91-9529	HOUSTON PIPE LINE CO.	TENNESSEE GAS PIPELINE CO.	07-15-91	C	100,000	N	05-01-91	INDEF.
ST91-9530	HOUSTON PIPE LINE CO.	FLORIDA GAS TRANSMISSION CO.	07-15-91	C	100,000	N	05-01-91	INDEF.
ST91-9531	HOUSTON PIPE LINE CO.	UNITED GAS PIPE LINE CO.	07-15-91	C	100,000	N	05-01-91	INDEF.
ST91-9532	HOUSTON PIPE LINE CO.	NORTHERN NATURAL GAS CO.	07-15-91	C	100,000	N	05-05-91	INDEF.
ST91-9533	HOUSTON PIPE LINE CO.	NORTHERN NATURAL GAS CO.	07-15-91	C	100,000	N	05-24-91	INDEF.
ST91-9534	HOUSTON PIPE LINE CO.	NORTHERN NATURAL GAS CO.	07-15-91	C	36,000	N	06-01-91	INDEF.
ST91-9535	HOUSTON PIPE LINE CO.	TENNESSEE GAS PIPELINE CO.	07-15-91	C	20,000	N	06-01-91	INDEF.
ST91-9536	NATIONAL FUEL GAS SUPPLY CORP.	TRUCK-LITE CO., INC.	07-15-91	B	190	N	06-25-91	06-24-11
ST91-9537	EL PASO NATURAL GAS CO.	GASMARK, INC.	07-15-91	G-S	25,750	N	07-02-91	10-30-91
ST91-9538	NORTHERN NATURAL GAS CO.	CENTRAN CORP.	07-16-91	G-S	50,000	N	07-25-91	10-23-91
ST91-9539	NORTHERN NATURAL GAS CO.	WILLIAMS NATURAL GAS CO.	07-16-91	G	200,000	N	06-18-91	06-18-01
ST91-9540	ENOGEX INC.	RIVERSIDE PIPELINE CO. L.P.	07-16-91	C	10,000	N	06-21-91	INDEF.
ST91-9541	MIDWESTERN GAS TRANSMISSION CO.	WILLIAMS GAS MARKETING CO.	07-16-91	G-S	50,000	N	07-04-91	11-01-91
ST91-9542	VIKING GAS TRANSMISSION CO.	AQUILA ENERGY MARKETING CORP.	07-16-91	G-S	100,000	N	06-01-91	09-29-91
ST91-9543	COLUMBIA GULF TRANSMISSION CO.	EQUITABLE RESOURCES MARKETING CO.	07-16-91	G-S	100,000	N	07-02-91	10-29-91
ST91-9544	COLUMBIA GULF TRANSMISSION CO.	TEJAS HYDROCARBONS CO.	07-16-91	G-S	100,000	N	07-04-91	10-31-91
ST91-9545	COLUMBIA GULF TRANSMISSION CO.	NESTE TRADING, INC.	07-16-91	G-S	300,000	N	06-27-91	10-24-91
ST91-9546	COLUMBIA GULF TRANSMISSION CO.	CONSOLIDATED FUEL CORP.	07-16-91	G-S	40,000	N	07-01-91	10-28-91
ST91-9547	COLUMBIA GULF TRANSMISSION CO.	COAST ENERGY GROUP, INC.	07-16-91	G-S	25,000	N	07-01-91	10-28-91
ST91-9548	COLUMBIA GULF TRANSMISSION CO.	PHILBRO ENERGY, INC.	07-16-91	G-S	10,000	N	07-01-91	10-28-91
ST91-9549	TRANSCONTINENTAL GAS P/L CORP.	ENERGY MARKETING EXCHANGE, INC.	07-17-91	B	310,000	N	05-21-91	INDEF.
ST91-9550	TENNESSEE GAS PIPELINE CO.	UNITED TEXAS TRANSMISSION CO.	07-17-91	B	40,000	N	06-23-91	INDEF.
ST91-9551	WILLISTON BASIN INTERSTATE P/L CO.	HILARD PARTNERS	07-17-91	G-S	80,640	Y	06-17-91	11-07-91
ST91-9552	TENNESSEE GAS PIPELINE CO.	ASHTON ENERGY CO.	07-18-91	G-S	100,000	N	07-09-91	11-06-91
ST91-9553	TENNESSEE GAS PIPELINE CO.	TRANSCONTINENTAL GAS P/L CORP.	07-18-91	B	301,000	Y	07-01-91	INDEF.
ST91-9554	UNITED GAS PIPE LINE CO.	EASTEX GAS TRANSMISSION CO.	07-18-91	G-S	144,200	N	07-11-91	11-08-91
ST91-9555	UNITED GAS PIPE LINE CO.	BISHOP PIPELINE CORP.	07-18-91	G-S	41,200	N	07-10-91	11-07-91
ST91-9556	UNITED GAS PIPE LINE CO.	SIGCO MARKETING, INC.	07-18-91	G-S	4,893	N	05-28-91	09-25-91
ST91-9557	UNITED GAS PIPE LINE CO.	SIGCO MARKETING, INC.	07-18-91	G-S	4,893	N	07-12-91	11-09-91
ST91-9558	UNITED GAS PIPE LINE CO.	BISHOP PIPELINE CORP.	07-18-91	G-S	41,200	N	07-11-91	11-08-91
ST91-9559	UNITED GAS PIPE LINE CO.	MIDCON MARKETING CORP.	07-18-91	G-S	721,000	N	07-12-91	11-09-91
ST91-9560	WILLISTON BASIN INTERSTATE P/L CO.	HILARD PARTNERS	07-18-91	G-S	69,800	Y	07-01-91	05-31-93
ST91-9561	NORTHERN NATURAL GAS CO.	WISCONSIN GAS CO.	07-18-91	B	300,000	N	07-01-91	INDEF.
ST91-9562	NORTHERN NATURAL GAS CO.	WESTAR TRANSMISSION CO.	07-18-91	B	25,000	N	07-01-91	10-31-91
ST91-9563	NORTHERN NATURAL GAS CO.	TENASKA MARKETING VENTURES	07-18-91	G-S	250,000	N	07-01-91	10-29-91
ST91-9564	NORTHERN NATURAL GAS CO.	PANDA RESOURCES, INC.	07-18-91	G-S	500,000	N	07-01-91	10-29-91
ST91-9565	PANHANDLE EASTERN PIPE LINE CO.	CITIZENS GAS FUEL CO.	07-18-91	B	7,000	N	07-21-91	INDEF.
ST91-9566	PANHANDLE EASTERN PIPE LINE CO.	MIDCON MARKETING CORP.	07-18-91	G-S	100,000	N	07-25-91	10-23-91
ST91-9567	PANHANDLE EASTERN PIPE LINE CO.	TEXPAR ENERGY, INC.	07-18-91	G-S	100,000	N	06-25-91	10-23-91
ST91-9568	PANHANDLE EASTERN PIPE LINE CO.	TARPON GAS MARKETING LTD.	07-18-91	G-S	50,000	N	06-26-91	10-24-91
ST91-9569	PANHANDLE EASTERN PIPE LINE CO.	TRIUMPH GAS MARKETING CO.	07-18-91	G-S	50,000	N	06-26-91	10-24-91
ST91-9570	PANHANDLE EASTERN PIPE LINE CO.	PANHANDLE TRADING CO.	07-18-91	G-S	100,000	Y	06-19-91	10-17-91
ST91-9571	PANHANDLE EASTERN PIPE LINE CO.	ANCHOR GLASS CONTAINER CORP.	07-18-91	G-S	4,800	N	06-25-91	10-23-91
ST91-9572	COLUMBIA GAS TRANSMISSION CORP.	GAS TRANSPORT, INC.	07-18-91	G-S	10,000	Y	07-01-91	10-29-91
ST91-9573	COLUMBIA GAS TRANSMISSION CORP.	COLUMBIA GAS TRANS. CORP. SYSTEM	07-18-91	G-S	10,000	N	07-10-91	11-07-91
ST91-9574	NORTHWEST PIPELINE CORP.	EL PASO NATURAL GAS CO.	07-18-91	B	16,000	N	07-01-91	INDEF.

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ST91-9575	NORTHWEST PIPELINE CORP.	JOHN BROWN E & C, INC.	07-18-91	G-S	8,000	N	07-01-91	09-28-91
ST91-9576	MIDCOAST VENTURES I	WILLIAMS NATURAL GAS CO.	07-18-91	C	3,500	N	06-20-91	06-20-97
ST91-9578	EAST TENNESSEE NATURAL GAS CO.	CITY OF LOUDON-LOUDON UTIL. GAS CO.	07-19-91	B	28,280	N	07-01-91	INDEF.
ST91-9579	EAST TENNESSEE NATURAL GAS CO.	UNITED CITIES GAS CO.	07-19-91	B	127,000	N	07-01-91	INDEF.
ST91-9580	EAST TENNESSEE NATURAL GAS CO.	COOKEVILLE NAT. GAS SYSTEM	07-19-91	B	75,269	N	07-01-91	INDEF.
ST91-9581	EAST TENNESSEE NATURAL GAS CO.	KNOXVILLE UTILITIES BOARD	07-19-91	B	75,269	N	07-01-91	INDEF.
ST91-9582	EAST TENNESSEE NATURAL GAS CO.	JAMESTOWN NAT. GAS SYSTEM	07-19-91	B	75,269	N	07-01-91	INDEF.
ST91-9583	EAST TENNESSEE NATURAL GAS CO.	GALLATIN NAT. GAS SYSTEM	07-19-91	B	400,000	Y	07-01-91	INDEF.
ST91-9584	EAST TENNESSEE NATURAL GAS CO.	POWELL-CLINCH UTILITY DISTRICT	07-19-91	B	400,000	Y	07-01-91	INDEF.
ST91-9585	EAST TENNESSEE NATURAL GAS CO.	CHATTANOOGA GAS CO.	07-19-91	B	400,000	Y	07-01-91	INDEF.
ST91-9586	EAST TENNESSEE NATURAL GAS CO.	HAWKINS COUNTY UTILITY DISTRICT	07-19-91	B	400,000	Y	07-01-91	INDEF.
ST91-9587	EAST TENNESSEE NATURAL GAS CO.	LEWISBURG GAS DEPARTMENT	07-19-91	B	400,000	Y	07-15-91	INDEF.
ST91-9588	EAST TENNESSEE NATURAL GAS CO.	KNOXVILLE UTILITIES BOARD	07-19-91	B	200	N	07-01-91	INDEF.
ST91-9589	EAST TENNESSEE NATURAL GAS CO.	UNITED CITIES GAS CO.	07-19-91	B	107	N	07-01-91	INDEF.
ST91-9590	EAST TENNESSEE NATURAL GAS CO.	UNITED CITIES GAS CO.	07-19-91	B	200,000	N	07-02-91	INDEF.
ST91-9591	EAST TENNESSEE NATURAL GAS CO.	CITY OF ETOWAH-UTILITIES DEPT.	07-19-91	B	4,000	N	07-01-91	INDEF.
ST91-9592	EAST TENNESSEE NATURAL GAS CO.	LOUDON-LOUDON UTILITIES GAS DEPT.	07-19-91	B	8,800	N	07-01-91	INDEF.
ST91-9593	EAST TENNESSEE NATURAL GAS CO.	KNOXVILLE UTILITIES BOARD	07-19-91	B	150,000	N	07-01-91	INDEF.
ST91-9594	EAST TENNESSEE NATURAL GAS CO.	JEFFERSON-COCKE COUNTY UTIL. DIST.	07-19-91	B	3,500	N	07-01-91	INDEF.
ST91-9595	EAST TENNESSEE NATURAL GAS CO.	KNOXVILLE UTILITIES BOARD	07-19-91	B	3,500	N	07-01-91	INDEF.
ST91-9596	EAST TENNESSEE NATURAL GAS CO.	HAWKINS COUNTY UTILITY DISTRICT	07-19-91	B	3,500	N	07-01-91	INDEF.
ST91-9597	EAST TENNESSEE NATURAL GAS CO.	UNITED CITIES GAS CO.	07-19-91	B	1,000	N	07-01-91	INDEF.
ST91-9598	EAST TENNESSEE NATURAL GAS CO.	KNOXVILLE UTILITIES BOARD	07-19-91	B	200,000	N	07-01-91	INDEF.
ST91-9599	EAST TENNESSEE NATURAL GAS CO.	SEVIER COUNTY UTILITY DISTRICT	07-19-91	B	200,000	N	07-01-91	INDEF.
ST91-9600	EAST TENNESSEE NATURAL GAS CO.	LOUDON-LOUDON UTILITIES GAS DEPT.	07-19-91	B	5,464	N	07-01-91	INDEF.
ST91-9601	EAST TENNESSEE NATURAL GAS CO.	ATLANTA GAS LIGHT CO.	07-19-91	B	200,000	N	07-17-91	INDEF.
ST91-9602	NATURAL GAS P/L CO. OF AMERICA	SONAT MARKETING CO.	07-19-91	G-S	50,000	N	07-21-91	10-19-91
ST91-9603	CHANNEL INDUSTRIES GAS CO.	NATURAL GAS P/L CO. OF AMERICA	07-19-91	C	10,000	N	05-10-91	INDEF.
ST91-9604	VIKING GAS TRANSMISSION CO.	UNION GAS LIMITED, INC.	07-19-91	B	250,000	N	07-02-91	INDEF.
ST91-9605	VIKING GAS TRANSMISSION CO.	SANTANNA NATURAL GAS CORP.	07-19-91	G-S	175,000	N	06-20-91	10-18-91
ST91-9606	FLORIDA GAS TRANSMISSION CO.	GAINESVILLE REGIONAL UTILITIES	07-19-91	B	4,852	N	10-01-90	INDEF.
ST91-9607	WILLIAMS NATURAL GAS CO.	MIDCOAST NATURAL GAS	07-19-91	B	15,000	N	06-20-91	INDEF.
ST91-9608	UNITED GAS PIPE LINE CO.	O&R ENERGY, INC.	07-19-91	G-S	5,150	N	07-12-91	11-09-91
ST91-9609	TRANSCONTINENTAL GAS P/L CORP.	SANTA FE INTERNATIONAL	07-19-91	G-S	90,000	N	06-19-91	10-16-91
ST91-9610	TRANSCONTINENTAL GAS P/L CORP.	LONGHORN PIPE LINE CO.	07-19-91	B	450,000	N	04-11-91	INDEF.
ST91-9611	TRANSCONTINENTAL GAS P/L CORP.	HOUSTON PIPE LINE CO.	07-19-91	B	200,000	N	06-01-91	INDEF.
ST91-9612	COLORADO INTERSTTE GAS CO.	PHILLIPS PIPE LINE CO.	07-19-91	G-S	200	N	07-01-91	10-29-91
ST91-9613	DELHI GAS PIPELINE CORP.	CAPROCK PIPELINE CO.	07-22-91	C	250,200	N	07-01-91	INDEF.
ST91-9614	DELHI GAS PIPELINE CORP.	NATURAL GAS P/L CO. OF AMERICA	07-22-91	C	5,000	N	07-01-91	INDEF.
ST91-9615	EL PASO NATURAL GAS CO.	CONOCO INC.	07-22-91	G-S	51,500	N	07-02-91	10-30-91
ST91-9616	LONE STAR GAS COMPANY	UNITED GAS PIPELINE CO.	07-22-91	C	75,000	N	07-01-91	INDEF.
ST91-9617	LONE STAR GAS COMPANY	OKTEX PIPELINE CO.	07-22-91	C	10,000	N	07-01-91	INDEF.
ST91-9618	QUESTAR PIPELINE CO.	MOUNTAIN FUEL SUPPLY CO.	07-22-91	B	11,000	Y	07-01-91	INDEF.
ST91-9619	QUESTAR PIPELINE CO.	EXXON CORP.	07-22-91	G-S	124,200	N	07-01-91	10-28-91
ST91-9620	QUESTAR PIPELINE CO.	BARRETT ENERGY CO.	07-22-91	G-S	15,120	N	07-01-91	10-28-91
ST91-9621	QUESTAR PIPELINE CO.	CONOCO, INC.	07-22-91	G-S	27,000	N	07-01-91	10-28-91

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ST91-9622	QUESTAR PIPELINE CO.	GRAND VALLEY GAS CO.	07-22-91	G-S	12,420	N	07-01-91	10-28-91
ST91-9623	QUESTAR PIPELINE CO.	UNIVERSAL RESOURCES CORP.	07-22-91	G-S	301,968	N	07-01-91	10-28-91
ST91-9624	BLACK MARLIN PIPELINE CO.	ENRON INDUSTRIAL NATURAL GAS CO.	07-22-91	G-S	75,000	N	06-28-91	10-25-91
ST91-9625	TEXAS GAS TRANSMISSION CORP.	UNOCAL EXPLORATION CORP.	07-22-91	G-S	17,000	N	07-01-91	10-28-91
ST91-9626	TEXAS GAS TRANSMISSION CORP.	NIAGARA MOHAWK POWER CORP.	07-22-91	G-S	56,580	N	07-01-91	10-28-91
ST91-9627	TEXAS GAS TRANSMISSION CORP.	ROCHESTER GAS AND ELECTRIC CORP.	07-22-91	G-S	12,858	N	07-01-91	10-28-91
ST91-9628	TEXAS GAS TRANSMISSION CORP.	THE PEOPLES NATURAL GAS CO.	07-22-91	G-S	20,483	N	07-01-91	10-28-91
ST91-9629	TEXAS EASTERN TRANSMISSION CORP.	TENNGASCO CORP.	07-22-91	G-S	475,000	N	07-01-91	10-29-91
ST91-9630	TEXAS EASTERN TRANSMISSION CORP.	ACCESS ENERGY CORP.	07-22-91	G-S	20,000	N	07-01-91	10-29-91
ST91-9631	PANHANDLE EASTERN PIPE LINE CO.	PSI, INC.	07-22-91	G-S	100,000	N	06-29-91	10-27-91
ST91-9632	PANHANDLE EASTERN PIPE LINE CO.	BP GAS, INC.	07-22-91	G-S	15,000	N	06-29-91	10-27-91
ST91-9633	PANHANDLE EASTERN PIPE LINE CO.	ENOGEX SERVICES CORP.	07-22-91	G-S	30,000	N	06-29-91	10-27-91
ST91-9634	PANHANDLE EASTERN PIPE LINE CO.	BP GAS, INC.	07-22-91	G-S	50,000	N	06-29-91	10-27-91
ST91-9635	PANHANDLE EASTERN PIPE LINE CO.	PSI, INC.	07-22-91	G-S	110,000	N	06-29-91	10-27-91
ST91-9636	PANHANDLE EASTERN PIPE LINE CO.	TARPON GAS MARKETING LTD.	07-22-91	G-S	80,000	N	06-29-91	10-27-91
ST91-9637	PANHANDLE EASTERN PIPE LINE CO.	ENOGEX SERVICES CORP.	07-22-91	G-S	30,000	N	06-29-91	10-27-91
ST91-9638	PANHANDLE EASTERN PIPE LINE CO.	INDIANA GAS CO.	07-22-91	B	3,000	N	06-29-91	INDEF.
ST91-9639	MISSISSIPPI RIVER TRANS. CORP.	ARKLA ENERGY MARKETING CO.	07-22-91	G-S	8,000	N	07-01-91	07-31-91
ST91-9640	RED RIVER PIPELINE	UNITED GAS PIPE LINE CO.	07-23-91	C	75,000	N	07-02-91	INDEF.
ST91-9641	TRANSWESTERN PIPELINE CO.	WESTERN COUNTIES GAS CO., INC.	07-23-91	G-S	5,000	N	07-01-91	10-29-91
ST91-9642	NORTHERN NATURAL GAS CO.	GAS ENERGY DEVELOPMENT CO.	07-23-91	G-S	20,000	N	07-01-91	10-29-91
ST91-9643	NORTHERN NATURAL GAS CO.	ENRON GAS MARKETING, INC.	07-23-91	G-S	100,000	Y	07-03-91	10-31-91
ST91-9644	NORTHERN NATURAL GAS CO.	ENRON GAS MARKETING, INC.	07-23-91	G-S	100,000	Y	07-03-91	10-31-91
ST91-9645	NORTHERN NATURAL GAS CO.	PHILLIPS 66 NATURAL GAS CO.	07-23-91	G-S	5,000	N	07-03-91	08-05-91
ST91-9646	MIGC, INC.	KERR MCGEE CORP.	07-23-91	G-S	35	N	07-03-91	05-31-06
ST91-9647	TRUNKLINE GAS CO.	NATGAS, U.S. INC.	07-23-91	G-S	20,000	N	06-27-91	10-25-91
ST91-9648	TRUNKLINE GAS CO.	V.H.C. GAS SYSTEMS, L.P.	07-23-91	G-S	200,000	N	06-26-91	10-24-91
ST91-9649	TRUNKLINE GAS CO.	V.H.C. GAS SYSTEMS, L.P.	07-23-91	G-S	200,000	N	06-28-91	10-26-91
ST91-9650	TRUNKLINE GAS CO.	PHILLIPS PETROEUM CO.	07-23-91	G-S	15,000	N	06-29-91	10-27-91
ST91-9651	TRUNKLINE GAS CO.	PSI, INC.	07-23-91	G-S	20,000	N	06-29-91	10-27-91
ST91-9652	TRUNKLINE GAS CO.	VESTA ENERGY CO.	07-23-91	G-S	100,000	N	06-27-91	10-25-91
ST91-9653	TRUNKLINE GAS CO.	RELIANCE GAS MARKETING CO.	07-23-91	G-S	30,000	N	06-30-91	10-28-91
ST91-9654	TRUNKLINE GAS CO.	RELIANCE GAS MARKETING CO.	07-23-91	G-S	30,000	N	06-30-91	10-28-91
ST91-9655	TRUNKLINE GAS CO.	BP GAS, INC.	07-23-91	G-S	100,000		06-27-91	10-25-91
ST91-9656	TRUNKLINE GAS CO.	PHILLIPS PETROEUM CO.	07-23-91	G-S	15,000		06-28-91	10-26-91
ST91-9657	TRUNKLINE GAS CO.	NATGAS, U.S. INC.	07-23-91	G-S	25,000		06-27-91	10-25-91
ST91-9658	TRUNKLINE GAS CO.	PSI, INC.	07-23-91	G-S	50,000		06-29-91	10-27-91
ST91-9659	TRUNKLINE GAS CO.	POLARIS CORP.	07-23-91	B	1,500		06-28-91	INDEF.
ST91-9660	TRUNKLINE GAS CO.	CITIZENS GAS SUPPLY CORP.	07-23-91	G-S	120,000	N	06-27-91	10-25-91
ST91-9661	TRUNKLINE GAS CO.	BP GAS, INC.	07-23-91	G-S	250,000	N	06-29-91	10-27-91
ST91-9662	TRUNKLINE GAS CO.	PHILLIPS PETROEUM CO.	07-23-91	G-S	15,000	N	06-28-91	10-26-91
ST91-9663	TRUNKLINE GAS CO.	ANCHOR GLASS CONTAINER CORP.	07-23-91	G-S	4,500	N	06-29-91	10-27-91
ST91-9664	TRUNKLINE GAS CO.	PHILLIPS PETROLEUM CO.	07-23-91	G-S	15,000	N	06-28-91	10-26-91
ST91-9665	TRUNKLINE GAS CO.	PHILLIPS PETROLEUM CO.	07-23-91	G-S	15,000	N	06-29-91	10-27-91
ST91-9666	PANHANDLE EASTERN PIPE LINE CO.	CNG TRADING CO.	07-23-91	G-S	50,000	N	07-01-91	10-29-91
ST91-9667	PANHANDLE EASTERN PIPE LINE CO.	TEXACO GAS MARKETING, INC.	07-23-91	G-S	100,000	N	07-01-91	10-29-91

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ST91-9668	PANHANDLE EASTERN PIPE LINE CO.	MCLEOD FARMS	07-23-91	G-S	90,000	N	07-01-91	10-29-91
ST91-9669	PANHANDLE EASTERN PIPE LINE CO.	STELLAR GAS CO.	07-23-91	G-S	50,000	N	07-01-91	10-29-91
ST91-9670	PANHANDLE EASTERN PIPE LINE CO.	COLUMBIA GAS OF KY, INC.	07-23-91	B	30,000	N	07-01-91	INDEF.
ST91-9671	PANHANDLE EASTERN PIPE LINE CO.	CLINTON GAS TRANSMISSION, INC.	07-23-91	G-S	50,000	N	07-01-91	10-29-91
ST91-9672	MIDWESTERN GAS TRANSMISSION CO.	ENERGY MARKETING EXCHANGE, INC.	07-23-91	G-S	75,000	N	07-04-91	11-01-91
ST91-9673	TENNESSEE GAS PIPELINE CO.	CITIZENS GAS SUPPLY CORP.	07-23-91	G-S	92,250	N	07-01-91	10-29-91
ST91-9674	MISSISSIPPI RIVER TRANS. CORP.	ILLINOIS GAS CO.	07-23-91	B	50,000	Y	12-01-90	INDEF.
ST91-9675	MISSISSIPPI RIVER TRANS. CORP.	SWITZERLAND COUNTY NATURAL GAS CO.	07-23-91	B	50,000	Y	12-01-90	INDEF.
ST91-9676	MISSISSIPPI RIVER TRANS. CORP.	CITY OF CLAY	07-23-91	B	50,000	Y	12-01-90	INDEF.
ST91-9677	MISSISSIPPI RIVER TRANS. CORP.	CITY OF HALLS	07-23-91	B	50,000	Y	12-01-90	INDEF.
ST91-9678	MISSISSIPPI RIVER TRANS. CORP.	COLUMBIA GAS OF PA, INC.	07-23-91	B	50,000	Y	12-01-90	INDEF.
ST91-9679	MISSISSIPPI RIVER TRANS. CORP.	CITY OF PROVIDENCE	07-23-91	B	50,000	Y	12-01-90	INDEF.
ST91-9680	MISSISSIPPI RIVER TRANS. CORP.	SOUTHERN INDIANA GAS AND ELECT. CO.	07-23-91	B	50,000	Y	12-01-90	INDEF.
ST91-9681	MISSISSIPPI RIVER TRANS. CORP.	HENDERSON MUNICIPAL GAS DEPT.	07-23-91	B	50,000	Y	12-01-90	INDEF.
ST91-9682	MISSISSIPPI RIVER TRANS. CORP.	DAYTON POWER AND LIGHT CO.	07-23-91	B	50,000	Y	12-01-90	INDEF.
ST91-9683	MISSISSIPPI RIVER TRANS. CORP.	INDIANA UTILITIES CORP.	07-23-91	B	50,000	Y	12-01-90	INDEF.
ST91-9684	MISSISSIPPI RIVER TRANS. CORP.	MURRAY NATURAL GAS CO.	07-23-91	B	50,000	Y	12-01-90	INDEF.
ST91-9685	SEA ROBIN PIPELINE CO.	ARCO NATURAL GAS MARKETING CO.	07-23-91	G-S	2,000,000	N	07-01-91	10-29-91
ST91-9686	SOUTHERN NATURAL GAS CO.	BROWN WOOD PRESERVING CO.	07-23-91	G-S	1,000	N	07-10-91	11-07-91
ST91-9687	COLUMBIA GAS TRANSMISSION CORP.	ENERGY MARKETING SERVICES, INC.	07-23-91	G-S	1,880	Y	07-01-91	10-28-91
ST91-9688	COLUMBIA GAS TRANSMISSION CORP.	ORANGE AND ROCKLAND UTILITES, INC.	07-23-91	G-S	25,000	N	07-01-91	10-28-91
ST91-9689	COLUMBIA GAS TRANSMISSION CORP.	ENERGY MARKETING SERVICES, INC.	07-23-91	G-S	450	N	07-01-91	10-28-91
ST91-9690	COLUMBIA GAS TRANSMISSION CORP.	ENERGY MARKETING SERVICES, INC.	07-23-91	G-S	258	Y	07-01-91	10-28-91
ST91-9691	COLUMBIA GAS TRANSMISSION CORP.	BETHLEHEM STEEL CORP.	07-23-91	G-S	10,000	Y	07-01-91	10-28-91
ST91-9692	COLUMBIA GAS TRANSMISSION CORP.	ENERGY MARKETING SERVICES, INC.	07-23-91	G-S	815	Y	07-01-91	10-28-91
ST91-9693	COLUMBIA GULF TRANSMISSION CO.	ARCO OIL & GAS CO.	07-23-91	G-S	65,000	N	07-01-91	10-28-91
ST91-9694	COLUMBIA GULF TRANSMISSION CO.	TRANSCO ENERGY MARKETING CO.	07-23-91	G-S	75,000	N	07-02-91	10-29-91
ST91-9695	SOUTHERN NATURAL GAS CO.	PETROLEUM SOURCE & SYSTEMS GROUP	07-23-91	G-S	8,000	N	07-10-91	11-07-91
ST91-9696	SOUTHERN NATURAL GAS CO.	AMOCO ENERGY TRADING CO.	07-23-91	G-S	100,000	N	06-26-91	10-24-91
ST91-9697	EL PASO NATURAL GAS CO.	NORTHERN CALIFORNIA POWER AGENCY	07-23-91	G-S	41,000	N	07-04-91	11-01-91
ST91-9698	LONE STAR GAS CO.	EL PASO NATURAL GAS CO.	07-24-91	C	100,000	N	07-01-91	INDEF.
ST91-9699	LONE STAR GAS CO.	NATURAL GAS P/L CO. OF AMERICA	07-24-91	C	10,000	N	06-27-91	INDEF.
ST91-9700	LONE STAR GAS CO.	TRANSWESTERN PIPELINE CO.	07-24-91	C	2,000	N	07-01-91	INDEF.
ST91-9701	COLUMBIA GULF TRANSMISSION CO.	BISHOP PIPELINE CORP.	07-24-91	G-S	275,000	N	07-01-91	10-28-91
ST91-9702	COLUMBIA GULF TRANSMISSION CO.	KERR MCGEE CORP.	07-24-91	G-S	40,000	N	05-01-91	08-28-91
ST91-9703	FLORIDA GAS TRANSMISSION CO.	CITY OF GAINESVILLE	07-24-91	B	329	N	08-01-91	INDEF.
ST91-9704	WILLISTON BASIN INTERSTATE P/L CO.	PACIFIC ENTERPRISES OIL CO.	07-24-91	G-S	15,000	N	06-24-91	09-30-91
ST91-9705	TRANSCONTINENTAL GAS P/L CORP.	ENDEVCO MARKETING CO.	07-24-91	B	40,000	N	08-10-89	INDEF.
ST91-9706	MIDWESTERN GAS TRANSMISSION CO.	MERIDIAN OIL TRADING, INC.	07-24-91	G-S	100,000	N	07-01-91	10-29-91
ST91-9707	TENNESSEE GAS PIPE LINE CO.	CATAMOUNT NATURAL GAS, INC.	07-24-91	G-S	20,000	N	06-21-91	10-19-91
ST91-9708	TENNESSEE GAS PIPE LINE CO.	CATAMOUNT NATURAL GAS, INC.	07-24-91	G-S	20,000	N	06-21-91	10-19-91
ST91-9709	DELHI GAS PIPLEINE CORP.	EL PASO NATURAL GAS CO.	07-24-91	C	12,000	N	07-03-91	INDEF.
ST91-9712	EXXON GAS SYSTEM, INC.	SABINE PIPELINE CO.	07-25-91	C	20,000	N	12-01-90	INDEF.
ST91-9713	EXXON GAS SYSTEM, INC.	NORTHERN NATURAL GAS CO.	07-25-91	C	35,000	N	12-01-90	INDEF.
ST91-9714	TRANSCONTINENTAL GAS P/L CORP.	CONSOLIDATED EDISON CO. OF NY, INC.	07-25-91	B	17,254	N	07-01-91	INDEF.
ST91-9715	TRANSCONTINENTAL GAS P/L CORP.	MUNICIPAL GAS AUTHORITY	07-25-91	B	140,000	N	12-15-87	10-09-90

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ST91-9716	TENNESSEE GAS PIPE LINE CO.	WILLIAMS GAS MARKETING CO.	07-25-91	G-S	100,000	N	07-04-91	11-01-91
ST91-9717	GAS TRANSPORT, INC.	RIVER GAS CO., ET AL.	07-25-91	B	10,000	Y	06-25-91	INDEF.
ST91-9718	OKTEX PIPELINE CO.	LONE STAR GAS CO.	07-26-91	B	75,000	N	07-01-91	06-30-01
ST91-9719	OKTEX PIPELINE CO.	LONE STAR GAS CO.	07-26-91	B	400	N	07-01-91	06-30-01
ST91-9720	EXXON GAS SYSTEM, INC.	SABINE PIPELINE CO.	07-26-91	C	10,000	N	06-26-91	INDEF.
ST91-9721	EXXON GAS SYSTEM, INC.	SABINE PIPELINE CO.	07-26-91	C	50,000	N	06-26-91	07-01-91
ST91-9722	TRAILBLAZER PIPELINE CO.	COASTAL GAS MARKETING CO.	07-26-91	G-S	353,000	N	07-01-91	INDEF.
ST91-9723	TRAILBLAZER PIPELINE CO.	ACCESS ENERGY CORP.	07-26-91	G-S	10,000	N	07-01-91	INDEF.
ST91-9724	TRAILBLAZER PIPELINE CO.	ACCESS ENERGY CORP.	07-26-91	G-S	10,000	N	07-01-91	INDEF.
ST91-9725	TRAILBLAZER PIPELINE CO.	WESTERN GAS PROCESSORS, LTD.	07-26-91	G-S	10,000	N	07-01-91	INDEF.
ST91-9726	TRAILBLAZER PIPELINE CO.	LL & E GAS MARKETING, INC.	07-26-91	G-S	353,000	N	07-01-91	INDEF.
ST91-9727	TRAILBLAZER PIPELINE CO.	AMERICAN CENTRAL GAS COS., INC.	07-26-91	G-S	30,000	N	07-01-91	INDEF.
ST91-9728	TRAILBLAZER PIPELINE CO.	COASTAL GAS MARKETING CO.	07-26-91	G-S	353,000	N	07-01-91	INDEF.
ST91-9729	TRAILBLAZER PIPELINE CO.	COASTAL GAS MARKETING CO.	07-26-91	G-S	353,000	N	07-01-91	INDEF.
ST91-9730	TRAILBLAZER PIPELINE CO.	GASMARK, INC.	07-26-91	G-S	353,000	N	07-01-91	INDEF.
ST91-9731	TRAILBLAZER PIPELINE CO.	MIDCON MARKETING CORP.	07-26-91	G-S	353,000	N	07-01-91	INDEF.
ST91-9732	TRAILBLAZER PIPELINE CO.	AQUILA ENERGY MARKETING CORP.	07-26-91	G-S	353,000	N	07-01-91	INDEF.
ST91-9733	TRAILBLAZER PIPELINE CO.	UNIGAS ENERGY, INC.	07-26-91	G-S	50,000	N	07-01-91	INDEF.
ST91-9734	TRAILBLAZER PIPELINE CO.	K N GAS MARKETING, INC.	07-26-91	G-S	353,000	N	07-01-91	INDEF.
ST91-9735	TRAILBLAZER PIPELINE CO.	HADSON GAS SYSTEMS, INC.	07-26-91	G-S	353,000	N	07-01-91	INDEF.
ST91-9736	TRANSCONTINENTAL GAS P/L CORP.	SUPERIOR NATURAL GAS CORP.	07-26-91	G-S	50,000	N	07-10-91	11-06-91
ST91-9737	TEXAS GAS TRANSMISSION CORP.	THE EAST OHIO GAS CO.	07-26-91	B	40,000	N	07-18-91	INDEF.
ST91-9738	TEXAS GAS TRANSMISSION CORP.	CATEX ENERGY INC.	07-26-91	G-S	50,000	N	07-16-91	11-12-91
ST91-9739	PANHANDLE EASTERN PIPE LINE CO.	SEILING PUBLIC WORKS AUTHORITY	07-26-91	G-S	400	N	07-01-91	10-29-91
ST91-9740	PANHANDLE EASTERN PIPE LINE CO.	VILLAGE OF EDINBURG	07-26-91	G-S	766	N	07-01-91	10-29-91
ST91-9741	PANHANDLE EASTERN PIPE LINE CO.	CITY OF MACON	07-26-91	G-S	5,000	N	07-01-91	10-29-91
ST91-9742	PANHANDLE EASTERN PIPE LINE CO.	CITY OF FULTON	07-26-91	G-S	8,200	N	07-01-91	10-29-91
ST91-9743	PANHANDLE EASTERN PIPE LINE CO.	VILLAGE OF WESTVILLE	07-26-91	G-S	2,500	N	07-01-91	10-29-91
ST91-9744	PANHANDLE EASTERN PIPE LINE CO.	TOWN OF VICI PUB. WORKS AUTHORITY	07-26-91	G-S	414	N	07-01-91	10-29-91
ST91-9745	PANHANDLE EASTERN PIPE LINE CO.	VILLAGE OF STONINGTON	07-26-91	G-S	1,086	N	07-01-91	10-29-91
ST91-9746	PANHANDLE EASTERN PIPE LINE CO.	CITY OF CLARENCE	07-26-91	G-S	262	N	07-01-91	10-29-91
ST91-9747	PANHANDLE EASTERN PIPE LINE CO.	CITY OF MONROE	07-26-91	G-S	2,600	N	07-01-91	10-29-91
ST91-9748	PANHANDLE EASTERN PIPE LINE CO.	TOWN OF TALOGA	07-26-91	G-S	166	N	07-01-91	10-29-91
ST91-9749	PANHANDLE EASTERN PIPE LINE CO.	CITY OF PARIS	07-26-91	G-S	1,270	N	07-01-91	10-29-91
ST91-9750	PANHANDLE EASTERN PIPE LINE CO.	CITY OF MADISON	07-26-91	G-S	400	N	07-01-91	10-29-91
ST91-9751	PANHANDLE EASTERN PIPE LINE CO.	VILLAGE OF ROSSVILLE	07-26-91	G-S	990	N	07-01-91	10-29-91
ST91-9752	PANHANDLE EASTERN PIPE LINE CO.	CITY OF SHELBINA	07-26-91	G-S	1,000	N	07-01-91	10-29-91
ST91-9753	PANHANDLE EASTERN PIPE LINE CO.	CITY OF PERRY	07-26-91	G-S	419	N	07-01-91	10-29-91
ST91-9754	EXXON GAS SYSTEM, INC.	NORTHERN NATURAL GAS CO.	07-26-91	C	50,000	N	07-01-91	INDEF.
ST91-9755	EXXON GAS SYSTEM, INC.	TEXAS EASTERN TRANSMISSION CORP.	07-26-91	C	10,000	N	06-27-91	INDEF.
ST91-9756	COLUMBIA GAS TRANS. CORP.	ENERGY MARKETING SERVICES, INC.	07-26-91	G-S	46	N	07-01-91	10-29-91
ST91-9757	COLUMBIA GAS TRANSMISSION CORP.	BP GAS, INC.	07-26-91	G-S	250,880	Y	07-01-91	10-29-91
ST91-9758	COLUMBIA GAS TRANSMISSION CORP.	MANVILLE SALES CORP.	07-26-91	G-S	3,000	Y	07-01-91	10-29-91
ST91-9759	COLUMBIA GAS TRANSMISSION CORP.	COLUMBIA GAS OF PA, INC.	07-26-91	B	400	Y	07-01-91	INDEF.
ST91-9760	COLUMBIA GAS TRANSMISSION CORP.	MANVILLE SALES CORP.	07-26-91	G-S	2,500	N	07-01-91	10-29-91
ST91-9761	COLUMBIA GAS TRANSMISSION CORP.	BETHLEHEM STEEL CORP.	07-26-91	G-S	5,000	N	07-01-91	10-29-91

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ST91-9762	CAVALLO PIPELINE CO.	SEAGULL INTERSTATE CORP.	07-29-91	C	20,000	N	06-01-91	INDEF.
ST91-9763	SEAGULL INTERSTATE CORP.	CAVALLO PIPELINE CO.	07-29-91	B	20,000	N	06-01-91	INDEF.
ST91-9764	CHANNEL INDUSTRIES GAS CO.	TRANSCONTINENTAL GAS P/L CORP.	07-29-91	C	15,000	N	04-04-91	INDEF.
ST91-9765	ARKLA ENERGY RESOURCES	CIBOLA CORP.	07-29-91	G-S	100,000	N	07-01-91	10-29-91
ST91-9766	SUPERIOR OFFSHORE PIPELINE CO.	LOUISIANA GAS SYSTEM, INC.	07-29-91	G-S	1,000	N	07-01-91	10-29-91
ST91-9767	SUPERIOR OFFSHORE PIPELINE CO.	LOUISIANA GAS SYSTEM, INC.	07-29-91	B	1,000	N	07-01-91	INDEF.
ST91-9768	SUPERIOR OFFSHORE PIPELINE CO.	LINDER OIL CO.	07-29-91	G-S	13,250	N	06-22-91	10-20-91
ST91-9769	TRUNKLINE GAS CO.	NORTH CAROLINA NATURAL GAS CORP.	07-29-91	B	100,000	N	07-01-91	INDEF.
ST91-9770	TRUNKLINE GAS CO.	AMOCO PRODUCTION CO.	07-29-91	G-S	30,000	N	07-16-91	11-13-91
ST91-9771	TRUNKLINE GAS CO.	CITY OF RICHMOND, ET AL.	07-29-91	B	100,000	N	07-01-91	INDEF.
ST91-9772	TRUNKLINE GAS CO.	RELIANCE GAS MARKETING CO.	07-29-91	G-S	30,000	N	06-30-91	10-28-91
ST91-9773	TRUNKLINE GAS CO.	NORTECH ENERGY CORP.	07-29-91	G-S	15,000	N	07-01-91	10-29-91
ST91-9774	TRUNKLINE GAS CO.	ENRON GAS MARKETING, INC.	07-29-91	G-S	100,000	N	07-01-91	10-29-91
ST91-9775	TRUNKLINE GAS CO.	CNG TRADING CO.	07-29-91	G-S	140,000	N	07-01-91	10-29-91
ST91-9776	TRUNKLINE GAS CO.	COLUMBIA GAS OF KY, NC.	07-29-91	G-S	30,000	N	07-01-91	INDEF.
ST91-9777	TRUNKLINE GAS CO.	TRANSCO ENERGY MARKETING CO.	07-29-91	G-S	10,000	N	07-01-91	10-29-91
ST91-9778	TRUNKLINE GAS CO.	POLARIS PIPELINE CORP.	07-29-91	G-S	50,000	N	07-01-91	10-29-91
ST91-9779	TRUNKLINE GAS CO.	TEXACO GAS MARKETING, INC.	07-29-91	G-S	200,000	N	07-01-91	10-29-91
ST91-9780	TRUNKLINE GAS CO.	EAGLE NATURAL GAS CO.	07-29-91	G-S	1,000	N	07-04-91	11-01-91
ST91-9781	TRUNKLINE GAS CO.	V.H.C. GAS SYSTEMS, L.P.	07-29-91	G-S	200,000	N	07-03-91	10-31-91
ST91-9782	TRUNKLINE GAS CO.	V.H.C. GAS SYSTEMS, L.P.	07-29-91	G-S	200,000	N	07-03-91	10-31-91
ST91-9783	CNG TRANSMISSION CORP.	MIDCON MARKETING CORP.	07-29-91	G-S	100,000	N	07-06-91	11-03-91
ST91-9784	CNG TRANSMISSION CORP.	MIDCON MARKETING CORP.	07-29-91	G-S	100,000	N	07-06-91	11-03-91
ST91-9785	CNG TRANSMISSION CORP.	CONSOLIDATED FUEL CORP.	07-29-91	G-S	8,000	N	07-02-91	10-30-91
ST91-9786	CNG TRANSMISSION CORP.	CENTRAN CORP.	07-29-91	G-S	10,000	N	07-03-91	10-31-91
ST91-9787	CNG TRANSMISSION CORP.	CITIZEN'S GAS SUPPLY CORP.	07-29-91	G-S	25,000	N	07-01-91	10-29-91
ST91-9788	CNG TRANSMISSION CORP.	RIVER GAS CO.	07-29-91	B	200	N	07-11-91	INDEF.
ST91-9789	CNG TRANSMISSION CORP.	MIDCON MARKETING CORP.	07-29-91	G-S	100,000	N	07-06-91	11-03-91
ST91-9790	CNG TRANSMISSION CORP.	APPALACHIAN GAS SALES	07-29-91	G-S	3,500	N	07-03-91	10-31-91
ST91-9791	CNG TRANSMISSION CORP.	MIDCON MARKETING CORP.	07-29-91	G-S	100,000	N	07-06-91	11-03-91
ST91-9792	EAST TENNESSEE NATURAL GAS CO.	POWELL-CLINCH UTILITY DISTRICT	07-29-91	B	15,000	N	07-26-91	INDEF.
ST91-9793	K N ENERGY, INC.	DELHI GAS PIPELINE CORP.	07-29-91	B	75,000	N	07-01-91	INDEF.
ST91-9795	QUESTAR PIPELINE CO.	PRESIDIO GAS RESOURCES	07-29-91	G-S	25,000	N	07-01-91	10-28-91
ST91-9796	TENNESSEE GAS PIPELINE CO.	NARRAGANSETT ELECTRIC CO.	07-29-91	G-S	110,000	N	07-20-91	11-28-91
ST91-9797	TENNESSEE GAS PIPELINE CO.	EXXON CORP.	07-29-91	G-S	70,000	N	07-15-91	11-12-91
ST91-9798	TENNESSEE GAS PIPELINE CO.	FMI HYDROCARBON CO.	07-29-91	G-S	100,000	N	07-15-91	07-15-91
ST91-9799	TENNESSEE GAS PIPELINE CO.	PROCTOR AND GAMBLE PAPER PRDTS. CO.	07-29-91	G-S	30,000	N	07-15-91	11-12-91
ST91-9800	NORTHERN NATURAL GAS CO.	INTERSTATE POWER CO.	07-29-91	B	12,000	N	07-01-91	INDEF.
ST91-9801	NORTHERN NATURAL GAS CO.	WEST TEXAS GAS, INC.	07-29-91	B	1,000	N	04-02-91	INDEF.
ST91-9802	NATURAL GAS P/L CO. OF AMERICA	PANDA RESOURCES, INC.	07-29-91	G-S	100,000	N	07-01-91	10-29-91
ST91-9803	NATURAL GAS P/L CO. OF AMERICA	HADSON GAS SYSTEMS, INC.	07-29-91	G-S	100,000	N	07-01-91	10-29-91
ST91-9804	TRAILBLAZER PIPELINE CO.	IOWA ELECTRIC LIGHT & POWER CO.	07-29-91	G-S	353,000	N	07-01-91	INDEF.
ST91-9805	TRAILBLAZER PIPELINE CO.	ARCO NATURAL GAS MARKETING, INC.	07-29-91	G-S	353,000	N	07-01-91	INDEF.
ST91-9806	TRAILBLAZER PIPELINE CO.	UNIVERSAL RESOURCES CORP.	07-29-91	G-S	353,000	N	07-02-91	INDEF.
ST91-9807	TRAILBLAZER PIPELINE CO.	EASTEX HYDROCARBONS, INC.	07-29-91	G-S	100,000	N	07-01-91	INDEF.
ST91-9808	TRAILBLAZER PIPELINE CO.	PLAINS PETROLEUM OPERATING CO.	07-29-91	G-S	177,000	N	07-01-91	INDEF.

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ST91-9809	UNITED GAS PIPE LINE CO.	TEXACO GAS MARKETING INC.	07-29-91	G-S	103,000	N	07-04-91	11-01-91
ST91-9810	UNITED GAS PIPE LINE CO.	ONEOK PRODUCTS CO.	07-29-91	G-S	46,350	N	07-11-91	11-08-91
ST91-9811	UNITED GAS PIPE LINE CO.	DESOTO PIPELINE CO., INC.	07-29-91	G-S	5,150	N	07-01-91	10-29-91
ST91-9812	UNITED GAS PIPE LINE CO.	SIGCO MARKETING, INC.	07-29-91	G-S	9,810	N	07-01-91	10-29-91
ST91-9813	TRAILBLAZER PIPELINE CO.	NGC TRANSPORTATION, INC.	07-30-91	G-S	353,000	N	07-15-91	INDEF.
ST91-9814	TRAILBLAZER PIPELINE CO.	ENRON GAS MARKETING, INC.	07-30-91	G-S	353,000	N	07-01-91	INDEF.
ST91-9815	TRAILBLAZER PIPELINE CO.	MOBIL NATURAL GAS, INC.	07-30-91	G-S	353,000	N	07-01-91	INDEF.
ST91-9816	TRAILBLAZER PIPELINE CO.	ASSOCIATED NATURAL GAS, INC.	07-30-91	G-S	353,000	N	07-01-91	INDEF.
ST91-9817	TRAILBLAZER PIPELINE CO.	K N ENERGY, INC.	07-30-91	G-S	9,000	N	07-01-91	INDEF.
ST91-9818	ARKLA ENERGY RESOURCES	ARKLA ENERGY MARKETING CO.	07-30-91	G-S	100,000	Y	07-08-91	11-06-91
ST91-9819	ARKLA ENERGY RESOURCES	VESTA ENERGY CO.	07-30-91	G-S	50,000	N	07-01-91	10-29-91
ST91-9820	MICHIGAN CONSOLIDATED GAS CO.	ANR PIPELINE CO.	07-31-91	G-S	10,000	N	07-01-91	03-31-94
ST91-9821	VALERO TRANSMISSION, L.P.	NORTHERN NATURAL GAS CO.	07-31-91	C	10,000	N	07-01-91	INDEF.
ST91-9822	EAST TEXAS GAS SYSTEMS	TEXAS GAS TRANSMISSION CO.	07-31-91	C	50,000	N	07-01-91	INDEF.
ST91-9823	EAST TEXAS GAS SYSTEMS	NATURAL GAS P/L CO. OF AMERICA	07-31-91	C	100,000	N	03-01-91	INDEF.
ST91-9824	EAST TEXAS GAS SYSTEMS	TENNESSEE GAS PIPELINE CO.	07-31-91	C	100,000	N	01-23-91	INDEF.
ST91-9825	TENNESSEE GAS PIPELINE CO.	GULF STATES PIPELINE	07-31-91	B	500,000	N	07-01-91	INDEF.
ST91-9826	TENNESSEE GAS PIPELINE CO.	CORNERSTONE PRODUCTION CORP.	07-31-91	G-S	100,000	N	07-08-91	11-05-91
ST91-9827	TENNESSEE GAS PIPELINE CO.	QUIVIRA GAS CO.	07-31-91	G-S	200,120	N	07-08-91	11-05-91
ST91-9828	NATURAL GAS P/L CO. OF AMERICA	INTERNATIONAL PAPER CO.	07-31-91	G-S	5,000	N	07-01-91	10-29-91
ST91-9829	NATURAL GAS P/L CO. OF AMERICA	EQUITABLE RESOURCES MARKETING	07-31-91	G-S	100,000	N	07-01-91	10-29-91
ST91-9830	NATURAL GAS P/L CO. OF AMERICA	UNICORP ENERGY INC.	07-31-91	G-S	50,000	N	07-01-91	10-29-91
ST91-9831	NATURAL GAS P/L CO. OF AMERICA	CHEVRON USA, INC.	07-31-91	G-S	70,000	N	07-01-91	10-29-91
ST91-9832	NATURAL GAS P/L CO. OF AMERICA	OLYMPIC FUELS CO.	07-31-91	G-S	50,000	N	07-01-91	10-29-91
ST91-9833	NATURAL GAS P/L CO. OF AMERICA	V.H.C. GAS SYSTEMS, L.P.	07-31-91	G-S	200,000	N	07-01-91	10-29-91
ST91-9834	PANHANDLE EASTERN PIPE LINE CO.	CITY OF BUSHNELL	07-31-91	G-S	230,640	N	07-01-91	10-29-91
ST91-9835	PANHANDLE EASTERN PIPE LINE CO.	CITY OF WAVERLY	07-31-91	G-S	126,000	N	07-01-91	10-29-91
ST91-9836	PANHANDLE EASTERN PIPE LINE CO.	CITY OF HERMANN	07-31-91	G-S	3,100	N	07-01-91	10-29-91
ST91-9837	PANHANDLE EASTERN PIPE LINE CO.	TOWN OF HARDESTY	07-31-91	G-S	9,960	N	07-01-91	10-29-91
ST91-9838	PANHANDLE EASTERN PIPE LINE CO.	BISHOP PIPELINE CORP.	07-31-91	G-S	20,000	N	07-01-91	10-29-91
ST91-9839	PANHANDLE EASTERN PIPE LINE CO.	INDIANA GAS CO., INC.	07-31-91	B	1,040	N	07-15-91	INDEF.
ST91-9840	PANHANDLE EASTERN PIPE LINE CO.	POLARIS CORP.	07-31-91	G-S	8,500	N	06-23-91	10-23-91
ST91-9841	PANHANDLE EASTERN PIPE LINE CO.	VILLAGE OF MORTON	07-31-91	G-S	9,999	N	07-01-91	10-29-91
ST91-9842	PANHANDLE EASTERN PIPE LINE CO.	VILLAGE OF PLEASANT HILL	07-31-91	G-S	87,000	N	07-01-91	10-29-91
ST91-9843	PANHANDLE EASTERN PIPE LINE CO.	AMERICAN CENTRAL GAS MARKETING CO.	07-31-91	G-S	50,000	N	07-01-91	10-29-91
ST91-9844	PANHANDLE EASTERN PIPE LINE CO.	POLARIS CORP.	07-31-91	G-S	5,000	N	02-28-91	10-26-91
ST91-9845	TRANSWESTERN PIPELINE CO.	SID RICHARDSON CARBON & GASOLINE	07-31-91	G-S	20,000	N	07-01-91	10-29-91
ST91-9846	COLORADO INTERSTATE GAS CO.	ORYX GAS MARKETING L.P.	07-31-91	G-S	50,000	N	07-01-91	10-29-91
ST91-9847	COLORADO INTERSTATE GAS CO.	WESTERN GAS RESOURCES, INC.	07-31-91	G-S	20,000	N	07-01-91	10-29-91
ST91-9848	ANR PIPELINE CO.	BISHOP PIPELINE CORP.	07-31-91	G-S	100,000	N	07-01-91	10-28-91
ST91-9849	ANR PIPELINE CO.	TEXACO EXPLORATION & PRODUCT. INC.	07-31-91	G-S	100,000	N	07-01-91	10-28-91
ST91-9850	ANR PIPELINE CO.	MICHIGAN GAS CO.	07-31-91	B	30,845	N	07-01-91	INDEF.
ST91-9851	ANR PIPELINE CO.	CINCINNATI GAS & ELECTRIC CO.	07-31-91	B	100,000	N	07-01-91	INDEF.
ST91-9852	MICHIGAN GAS STORAGE CO.	CONSUMERS POWER CO.	07-31-91	B	35,000	Y	07-01-91	INDEF.
ST91-9853	MICHIGAN GAS STORAGE CO.	BISHOP PIPELINE CORP.	07-31-91	B	25,000	Y	06-05-91	INDEF.
ST91-9854	CONSUMERS POWER CO.	ANR PIPELINE CO.	07-31-91	G-HT	35,000	N	07-01-91	INDEF.

DOCKET NUMBER *	TRANSPORTER/SELLER	RECIPIENT	DATE FILED	PART 284 SUBPART	EST. MAX. DAILY QUANTITY **	AFFILIATED Y/N	DATE COMMENCED	PROJECTED TERMINATION DATE
ST91-9855	CONSUMERS POWER CO.	BISHOP PIPELINE CORP.	07-31-91	G-HT	25,000	N	06-05-91	INDEF.
ST91-9856	COLUMBIA GAS TRANSMISSION CORP.	BELDEN & BLAKE CORP.	07-31-91	G-S	500	N	06-22-91	11-19-91
ST91-9857	COLUMBIA GAS TRANSMISSION CORP.	SJR RESOURCES, INC.	07-31-91	G-S	100,000	Y	07-19-91	11-19-91
BELOW IS A ST-DOCKETED INITIAL REPORTS WHICH IS NOTICED OUT OF SEQUENCE. THIS INITIAL REPORT WAS NOT NOTICED PREVIOUSLY BECAUSE IT REQUIRED ADDITIONAL COMMISSION STAFF REVIEW.								
ST91-6400	EAST TEXAS GAS SYSTEMS	TEXAS GAS TRANSMISSION CO.	01-14-91	C	30,000	N	12-26-90	INDEF.

* NOTICE OF TRANSACTIONS DOES NOT CONSTITUTE A DETERMINATION THAT FILINGS COMPLY WITH COMMISSION REGULATIONS IN ACCORDANCE WITH ORDER NO. 436 (FINAL RULE AND NOTICE REQUESTING SUPPLEMENTAL COMMENTS, 50 FR 42,372, 10/10/85).

** ESTIMATED MAXIMUM DAILY VOLUMES INCLUDES VOLUMES REPORTED BY THE FILING COMPANY IN MMBTU, MCF AND DT.

[FR Doc. 91–19950 Filed 8–20–91; 8:45 am]

BILLING CODE 6717-01-C

[Docket No. TM91-9-22-000, TM91-7-22-001]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

August 15, 1991.

Take notice that CNG Transmission Corporation ("CNG"), on August 13, 1991, filed the following revised and original tariff sheets to First Revised Volume No. 1 of CNG's FERC Gas Tariff.

Fourth Revised Sheet No. 45
Fourth Revised Sheet No. 46
Substitute First Revised Sheet No. 55

The proposed effective date for these tariff sheets is September 12, 1991, August 17, 1991, and July 29, 1991, respectively.

CNG states that the purpose of its filing is to (1) comply with Ordering Paragraph (H) of the Commission's July 26, 1991, order that required CNG to adjust its allocation of costs to Corning Natural Gas Company; (2) pass through take-or-pay amounts from Texas Eastern Transmission Corporation ("Texas Eastern") that originated with Southern Natural Gas Company ("Southern"); and, (3) flow through changes in take-or-pay costs related to the small customer adjustment made by Texas Eastern as required by Ordering Paragraph (G) of the Commission's July 26, 1991, order.

CNG states that copies of the filing were served upon CNG's customers as well as interested parties.

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 Capital 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 385.211. All motions or protests should be filed on or before August 22, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken but will serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. 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. 91-19943 Filed 8-20-91; 8:45 am]

BILLING CODE 6717-01-M

Federal Energy Regulatory Commission

[Docket No. TM91-12-21-000]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

August 15, 1991.

Take notice that Columbia Gas Transmission Corporation (Columbia) on Augusut 9, 1991, tendered for filing the following proposed changes to its FERC Gas Tariff, First Revised Volume No. 1:

To Be Effective September 9, 1991

First Revised Sheet Nos. 30A07 through 30A12
First Revised Sheet Nos. 30C01 through 30C14
First Revised Sheet Nos. 30D03 through 30D17

By this filing, Columbia proposes (1) to flowthrough an increase in the refund amount due from Texas Eastern Transmission Corporation (Texas Eastern) pursuant to Texas Eastern's Docket No. RP91-72-002; (2) to flowthrough an increase in the refund amount due from Texas Eastern in its Docket No. RP91-73-002; (3) to flowthrough a refund from Texas Eastern in Docket No. RP91-75-002; (4) to flowthrough costs from Texas Eastern in Docket No. TM91-7-17-000 for the flow through of costs to it by Texas Gas Transmission Corporation (Texas Gas) in Docket No. RP91-134; (5) to refile tariff sheets pursuant to the Commission's order of July 26, 1991 in Columbia's June 28, 1991 filing in Docket Nos. RP91-41 and TM91-10-21; and (6) to correct the customer allocation factors and costs in the flowthrough of Texas Gas' Docket Nos. RP91-61 and RP91-61-003.

Columbia states that copies of the filing were served upon Columbia's jurisdictional customers, interested state commission, and upon each person designated on the official service list compiled by the Commission's Secretary in Docket Nos. RP88-187; RP89-181; RP89-214; RP89-229; TM89-3-21; TM89-4-21; TM89-5-21; TM89-7-21; RP90-26; TM90-2-21; TM90-5-21; TM90-6-21; TM90-7-21; TM90-8-21; TM90-10-21; TM90-12-21; TM90-13-21; TM91-2-21; TM91-9-21; TM91-10-21; RP91-41; RP91-90 and RP91-201.

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, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, DC 20046, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before August 22, 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-19944 Filed 8-20-91; 8:45am]

BILLING CODE 6717-01-M

[Docket No. RP91-191-001]

Northern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

August 15, 1991.

Take notice that Northern Natural Gas Company (Northern) on August 13, 1991, tendered for filing to become part of Northern's F.E.R.C. Gas Tariff, Third Revised Volume No. 1, the following tariff sheets:

Fifth Revised Sheet No. 25
Second Revised Sheet No. 25A
Second Revised Sheet No. 25B
First Revised Sheet No. 25C

Northern States that such tariff sheets are being submitted in compliance with the Commission's August 2, 1991 Letter Order in Docket No. RP91-191, which approved zone transfers related to Argus, requiring Northern to correct the pagination of its July 3, 1991 tariff filing.

Northern further states that copies of the filing have been mailed to each of its customers 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 Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before August 22, 1991. Protests will be considered by the Commission in determining the appropriate actions to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-19945 Filed 8-20-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89–629–005 and CP90–639–002]

Tennessee Gas Pipeline Co.; Petition To Amend and Amended Application

August 15, 1991.

Take notice that on August 12, 1991, Tennessee Gas Pipeline Company (Applicant), 1010 Milam Street, Houston, Texas 77002, pursuant to section 7(c) of the Natural Gas Act filed a petition to amend its certificate issued in Phase I of the Iroquois/Tennessee Project in Docket No. CP89–629–000, *et al.* and an amendment of its Phase II certificate application in Docket No. CP90–639–000, *et al.*, seeking authority (1) to provide revised Phase I transportation services, (2) to make minor facility modifications, and (3) to provide a higher delivery pressure for MASSPOWER and to collect an Incremental Pressure Charge in connection therewith, all as more fully set forth in the request, which is on file with the Commission and open to public inspection.

Applicant proposes to provide the following revised Phase I transportation services from a point of interconnection between the facilities of Tennessee and Iroquois Gas Transmission System, (Iroquois) near Wright, New York:

Shipper	Delivery points	Volumes (Dth/d)
Boston Gas Company	Danvers, MA	8,600
Colonial Gas Company	Mendon, MA; Tewksbury, MA.	6,000
Commonwealth Gas Company.	Worcester, MA; Hopkinton, MA.	4,500
Iroquois for Connecticut Natural Gas Company.	Bloomfield, CT	15,000

Applicant states that the changes in services have been requested by the shippers to reflect changes in market requirements or reallocations of entitlements to other shippers.

In addition to facility reductions, Applicant proposes to relocate a meter station at Danvers, MA in connection with the revised services and to install pulsation dampening facilities at Station 254. As a result of the requested changes, the estimated cost of the Phase II facilities would decrease by $629,540 and the estimated cost of the Phase II facilities would decrease by $1,095,000. Tennessee states that the pressure charge proposed to be collected from MASSPOWER would permit Tennessee to recover the costs of providing the higher delivery pressure requested by MASSPOWER and would ensure that other existing customers would not be affected.

Any person desiring to be heard or to make a protest with reference to Applicant's Petition to Amend and Amended Application should on or before August 26, 1991, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Lois D. Cashell,

Secretary.

[FR Doc. 91–19948 Filed 8–20–91; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 3985]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before September 20, 1991.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA (202) 382–2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: Section 114 Request for HCFC–123 Production Data (EPA ICR #1577.02; OMB #2060–0215). This ICR requests renewal of the existing clearance.

Abstract: Producers and importers of HCFC–123 and producers of insulating panels will submit a letter to the Environmental Protection Agency which: estimates how much of the chemicals will be commercially available and when; describes the uses planned for the chemicals; and describes any safety issues raised by their use. The Office of Air and Radiation will use this information to evaluate the importance and appropriateness of the use of HCFC–123 as a substitute for CFCs in rigid foam applications.

Burden Statement: The public reporting burden for this collection of information is estimated to average 3 hours per response, including time for reviewing instructions, searching existing data sources, gathering the data needed, and completing and reviewing the collection of information.

Respondents: Producers and importers of HCFC–123 and producers of insulating panels.

Estimated Number of Respondents: 15.

Estimated Total Annual Burden on Respondents: 45 hours.

Frequency of Collection: One time notification.

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street, SW., Washington, DC 20460.

and

Troy Hillier, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St., NW., Washington, DC 20530

Dated: August 15, 1991.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 91–20043 Filed 8–20–91; 8:45 am]

BILLING CODE 6560–50–M

[FRL 3986–2]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 20, 1991.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382–2740.

SUPPLEMENTARY INFORMATION:

Office of Solid Waste and Emergency Response

Title: National Oil and Hazardous Substances Pollution Contingency Plan (NCP) EPA ICR #1463.02. This ICR requests reinstatement of a previously approved collection (OMB #2050–0096) for which approval has expired.

Abstract: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), and as amended in 1986, establishes broad Federal authority to undertake removal and remedial actions in response to releases or threats of releases of hazardous substances and certain pollutants and contaminants into the environment. The NCP establishes procedures for data collection, analysis, and reporting to be conducted during remedial and removal actions at Superfund sites.

The Response Program is comprised of activities that fall into two phases: The pre-remedial phase, during which the extent of contamination at a site is assessed and those sites that represent the highest priority cleanup are identified; and the remedial phase, during which investigations are conducted to determine viable remedies for a site, a remedy is chosen and constructed, and the long-term operation and maintenance of the remedy is conducted.

This information collection addresses only the reporting and recordkeeping requirements in the remedial phase of the response program under the current NCP. Changes required by the Oil Pollution Act of 1990 will be addressed in a subsequent information collection when that rule is promulgated.

The remedial phase begins once a site plan is proposed for listing on the National Priorities List. A detailed project plan is developed, and a Remedial Investigation and Feasibility study (RI/FS) is begun. The RI/FS is a detailed site evaluation and analysis conducted to determine the alternatives to be used to clean up a site. A progress report summarizes the results, and a proposed plan is developed which identifies the preferred alternative and informs the public about how to participate in the remedy selection process. The final action is selected based on the RI/FS and public comment, and is documented in a Record of Decision (ROD). Remedial action begins following Agency signoff on the ROD.

Burden Statement: The estimated annual public reporting burden for this collection of information is 12,896 hours per affected state. This estimate includes time for conducting the Remedial Investigation/Feasibility Study, preparing the proposed plan and public comment process, preparing the Record of Decision, identifying state applicable or relevant and appropriate requirements (ARARs), the Community Relations Plan, and the maintenance of information repositories. An additional 40 hours per respondent is required for recordkeeping at the information repositories.

States are not required to take on the role of the lead agency in remedial actions, and if they do accept the lead role in a Fund-financed action, they are reimbursed by the Fund for their work.

Respondents: Any state which chooses to assume the lead in remedial activities and can ensure compliance with Federal standards at Superfund sites.

Estimated No. of Respondents: 8 states.

Estimated Total Annual Burden on Respondents: 103,488 hours.

Frequency of Collection: as needed to determine an optimal remedial action at a Superfund site.

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street, SW., Washington, DC 20460.

and

Tim Hunt; Office of Management and Budget; Office of Information and Regulatory Affairs; 725 17th Street, NW., Washington, DC 20530.

Dated: August 14, 1991.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 91–20044 Filed 8–20–91; 8:45 am]

BILLING CODE 6560–50–M

[FRL 3986–3]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requests (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the nature of the information collections and their expected cost and burden; where appropriate, they include the actual data collection instruments..

DATES: Comments must be submitted on or before September 20, 1991.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: New Source Performance Standards (NSPS) for Magnetic Tape Coating Facilities (Subpart SSS). (EP ICR #1135.04; OMB #2060–0171). This is a request for renewal of a currently approved information collection.

Abstract: These NSPS require owners or operators of magnetic tape manufacturing facilities to notify EPA or the delegated regulatory authority of construction, modification, startups, shutdowns, malfunctions, and dates and results of initial performance tests. Each affected magnetic tape coating operation must operate a monitoring device that continuously records the concentration level of organic compounds in the outlet gas streams. Owners or operators must submit to EPA or the delegated authority quarterly excess emission reports or semiannual compliance reports. The notifications and reports enable EPA or the delegated authority to determine that best demonstrated technology is installed and properly operated and maintained.

Burden Statement: The public reporting burden for this collection of information is estimated to average 29.7 hours per response for reporting, and 157.8 hours per recordkeeper annually. The estimated reporting burden includes the time needed to review instructions, search existing data sources, gather the data needed and review the collection of information.

Respondents: Owners or operators of magnetic tape manufacturing facilities.

Estimated No. of Respondents: 14.4.

Estimated No. of Responses per respondent: 4.

Estimated Total Annual Burden on Respondents: 3,982 hours.

Frequency of Collection: Once for performance tests, quarterly for excess emission reports, and semiannually for compliance reports.

Title: New Source Performance Standards (NSPS) for the Phosphate Fertilizer Industry (subparts T,U,V,W, and X). (PA ICR #1061.05; OMB #2060–0037). This is a request for renewal of a currently approved information collection.

Abstract: Owners or operators of phosphate fertilizer plants must notify EPA or the delegated regulatory authority of construction, modification, startups, shutdowns, malfunctions, and dates and results of initial performance

tests. Owners and operators must install, calibrate, and maintain monitoring devices to determine the mass flow of phosphate-bearing feed, and devices to measure and record continuously pressure drop across the scrubbers, and must keep records of the mass of phosphate bearing feed. This industry is not required to submit excess emission reports. EPA or the delegated authority reviews the records during routine inspections to ensure compliance with the standards.

Burden Statement: The reporting requirements apply only to the initial performance tests, and since no new or reconstructed sources are expected to become subject to the standards in the next three years, there is no burden projected for reporting. The public recordkeeping burden for this collection of information is estimated to average 87.5 hours per recordkeeper annually. The estimated burden includes the time needed to review instructions, search existing data sources, gather the data needed and review the collection of information.

Respondents: Owners or operators of phosphate fertilizer plants.

Estimated No. of Respondents: 11.

Estimated No. of Responses per Respondent: None.

Estimated Total Annual Burden on Respondents: 963 hours for recordkeeping only.

Frequency of Collection: Not applicable.

Send comments regarding the burden estimates, or any other aspect of the information collections, including suggestions for reducing the burdens, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street, SW., Washington, DC 20460,
and
Troy Hillier, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503.

Dated: August 15, 1991.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 91–20041 Filed 8–20–91; 8:45 am]

BILLING CODE 6560–50–M

[FRL 3986–1]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before September 20, 1991.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382–2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: Risk Characterization Report on Substitutes for Class I Ozone-Depleting Chemicals (EPA ICR #1596.01). This ICR requests approval for a new collection.

Abstract: The Environmental Protection Agency's Global Change Division is requesting producers and formulators of substitutes for Class I ozone-depleting substances (i.e., chlorofluorocarbons, halons, methyl chloroform and carbon tetrachloride) and Class II ozone-depleting substances (i.e., hydrochlorofluorocarbons) to voluntarily provide the Agency with currently available information which will be used to facilitate the timely completion of risk characterizations on these substitutes. These risk characterizations will be conducted by EPA through the remaining months in 1991 to implement the Safe Alternatives Policy under § 612 of the Clean Air Act Amendments (CAAA).

The Agency will use the results of the risk characterizations to develop an initial list of prohibited substitutes specific to a use sector; and to identify a preliminary list of corresponding acceptable substitutes. These lists will be published simultaneously with the proposed and final rules under § 612. Any substitute not reviewed by the Agency prior to promulgation will need to be submitted under the program once it becomes effective. Conducting these risk characterizations will enable the Agency to meet its statutory deadline of November 15, 1992 and to minimize any dampening effect that this section of the Clean Air Act Amendments may have on current industry efforts to phase out ozone-depleting substances.

The risk characterizations will be performed by substitute and use sector and will consider several factors, including: chlorine loadings; ozone-depletion potential; toxicity to human health and ecosystems; air, water, and solid/hazardous waste impacts; exposure to workers, consumers, the general population, and aquatic organisms; flammability; global-warming potential; and energy efficiency. Conduct of the risk characterizations will also assist the agency in developing the analytical framework for evaluating substitutes that are submitted for review under the new program.

The Agency is requesting voluntary submissions information on the following topics: (1) Name and description of the substitute, including chemical formula and structure, (2) physical and chemical information which characterize the substitute, (3) flammability, (4) human health and aquatic toxicity, (5) ozone-depletion and global-warming potential, (6) substitute use sectors, (7) anticipated market share, (8) substitute's availability and cost, (9) energy efficiency, (10) changes in technology required to use the substitute, (11) substitute's relative effectiveness, (12) environmental release data to all media, and (13) exposure data.

Burden Statement: The public reporting burden for this collection of information is estimated to average 16 hours per response, including time for searching existing data sources, gathering the data needed, and completing the collection of information.

Respondents: Producers and formulators of Class I and Class II ozone-depleting substances.

Estimated Number of Respondents: 170.

Estimated Total Annual Burden on Respondents: 2,720 hours.

Frequency of Collection: One time submission.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street, SW., Washington, DC 20460.
and
Troy Hillier, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St., NW., Washington, DC. 20530.

Dated: August 14, 1991.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 91–20042 Filed 8–20–91; 8:45 am]

BILLING CODE 6550–50–M

[OPP–00306; FRL–3937–3]

Nominations to the FIFRA Scientific Advisory Panel; Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice provides the names, addresses, professional affiliations, and selected biographical data of persons nominated to serve on the FIFRA Scientific Advisory Panel established under section 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The Panel was created on November 28, 1975, and made a statutory Panel by amendment to the FIFRA, dated October 25, 1988. Public comment on the nominations is invited, as these comments will be used to assist the Agency in selecting nominees to comprise the Panel and should be so oriented.

DATES: Comments must be postmarked not later than September 20, 1991.

ADDRESSES: By mail, submit comments to: Public Docket and Freedom of Information Section, Field Operations Division (H7506C), Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., –Washington, DC 20460. In person, bring comments to: Rm. 1128, CM#2, 1921 Jefferson Davis Highway, Arlington, VA,–(703) 557–2805.

FOR FURTHER INFORMATION CONTACT: By mail: Robert B. Jaeger, –Designated Federal Official, FIFRA Scientific Advisory Panel (H7509C), –Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 82lC, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 557–4369/2244.

SUPPLEMENTARY INFORMATION:

I. Background

Amendments to FIFRA enacted November 28, 1975, added among other things, a requirement set forth in section 25(d) that notices of intent to cancel or reclassify pesticide registrations pursuant to section 6(b)(2), as well as proposed and final forms of rulemaking pursuant to section 25(a), be submitted to a Scientific Advisory Panel prior to being made public or issued to a registrant. In accordance with section 25(d), the Scientific Advisory Panel is to have an opportunity to comment on the health and environmental impact of such actions.

II. Charter

A Charter for the FIFRA Scientific Advisory Panel has been issued (dated October 24, 1990) in accordance with the requirements of section 9(c) of the Federal Advisory Committee Act, Public Law 92–463, 86 Stat. 770 (5 U.S.C. app I). The qualifications of members as provided by the Charter follow.

A. Qualifications of Members

Members are scientists who have sufficient professional qualifications, including training and experience, to be capable of providing expert comments as to the impact on health and the environment of regulatory actions under sections 6(b) and 25(a) of FIFRA. No person shall be ineligible to serve on the Panel by reason of his membership on any other advisory committee to a Federal department or agency or his employment by a Federal department or agency (except the EPA). The Deputy Administrator appoints individuals to serve on the Panel for staggered terms of 4 years. Panel members are subject to the provisions of 40 CFR part 3, Subpart F--Standards of Conduct for Special Government Employees, which include rules regarding conflicts-of-interest. Each nominee selected by the Deputy Administrator, before being formally appointed, is required to submit a Confidential Statement of Employment and Financial Interests, which shall fully disclose, among other financial interests, the nominee's sources of research support, if any.

In accordance with section 25(d) of FIFRA, the Deputy Administrator shall require all nominees to the Panel to furnish information concerning their professional qualifications, their educational background, employment history, and scientific publications. The Agency is required to publish in the **Federal Register** the name, address, and professional affiliations of each nominee.

B. Applicability of Existing Regulations

With respect to the requirement of section 25(d) that the Administrator promulgate regulations regarding conflicts of interest, the Charter provides that EPA's existing regulations applicable to special government employees, which include advisory committee members, will apply to the members of the Scientific Advisory Panel. These regulations appear at 40 CFR part 3, subpart F. In addition, the Charter provides for open meetings with opportunities for public participation.

C. Process of Obtaining Nominees

In accordance with the provisions of section 25(d), EPA, in March 1991, requested the National Institutes of Health (NIH) and the National Science Foundation (NSF) to nominate scientists to fill three vacancies occurring on the Panel. NIH responded by letter dated April 18, 1991, enclosing a list of 12 nominees; NSF responded by letter dated May 10, 1991, with a list of 13 nominees.

III. Nominees

The following are the names, addresses, professional affiliations, and selected biographical data on nominees being considered for membership on the FIFRA Scientific Advisory Panel to fill three vacancies occurring during the calendar year 1991.

1. Marion W. Anders, Department of Pharmacology, University of Rochester School of Medicine, Rochester, NY.

Expertise: Toxicology.

Education: DVM, Iowa State University, 1960; PhD (Pharmacology), University of Minnesota, 1964.

Professional Experience: Instructor in Veterinary Physiology and Pharmacology, University of Minnesota, 1964–65; from Assistant to Associate Professor of Physiology, Biochemistry and Pharmacology, Cornell University, 1965–69; from Associate to Professor of Pharmacology, University of Minnesota, 1969–82; Professor and Chairman of Pharmacology, and Professor of Toxicology, Department of Biophysics, University of Rochester, 1982–Present.

Research: Relationship of metabolism to toxicity; analytical chemistry.

2. Miriam R. Anver, Unit Lab Animal Medicine, University of Michigan Medical School, Ann Arbor, MI.

Expertise: Veterinary Pathology.

Education: BS, University of Illinois, 1964; DVM, PhD (Veterinary Pathology), Kansas State University, 1966 and 1970, respectively.

Professional Experience: Instructor in Veterinary Pathology, Kansas State University, 1966–68; Instructor, 1972–73, Assistant Professor of Comparative Pathology, University of Michigan, 1973–Present.

Concurrent Positions: National Institutes of Health Special Fellow, Harvard University, 1971–72.

Research: Comparative and viral oncology; diseases of laboratory animals.

3. David A. Beckman, Stein Research Center, Thomas Jefferson University, Philadelphia, PA.

Expertise: Animal Toxicology.

Education: BS, MS and PhD (Physiology), University of California-Davis, 1972, 1974 and 1979, respectively.

Professional Experience: Assistant Professor of Pediatrics, Department Post-Graduate Development Biology, Thomas Jefferson University Medical College, 1981–Present.

Research: Developmental biochemistry; placental transport.

4. Harold Davis, Lt. Col, USAF, Veterinary Sciences Division, Armstrong Laboratory (AL/OEVP), Brooks Air Force Base, Texas.

Expertise: Veterinary Pathology.

Education: BS (Biology and Animal Science), DVM, Tuskegee Institute, 1972 and 1976, respectively; PhD (Pathology), University of Alabama, 1982.

Professional Experience: Chief of Veterinary Services, Edwards Air Force Base, CA, 1976–78; Instructor of Comparative Medicine, University of Alabama, 1980–81; Chief, Clinical Pathology and Ultrastructural Pathology, Naval Medical Research Institute, Bethesda, MD, 1981–84; Chief, Comparative Pathology Branch, Veterinary Sciences Division, Armstrong Laboratory, Brooks Air Force Base, TX, 1984-Present.

Research: Cardiovascular pathology (blood flow and ultrastructure); Lifetime radiation effects study in Rhesus monkeys; Pathology consultant to Southwest Foundation for Biomedical Research.

5. Elaine M. Faustman, Department of Environmental Health, University of Washington, Seattle, WA.

Expertise: Animal Toxicology.

Education: AB, Hope College, Holland, MI, 1976; PhD (Pharmacology/Toxicology), Michigan State University, 1981; Postdoctoral (Toxicology), University of Washington, 1981–83.

Professional Experience: Washington State Governor's appointee to Legislative Right-to-Know Advisory Council, 1984–Present; from Assistant to Associate Professor of Environmental Health, University of Washington, 1933–Present.

Research: Developmental toxicity of five direct acting alkylating agents in rodent embryos; Short-term tests for teratogens.

6. Richard H. Finnell, The Children's Hospital of Philadelphia, University of Pennsylvania, Philadelphia, PA.

Expertise: Animal Toxicology.

Education: BS, University of Oregon, 1975; MSc, University of British Columbia, 1978; PhD (Medical Genetics), University of Oregon Health Science Center, 1980; Postdoctoral (Developmental Neurogenetics and Embryology), Neurological Sciences Center, Portland and Universitat Zurich, Switzerland, 1980–82, respectively.

Professional Experience: From Assistant to Associate Professor of Veterinary and Comparative Anatomy, College of Veterinary Medicine, Washington State University, 1982–91; from Assistant to Associate Professor of Genetics and Cell Biology, Washington State University, 1982–91; Associate Professor of Veterinary Anatomy and Public Health, Texas A & M University Veterinary Medical College, 1991–Present; Adjunct Professor of Human Genetics and Molecular Biology, The Children's Hospital of Philadelphia, University of Pennsylvania, 1991–Present.

Research: Developmental and reproductive toxicology.

7. Bruce A. Fowler, Department of Toxicology, University of Maryland School of Medicine, Baltimore, MD.

Expertise: Toxicology.

Education: BS, University of Washington, 1968; PhD (Experimental Pathology), University of Oregon, 1972.

Professional Experience: From Staff Fellow to Senior Staff Fellow, 1972–77, Research Biologist Environmental Toxicology, 1977–80, Senior Scientist, National Institute of Environmental Health Sciences, 1980–87; Director and Professor of Pathology, University of Maryland Medical School, 1987–Present.

Concurrent Positions: Adjunct Assistant Professor of Pathology, 1974–80, Adjunct Associate Professor of Pathology, 1980–87, Adjunct Associate Professor of Toxicology Curriculum, University of NC, 1983–87.

Research: The ultrastructural/biochemical optics; x-ray diffracuon; technique for visualizing ferromagnetic domains new band systems in the absorption spectra of diatofluorides.

8. Michael R. Franklin, Department of Pharmacology and Toxicology, University of Utah, Salt Lake City, UT.

Expertise: Toxicology.

Education: BS, University of Birmingham, England, 1966; PhD (Biochemistry), University of London, England, 1969; Postdoctoral Fellow, University of Texas Southwestern Medical School, 1969–71.

Professional Experience: From Assistant to Associate Professor of Biochemical Pharmacology and Toxicology, University of Utah Colleges of Pharmacy and Medicine, 1972–81; Professor of Biochemical Pharmacology and Toxicology, University of Utah School of Medicine, 1981–Present; Adjunct Professor of Toxicology, Department of Animal, Dairy and Veterinary Sciences, Utah State University, 1985–Present.

Research: Modification of procarcinogen enzymatic activation; novel characteristics of 1-imidazole enzyme induction; early evaluation of anticonvulsant drugs; drug metabolism/distribution.

9. Robert A. Garman, Consultants in Veterinary Pathology, P.O. Box 68, Murrysville, PA.

Expertise: Veterinary Pathology.

Education: BS, Cornell University, 1963; DVM, New York State College of Veterinary Medicine, 1966; Postdoctoral, University of Rochester School of Medicine and Dentistry, 1969–71.

Professional Experience: Head, Primate Unit, NIH (Senior Assistant Veterinary Officer, U.S. Public Health Service), 1967–69; Assistant Professor in laboratory animal medicine and pathology, University of Rochester School of Medicine and Dentistry, 1973–78; from Senior Scientist to Senior Research Scientist, Bushy Run Research Center, Carnegie Mellon University and Union Carbide Chemicals and Plastics, Inc., 1978–88; Consultants in Veterinary Pathology and Clinical Instructor in Pathology, University of Pittsburgh Medical School, 1988–Present;

Research: Neuropathology; diagnostic pathology.

10. John T. Gatzy, Department of Pharmacology and Toxicology, University of North Carolina Medical School, Chapel Hill, NC.

Expertise: Toxicology.

Education: BS, Pennsylvania State University, 1958; PhD (Pharmacology), University of Rochester School of Medicine and Dentistry, 1963.

Professional Experience: From Instructor to Assistant Professor of Pharmacology, Dartmouth Medical School, 1962–73; from Director of Graduate Studies to Professor of Pharmacology and Toxicology, University of North Carolina, 1973–Present.

Research: Effects of saccharin feeding on bioelectric properties and ion transport, permeability and content of the epithelium of rat urinary bladder; HL 34322 Program Project, Pulmonary epithelia in health and disease.

11. Fletcher F. Hahn, Inhalation Toxicology Research Institute, Lovelace Biomedical & Environmental Research Institute, P. O. Box 5890, Albuquerque, NM.

Expertise: Inhalation Toxicology and Radiobiology.

Education: BS and DVM, Washington State University, 1964; PhD (Comparative Pathology), University of California–Davis, 1971.

Professional Experience: National Institute of Health Fellowship, University of California School of Veterinary Medicine, Davis, 1966–70; Experimental pathologist, 1971-Present, Pathology Group Supervisor, Lovelace Inhalation Research Institute. 1980-Present.

Concurrent Positions: Faculty Associate, Colorado State University School of Veterinary Medicine, 1984-Present; Faculty Associate, Purdue University School of Veterinary Medicine, 1986-Present; Clinical

Associate Professor, University of New Mexico College of Pharmacy, 1987-Present.

Research: Pathogenesis of early and late biological effects and dose response relationships of inhaled environmental pollutants, especially radionuclides and metals; induced and spontaneous diseases of laboratory animals.

12. Raymond D. Harbison, Division of Toxicology, School of Medicine and Science, University of Arkansas, Little, Rock, AR.

Expertise: Animal Toxicology.

Education: BS, Drake University, 1965; MS and PhD (Pharmacology), University of Iowa, 1967 and 1969, respectively.

Professional Experience: From Instructor to Assistant Professor of Pharmacology, Tulane University School of Medicine, 1969–72; from Assistant to Associate Professor of Pharmacology and Biochemistry, Vanderbilt University School of Medicine, 1972–80; Professor of Pharmacology and Interdisciplinary Toxicology, University of Arkansas School of Medicine and Science, 1980–Present.

Research: Teratology; developmental pharmacology; hazardous materials; drug metabolism; toxicology.

13. Wanda M. Haschek-Hock, Department of Veterinary Pathobiology, University of Illinois College of Veterinary Medicine, Urbana, IL.

Expertise: Veterinary Pathology.

Education: BVSc, Sydney University, Australia; PhD (Veterinary Pathology), Cornell University, 1977.

Professional Experience: From Research Associate to Research Staff Member, Oak Ridge National Laboratory, 1978–1982; Head of Toxicology and Senior Lecturer in Toxicology, National Institute of Occupational Health and Safety, Sydney, Australia, 1988–89; from Associate Professor to Professor of Veterinary Pathobiology, University of Illinois College of Veterinary Medicine, 1982–Present.

Research: Pasteurella pneumonia in swine; an in vitro model for chronic pulmonary fibrosis.

14. David W. Hayden, Department of Veterinary Pathobiology, College of Veterinary Medicine, University of Minnesota, St. Paul, MN.

Expertise: Veterinary Pathology.

Education: AAS, Paul Smith's College, NY, 1959; DVM, Cornell University, 1965; PhD (Veterinary Pathology), University of Connecticut, 1974.

Professional Experience: From Assistant to the Director to Clinical Instructor, Medical Technology, State University of New York, 1967–69; Research Assistant of Pathobiology, University of Connecticut, 1969–73; Veterinary Pathologist, Mason Research Institute, Worcester, MA 1973–76; from Associate Professor to Professor of Veterinary Pathobiology, University of Minnesota, 1976-Present.

Research: Feline insular amyloidosis and diabetes mellitus; comparative oncology; chemical and environmental toxicology and carcinogenesis; comparative gastroenterology.

15. Suzanne Kennedy-Stoskopf, North Carolina State University Pylon Research Laboratories, Raleigh, NC.

Expertise: Veterinary Pathology.

Education: BS and DVM Michigan State University, 1976; PhD (Immunology and Infectious Diseases), The Johns Hopkins University, 1985.

Professional Experience: Assistant Professor, Department of Environmental Practice, University of Tennessee, College of Veterinary Medicine and Veterinarian-In-Charge, Knoxville Zoological Park, 1978–80; Clinical Associate Veterinarian, National Aquarium in Baltimore, 1981–88; Assistant Professor, The Johns Hopkins University, Division of Comparative Medicine, 1984–89; from Adjunct Associate Professor to Visiting Associate Professor, North Carolina State University, College of Veterinary Medicine, 1990-Present.

Research: Pathogenesis of chronic viral encephalitis and arthritis in goats; Pathogenesis of ovine retroviruses; Pathogenesis of lymphadenopathy caused by visna lentivirus infection in sheep.

16. Norman W. Klein, Center for Environmental Health, University of Connecticut, Storrs, CT.

Expertise: Animal Toxicology.

Education: PhD (Nutrition), University of California, Davis, 1960; Postdoctoral, University of Connecticut, 1960–64.

Professional Experience: Assistant Professor of Biology, Marquette University, 1964–68; from Associate Professor to Professor of Animal Science, University of Connecticut, 1968– Present; Professor and Director, Center for Environmental Health, University of Connecticut, 1986-Present.

Research: Protein utilization in avian and mammalian develcping embryos; developmental toxicology.

17. Joel R. Leininger, Pathology Associates, Inc., 4915–D Prospectus Drive, Durham, NC.

Expertise: Veterinary Pathology.

Education: DVM, Iowa State University, 1972; PhD (Pathology), University of Georgia, Athens, 1976.

Professional Experience: Assistant Professor of Preventive Medicine and Environmental Health, University of Iowa College of Medicine, 1976–80; Associate Professor of Veterinary Pathobiology, University of Minnesota College of Veterinary Medicine, 1980–87; Staff Pathologist, National Toxicology Program, National Institute of Environmental Health Sciences, 1987–90; Division Director, Pathology Associates, Inc. Durham, NC, 1990-Present.

Research: Nephrotoxicity and urolith formations in canines; comparative pathology.

18. Ernest E. McConnell, 3028 Ethan Lane, Raleigh, NC.

Expertise: Veterinary Pathology.

Education: DVM, Ohio State University, 1961; MS, Michigan State University, 1966; resident in comparative pathology at the Armed Forces Institute of Pathology, 1965–67.

Professional Experience: Base Veterinarian, Hill Air Force Base, Utah, 1961–64; Veterinary Pathologist at Armed Forces Institute of Pathology, Washington, DC, 1965–72; Chief of Pathology Branch, Wright-Patterson AFB, OH, 1972–74; Veterinary Pathologist, National Institute of Environmental Health Sciences, RTP, NC, 1974–78, Chief, Chemical Pathology Branch, 1978–84, Director of Toxicology Research and Testing, 1983–88; Consultant in Toxicology and Pathology, 3028 Ethan Lane, Raleigh, 1988-Present.

Research: Pathology of toxic chemicals of environmental interest, especially halogenated hydrocarbons; spontaneous diseases of primates; asbestos; veterinary medicine.

19. Harihara Mehendale, Department of Pharmacology and Toxicology, University of Mississippi Medical Center, Jackson, MS.

Expertise: Toxicology.

Education: BS, Karnataka University, India, 1963; MS and PhD (Physiology), North Carolina State University, 1966 and 1969, respectively.

Professional Experience: Research Assistant, NC State University, 1963–69; From Assistant to Professor of Pharmacology and Toxicology, University of Mississippi Medical Center, 1975–Present, Professor and Director, Toxicology Training Program, 1982–Present, Adjunct faculty, Geriatric Education Center, 1986–Present; Professor and Burroughs Wellcome Toxicology Scholar, University of Mississippi Medical Center, 1988-Present.

Research: Mechanisms of toxicity; pulmonary and hepatic toxicology.

20. Charles A. Montgomery, Jr., Center for Comparative Medicine, Baylor College of Medicine, Houston, TX.

Expertise: Veterinary Pathology.

Education: BS and DVM, Oklahoma State University, 1961 and 1963, respectively; residency, veterinary pathology, Armed Forces Institute of Pathology, Washington, DC, 1971.

Professional Experience: Chief of Veterinary Medicine, Vietnam, 1971–72; Chief of Veterinary Pathology Department, Walter Reed Army Institute of Research, 1972–77; Head, Comparative Pathology, NIH National Cancer Institute, 1977–78; Director of Comparative Medicine, Uniformed Services University of Health Sciences, Bethesda, 1979–81; Acting Chairman of Pathology, Uniformed Services University of Health Sciences, Bethesda, MD, 1980–81; Head, Toxicologic Pathology Section, National Toxicology Programs, Research Triangle Park, NC, 1981–87; Professor and Director, Center for Comparative Medicine, Baylor College of Medicine, 1989-Present.

Research: Laboratory animal medicine, comparative pathology, development of animal models for human disease, pathology of xenografts, and design of cancer therapy experiments/models.

21. Bennie I. Osburn, Department of Veterinary Medicine--Pathology, University of California, Davis, CA.

Expertise: Veterinary Pathology.

Education: BS and DVM, Kansas State University, 1959 and 1961, respectively; PhD (Comparative Pathology), University of California, Davis, 1965.

Professional Experience: From Assistant to Associate Professor of Veterinary Pathology, Oklahoma State University College of Veterinary Medicine, 1964–68; National Institute of Child Health and Human Development Special Research Fellow, Wilmer Institute, Johns Hopkins University School of Medicine, 1968–70; Associate Professor of Veterinary Pathology, 1970–74; Professor of Pathology, University of California School of Veterinary Medicine, Davis, 1974–Present.

Research: Host responses and pathogenesis of congenital infections.

22. Philip S. Portoghese, Department of Medicinal Chemistry, University of Minnesota College of Pharmacy, Minneapolis, MN.

Expertise: Toxicology.

Education: BS, MS, Columbia University, 1953 and 1958, respectively; PhD (Pharmaceutical Chemistry), University of Wisconsin, 1961.

Professional Experience: From Assistant to Associate Professor, 1961–69, Director, Graduate Studies, 1974–86, Professor of Medicinal Chemistry and Pharmacology, College of Pharmacy, University of Minnesota, 1969-Present.

Research: Opioids and opioid antagonists, conformational and configurational analysis of drugs, design and synthesis of affinity labels as receptor probes.

23. Mary K. Reinhard, Department of Comparative Medicine, Medical University of South Carolina, Charleston, SC.

Expertise: Veterinary Pathology.

Education: BS, MS and DVM, Ohio State University, 1970, 1974 and 1978, respectively.

Professional Experience: Veterinarian, Elgin Air Force Base, 1978–81, Veterinarian, USDA-APHIS, Animal Welfare - Import Export, Chicago, 1981–82; Resident Veterinary Pathology, University of Florida, 1982–85; Postdoctoral Fellow, Laboratory Animal Medicine and Pathology, University of Alabama, 1985–88; Clinical Director of Diagnostic Services, Division of Laboratory Animal Resources, Medical University of South Carolina, 1988-Present.

Research: Aminoglycoside Nephrotoxicity - Validation of the rat as a model of human disease; infectious diseases of rodents and their impact on biomedical Research; developing in vitro alternatives to in vivo toxicity testing.

24. Carol L. Reinisch, Department of Comparative Medicine, Tufts University School of Veterinary Medicine, Boston, MA.

Expertise: Veterinary Pathology.

Education: BA, Goucher College, Towson, MD, 1966; ScD, Johns Hopkins University, 1971.

Professional Experience: Assistant Professor of Pathology, Harvard Medical School, 1977–81; Associate Professor of Comparative Medicine, Tufts University School of Veterinary Medicine, 1981–85; Professor and Chairman of Comparative Medicine, Tufts University School of Veterinary Medicine, 1983-Present.

Research: Molecular biology, autoimmune responses, immunobiology, and monoclonal antibody application in infectious diseases.

25. Thomas W. Sadler, Department of Cell Biology and Anatomy, University of North Carolina School of Medicine, Chapel Hill, NC.

Expertise: Animal Toxicology.

Education: BS, Wake Forest University, NC, 1971; PhD, University of Virginia, 1975; Postdoctoral, University of Virginia School of Medicine, 1975–76.

Professional Experience: Assistant Professor of Anatomy, Charlottesville School of Medicine, 1976–79; Associate Professor of Anatomy, University of Cincinnati College of Medicine, 1979–82; from Associate to Professor of Cell Biology and Anatomy, University of North Carolina School of Medicine, 1982-Present.

Research: Mechanisms of diabetes induced congenital malformations; site specific malformations in the mouse embryo; the hormonal control of fetal growth; developmental toxicology.

Dated: August 13, 1991.

Linda J. Fisher,

Assistant Administrator for Pesticides and Toxic Substances.

[FR DOC. 91–19898 Filed 8–20–91; 8:45 am]

BILLING CODE 6560–50–F

[FRL–3986–5]

Underground Injection Control Program; Hazardous Waste Disposal Injection Restrictions; Petition for Exemption—Class I Hazardous Waste Injection; E.I. du Pont de Nemours & Co., Inc., Beaumont, TX

AGENCY: Environmental Protection Agency.

ACTION: Notice of final decision on petition modification.

SUMMARY: Notice is hereby given that a modification of an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act has been granted to E.I. du Pont de Nemours & Co., Inc., for the Class I injection wells located at Beaumont, Texas. The modification increases the range of specific gravity of the injected wastestream from 1.02–1.075 to 1.00–1.075.

As required by 40 CFR part 148, the company has adequately demonstrated to the satisfaction of the Environmental Protection Agency by petition and supporting documentation that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the underground injection by E.I. du Pont de Nemours & Co., Inc., of the specific restricted hazardous waste identified in the modified petition, into the Class I hazardous waste injection wells at the Beaumont, Texas facility specifically identified in this petition, for as long as the basis for granting an approval of this petition remains valid, under provisions of 40 CFR 148.24. As required by 40 CFR 124.10, a public notice was issued June 12, 1991. The public comment period ended on July 26, 1991. This decision constitutes final Agency action and there is no Administrative appeal.

DATES: This action is effective as of August 14, 1991.

ADDRESSES: Copies of the modified petition and all pertinent information relating thereto are on file at the following location: Environmental Protection Agency, Region 6, Water Management Division, Water Supply Branch (6W–SU), 1445 Ross Avenue, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Oscar Cabra, Jr., Chief Water Supply Branch, EPA—Region 6, telephone (214) 655–7110, (FTS) 255–7110.

Kenton Kirkpatrick,

Acting Director, Water Management Division (6W).

[FR Doc. 91–20040 Filed 8–20–91; 8:45 am]

BILLING CODE 6560–50–M

[FRL 3986–7]

Technology Innovation and Economics Committee of the National Advisory Council for Environmental Policy and Technology (NACEPT); Open Meeting

Under Public Law 92463 (The Federal Advisory Committee Act), EPA gives notice of the first meeting of the Industrial Pollution Prevention Focus Group of the Technology Innovation and Economics (TIE) Committee. The TIE Committee is a standing committee of the National Advisory Council for Environmental Policy and Technology (NACEPT), and advisory committee to the Administrator of the EPA. The meeting will convene September 11, 1991 from 8:30 a.m. to 5 p.m. at the Omni Shoreham, 2500 Calvert Street, NW., Washington, DC 20008.

The Industrial Pollution Prevention Focus Group is examining methods by which pollution prevention can be encouraged through effluent guidelines. The TIE Committee believes that among the most important barriers to the implementation of pollution prevention concepts and programs are disincentives inadvertently built into the standard setting process, including the effluent guidelines and the process for developing new effluent guidelines. The Focus Group seeks to involve industry, academia, environmental groups, and all levels of government in the incorporation of pollution prevention into the Agency's Office of Water effluent guidelines decision making process and into the effort to spread the pollution prevention ethic.

The Focus Group will act as an "Ongoing Forum" for the Industrial Pollution Prevention Project and will review the products of at least the following projects for the Agency:

- Re-engineer the effluent guidelines process.
- Examine the use of technology transfer in the effluent guidelines program.
- Examine how to influence consumer behavior.
- Product labeling as a tool to influence industrial and consumer behavior.
- Industry awards as mechanisms to encourage the use pollution prevention approaches to environmental management.

The September 11 meeting will be open to the public. Written comments will be received and reviewed by the Focus Group. Additional information may be obtained from David R. Berg or Morris Altschuler at the above address, by calling 202–382–3153, or by written request sent by fax 202–245–3882.

Dated: August 9, 1991.

Robert Hardaker,

NACEPT Designated Federal Official.

[FR Doc. 91–20039–Filed 8–20–91; 8:45 am]

BILLING CODE 6560–50–M

[OPP–50703; FRL–3938–4]

Receipt of Notifications of Intent to Conduct Small-Scale Field Testing; Genetically Altered Microbial Pesticide and Nonindigenous Microbial Pesticide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's receipt of two notifications of intent to conduct small-scale field testing of a transconjugate strain of *Bacillus thuringiensis* and a nonindigenous strain of *Bacillus thuringiensis* from the Ciba-Geigy Corporation.

DATES: Written comments must be received on or before September 4, 1991.

ADDRESSES: By mail, submit written comments to: Public Docket and Freedom of Information Section, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 246, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment(s) concerning this Notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Information on the proposed test and all written comments will be available for public inspection in rm. 246 at the Virginia address given above from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Phil Hutton, Product Manager (PM) 17, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 207, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–2690).

SUPPLEMENTARY INFORMATION: Two notifications of intent to conduct small-scale field testing pursuant to the EPA's "Statement of Policy; Microbial Products Subject to the Federal Insecticide, Fungicide, and Rodenticide Act and the Toxic Substances Control Act" of June 26, 1986 (51 FR 23313), have been received from the Ciba-Geigy Corporation of Greensboro, North Carolina. The purpose of the proposed testing is to evaluate the efficacy of the transconjugate *Bacillus thuringiensis* strain and the nonindigenous *Bacillus thuringiensis* strain. The field tests for the transconjugate strain are to take place in California, Colorado, Florida, Illinois, Iowa, Louisiana, Michigan, Mississippi, Nebraska, New Jersey, New York, North Carolina, Oregon, Pennsylvania, Tennessee, Texas, Virginia, and Wisconsin for a combined acreage of 0.83 acre. The commodities to be tested for the transconjugate strain are alfalfa, corn, cotton, deciduous fruits, ornamentals, and vegetables. The field tests for the nonindigenous strain are to take place in California, Florida, Mississippi, and Texas for a combined acreage of 0.85 acre. The commodities to be tested for the nonindigenous strain are field crops, ornamentals, and vegetables. Following the review of the Ciba-Geigy Corporation application and any comments received in response to this Notice, EPA will decide whether or not an experimental use permit is required.

Dated: August 6, 1991.

Stephanie R. Irene,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 91–19902 Filed 8–20–91; 8:45 am]

BILLING CODE 6560–50–F

[OPP-30303B; FRL-3936-3]

Mycogen Corp.; Approval of a Pesticide Product Registration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of an application submitted by Mycogen Corp., to conditionally register the pesticide product MYX 1806 Bioinsecticide containing a new active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(7) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: Phil Hutton, Product Manager (PM) 17, Registration Division (H7505C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 207, CM #2, Environmental Protection Agency, 1921 Jefferson Davis Hwy, Arlington, VA 22202, (703-557-2690).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of March 14, 1990 (55 FR 9503), which announced that Mycogen Corp., 5451 Oberlin Drive, San Diego, CA 92121, had submitted an application to register the pesticide product MYX 1806 (EPA File Symbol 53219–E), containing the active ingredient delta endotoxin of *Bacillus thuringiensis* variety *san diego* at 08 percent; an active ingredient not included in any previously registered product.

The application was approved on June 27, 1991, for general use for the product MYX 1806 Bioinsecticide for control of larvae of Colorado potato beetle, elm leaf beetle, and other selected leaf beetles. The active ingredient for this product was amended to read "delta endotoxin of *Bacillus thuringiensis* variety *san diego* encapsulated in killed *Pseudomonas fluorescens*," and was assigned EPA Registration Number 53219–2.

A conditional registration may be granted under section 3(c)(7)(C) of FIFRA for a new active ingredient where certain data are lacking, on condition that such data are received by the end of the conditional registration period and do not meet or exceed the risk criteria set forth in 40 CFR 154.7; that use of the pesticide during the conditional registration period will not cause unreasonable adverse effects; and that use of the pesticide is in the public interest.

The Agency has considered the available data on the risks associated with the proposed use of delta endotoxin of *Bacillus thuringiensis* variety *san diego* encapsulated in killed *Pseudomonas fluorescens*, and information on social, economic, and environmental benefits to be derived from such 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 and safety determinations which show that use of delta endotoxin of *Bacillus thuringiensis* variety *san diego* encapsulated in killed *Pseudomonas fluorescens*, during the period of conditional registration will not cause any unreasonable adverse effect on the environment, and that use of the pesticide is, in the public interest.

However, since this conditional registration expires on July 30, 1992, all required studies must be submitted to the Agency before January 30, 1992.

Consistent with section 3(c)(7)(C), the Agency has determined that this conditional registration is in the public interest. Use of the pesticides are of significance to the user community, and appropriate labeling, use directions, and other measures have been taken to ensure that use of the pesticides will not result in unreasonable adverse effects to man and the environment.

More detailed information on this conditional registration is contained in a Chemical Fact Sheet on delta endotoxin of *Bacillus thuringiensis* variety *san diego* encapsulated in killed *Pseudomonas fluorescens*.

A copy of the 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: July 25, 1991.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 91–19754 Filed 8–20–91; 8:45 am]

BILLING CODE 6560–50–F

[OPP-50731; FRL-3938-6]

Receipt of Notification of Intent to Conduct Small-Scale Field Testing; Nonindigenous Microbial Pesticide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's receipt of three notifications of intent to conduct small-scale field testing of three nonindigenous strains of *Bacillus thuringiensis* from Novo Nordisk A/S of Denmark.

DATES: Written comments must be received on or before September 4, 1991.

ADDRESSES: By mail, submit written comments to: Public Docket and Freedom of Information Section, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 246, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment(s) concerning this Notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Information on the proposed test and all written comments will be available for public inspection in rm. 246 at the Virginia address given above from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Phil Hutton, Product Manager (PM) 17, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm 207,

CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–2690).

SUPPLEMENTARY INFORMATION: Three notifications of intent to conduct small-scale field testing pursuant to the EPA's "Statement of Policy; Microbial Products Subject to the Federal Insecticide, Fungicide, and Rodenticide Act and the Toxic Substances Control Act" of June 26, 1986 (51 FR 23313), have been received from Novo Nordisk A/S of Denmark. The purpose of the proposed testing is to evaluate the efficacy of the three nonindigenous *Bacillus thuringiensis* strains. The field tests are to take place in California, Louisiana, and Texas for a combined aceage of 1.5 acres per *Bacillus thuringiensis* strain. The commodities to be tested are alfalfa, cabbage, cole, lettuce, sorghum, sugar beets, sweet corn, and tomatoes. Following the review of the application and any comments received in response to this Notice, EPA will decide whether or not an experimental use permit is required.

Dated: August 6, 1991.

Stephanie R. Irene,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 91–19901 Filed 8–20–91; 8:45 am]

BILLING CODE 6560–50–F

[OPP–50732; FRL–3940–1]

Receipt of Notification of Intent to Conduct Small-Scale Field Testing; Chemically Modified and Nonindigenous Microbial Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received from the University of Arizona, notifications of intent to conduct small-scale field testing of a genetically modified strain of pepper mottle virus on peppers and a nonindigenous strain of zucchini yellow mosaic virus on squash and cantaloupes in Arizona.

DATES: Comments must be received on or before September 4, 1991.

ADDRESSES: By mail, submit written comments to: Public Docket and Freedom of Information Section, Field Operations Division (H-7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 246, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Information submitted and any comment(s) concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment(s) that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Information on the proposed test and any written comments will be available for public inspection in rm. 246 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Susan T. Lewis, Product Manager (PM–21), Registration Division (H-7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 227, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703)-557-1900.

SUPPLEMENTARY INFORMATION: Notifications of intent to conduct small-scale field testing pursuant to the EPA's "Statement of Policy; Microbial Products Subject to the Federal Insecticide, Fungicide, and Rodenticide Act and the Toxic Substances Control Act" of June 26, 1986 (51 FR 23313), were received on July 3, 1991, from the University of Arizona, Tuscon, Arizona. The purpose of the proposed testing is to evaluate the efficacy of: (1) A mild strain of pepper mottle virus (nitrous acid mutant) for the prevention of infection of pepper plants by severe strains of the virus through cross-protection, and (2) a mild strain of zucchini yellow mosaic virus (nonindigenous) isolated from infected cantaloupe in France for cross-protection of cantaloupe and squash against severe strains of this virus. The proposed field testing would be conducted in two areas in the State of Arizona on an area of less than 0.5 acre for each virus.

Dated: August 9, 1991.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 91–19897 Filed 8–20–91; 8:45 am]

BILLING CODE 6560–50–F

[OPP–34016; FRL 3934–3]

Availability of Pesticide Reregistration Eligibility Document for Warfarin and its Sodium Salt

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability for public comment period.

SUMMARY: This Notice announces the availability of the final Reregistration Eligibility Document (RED) for Warfarin and its Sodium Salt and the establishment of a public comment period. The RED is the Agency's formal regulatory assessment of the health and environmental data base for warfarin and its sodium salt and presents the Agency's determination regarding which uses of Warfarin and its sodium salt are eligible for reregistration.

DATES: Written comments on the Warfarin RED must be submitted by October 21, 1991.

ADDRESSES: Three copies of comments identified with the docket number listed in this Notice should be submitted to: By mail: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 1128, CM # 2, 1921 Jefferson Davis Highway, Arlington, VA. To request a copy of the RED or a RED Fact Sheet for warfarin and its sodium salt, contact the Public Response and Program Resources Branch, in room 1128 at the address given above (703) 557–2805. Requests should be submitted in time to allow sufficient time for receipt before the close of the comment period.

Information submitted as a comment in response to this Notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public docket. Information not marked confidential will be included in the public docket without prior notice. The public docket and docket index will be available for public inspection in rm. 1128 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Herman T. Toma at 703–308–8055. To request a copy of the RED or a RED Fact Sheet for Warfarin and its sodium salt, contact the Public Response and Program Resources Branch, in rm. 1128 at the address given above (703–557–2805). Requests should be submitted in time to allow sufficient time for receipt before the close of the comment period.

SUPPLEMENTARY INFORMATION: EPA has issued a final Reregistration Eligibility Document for Warfarin and its Sodium Salt. Under the provisions of the Federal Insecticide, Fungicide and Rodenticide Act, as amended in 1988, EPA is conducting an accelerated reregistration program to reevaluate most existing pesticides to make sure they meet current scientific and regulatory standards. Warfarin and its sodium salt have substantially complete data bases and the Agency has determined that the registered uses do not cause unreasonable adverse effects to people or the environment. All registered uses of warfarin and its sodium salt are eligible for reregistration. However, the Agency is requiring additional generic fish and aquatic invertebrate data on the sodium salt for confirmatory purposes. Because the sodium salt product is used only in and around buildings, the Agency believes there is limited possibility for aquatic organism exposure, and the sodium salt can be reregistered at this time. These additional data will enable the Agency to conduct a complete risk assessment of the sodium salt. The Agency has also called in product specific acute toxicology, chemistry and efficacy data. All registrants of warfarin and its sodium salt have been sent the RED and must respond to the labeling requirements within 8 months of receipt. The 60–day public comment period does not affect the registrant's response due date.

The Agency's rationale for issuing the Warfarin and its Sodium Salt RED as a final document with a 60–day comment period is based on the Agency's experience with Registration Standards and comments received from the public at a reregistration workshop sponsored by the Agency in September 1990. Most of the participants at the September 1990 workshop, which included several hundred registrants, state and federal agency representatives and public interest groups, expressed a desire to have an opportunity to comment on a draft RED prior to the Agency issuing the document in final. Most comments were from affected registrants and involved clarification of data requirements and/or questions about the appropriateness of certain data and or labeling changes; public comments on Registration Standards were limited. The Agency believes registrants will have ample opportunity to raise issues with the Agency prior to the due date of their response or in the response itself. Although the Agency is issuing the Warfarin and its Sodium Salt RED in final, it believes that the establishment of a 60–day comment period will provide sufficient opportunity for public input and allow a mechanism for any subsequent necessary amendments to the RED. The Agency believes this approach is necessary in order to reduce the time required to complete the regulatory assessment and issue RED's for all affected pesticides and meet the Congressionally mandated time frames for completion of the reregistration program.

The docket number for Warfarin and its Sodium Salt RED is "OPP–34016". Technical questions concerning the RED should be directed to Herman T. Toma at the telephone number listed earlier under **FOR FURTHER INFORMATION CONTACT.**

Dated: August 7, 1991.

Peter Caulkin,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 91–19661 Filed 8–20–91; 8:45 am]
BILLING CODE 6560–50–F

[OPTS–51768; FRL 3942–7]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of 29 such PMNs and provides a summary of each.

DATES: Close of review periods:

P 91–1200, October 8, 1991.
P 91–1229, October 16, 1991.
P 91–1230, October 13, 1991.
P 91–1242, October 16, 1991.
P 91–1275, October 27, 1991.

P 91–1276, 91–1277, 91–1278, 91–1279, 91–1280, 91–1281, 91–1282, 91–1283, October 29, 1991.

P 91–1284, 91–1285, 91–1286, 91–1287, 91–1288, 91–1289, 91–1290, November 2, 1991.

P 91–1291, 91–1292, 91–1293, 91–1294, 91–1295, 91–1296, November 3, 1991.

P 91–1297, 91–1298, 91–1299, November 6, 1991.

Written comments by:

P 91–1200, September 8, 1991.
P 91–1229, September 16, 1991.
P 91–1230, September 13, 1991.
P 91–1242, September 16, 1991.
P 91–1275, September 27, 1991.

P 91–1276, 91–1277, 91–1278, 91–1279, 91–1280, 91–1281, 91–1282, 91–1283, September 29, 1991.

P 91–1284, 91–1285, 91–1286, 91–1287, 91–1288, 91–1289, 91–1290, October 3, 1991.

P 91–1291, 91–1292, 91–1293, 91–1294, 91–1295, 91–1296, October 4, 1991.

P 91–1297, 91–1298, 91–1299, October 7, 1991.

ADDRESSES: Written comments, identified by the document control number "(OPTS–51768)" and the specific PMN number should be sent to: Document Processing Center (TS–790), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., rm. L–100, Washington, DC, 20460, (202) 382–3532.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS–799), Office of Toxic Substances, Environmental Protection Agency, rm. EB–44, 401 M St., SW., Washington, DC 20460 (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office NE–G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

P 91–1200

Manufacturer. Pratt & Lambert.

Chemical. (G) Amine-acrylate micheal adduct.

Use/Production. (G) Component of industrial coating. Prod. range: Confidential.

P 91–1229

Importer. Polyester Corporation.

Chemical. (S) Sunflower oil fatty acids.

Use/Import. (S) Manufacture of alkyd resins. Import range: 300,000–1,000,000 kg/yr.

P 91–1230

Manufacturer. Confidential.

Chemical. (G) Polyurethane elastomer.

Use/Production. (G) ESD alloying agent/ESD coating. Prod. range: Confidential.

P 91-1242

Importer. Kutaray International Corporation.

Chemical. (S) Hexandioic acid, polymer with 2-methyl-1,8-octanediol and 1,9-nonanediol.

Use/Import. (S) Component of polyurethane. Import range: 10,000–1,000,000 kg/yr.

P 91-1275

Manufacturer. Moore Business Forms, Inc.

Chemical. (G) Polyamide.

Use/Production. (S) Carbonless paper coating. Prod. range: 200,034 kg/yr.

P 91-1276

Manufacturer. Confidential.

Chemical. (G) Unsaturated polyester.

Use/Production. (G) On-site maintenance. Prod. range: Confidential.

P 91-1277

Manufacturer. Confidential.

Chemical. (G) Polyamide graft copolymer.

Use/Production. (S) Molding resin. Prod. range: Confidential.

P 91-1278

Importer. Confidential.

Chemical. (G) Copper arsenic.

Use/Import. (G) Intermediate. Import range: Confidential.

P 91-1279

Manufacturer. Rohm and Haas Company.

Chemical. (G) Modified acrylic polymers A-A4.

Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 5,000 mg/kg species (rabbit). Eye irritation: moderate species (rabbit). Skin irritation: slight species (rabbit).

P 91-1280

Manufacturer. Rohm Haas Company.

Chemical. (G) Modified acrylic polymers A-A4.

Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 5,000 mg/kg species (rabbit). Eye irritation: moderate species (rabbit). Skin irritation: slight species (rabbit).

P 91-1281

Manufacturer. Rohm and Haas Company.

Chemical. (G) Modified acrylic polymers A-A4.

Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 5,000 mg/kg species (rabbit). Eye irritation: moderate species (rabbit). Skin irritation: slight species (rabbit).

P 91-1282

Manufacturer. Rohm and Haas Company.

Chemical. (G) Modified acrylic polymers A-A4.

Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 5,000 mg/kg species (rabbit). Eye irritation: moderate species (rabbit). Skin irritation: slight species (rabbit).

P 91-1283

Manufacturer. Rohm and Haas Company.

Chemical. (G) Modified acrylic polymers A-A4.

Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 5,000 mg/kg species (rabbit). Eye irritation: moderate species (rabbit). Skin irritation: slight species (rabbit).

P 91-1284

Manufacturer. King Industries, Inc.

Chemical. (G) Aromatic sulfonic acid, compound with amine.

Use/Production. (G) Coatings addition. Prod. range: Confidential.

P 91-1285

Importer. Confidential.

Chemical. (G) Hydroxyl functional acrylic.

Use/Import. (G) Coating. Import range: Confidential.

P 91-1286

Manufacturer. Confidential.

Chemical. (G) Rosin ester, amine salt.

Use/Production. (G) Printing ink resin. Prod. range: Confidential.

P 91-1287

Manufacturer. Confidential.

Chemical. (G) Silicone-imide block copolymer.

Use/Production. (G) Electronics. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 7,000 mg/kg species (rat). Acute dermal toxicity: LD50 8,000 mg/kg species (rabbit). Eye irritation: moderate species (rabbit). Skin irritation: strong species (rabbit).

P 91-1288

Manufacturer. Huls America Inc.

Chemical. (G) Racted product of aryland alkyl dicarboxylic acids, and alkane diols with isocyanate cycloalkyl urethane.

Use/Production. (G) Curable polymer. Prod. range: Confidential.

P 91-1289

Manufacturer. Confidential.

Chemical. (G) Monoazo pigment.

Use/Production. (G) Colorant. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Skin irritation: slight species (rabbit).

P 91-1290

Manufacturer. Rohm and Haas Company.

Chemical. (G) Methyl methacrylate butadiene styrene (MBS) copolymer.

Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 91-1291

Manufacturer. Confidential.

Chemical. (G) Polysulfide acrylate.

Use/Production. (G) Accelerator for polymer. Prod. range: Confidential.

P 91-1292

Manufacturer. Hoechst Celanese Corporation.

Chemical. (G) Trisubstituted naphthalene sulfonic acid.

Use/Production. (G) Fiber reaction dyestuff. Prod. range: 12,000–25,000 kg/yr.

P 91-1293

Manufacturer. Confidential.

Chemical. (G) Urethane alkyd resin.

Use/Production. (S) Resin for durable air-dry exterior coatings. Prod. range: Confidential.

P 91-1294

Importer. E.I. du Pont de Nemours & Co.

Chemical. (G) Acrylate/anhydride copolymer.

Use/Import. (G) Destructive-polymer precursor. Import range: Confidential.

P 91-1295

Manufacturer. E.I. du Pont de Nemours and Co.

Chemical. (G) Amido acid/anhydroxy copolymer.

Use/Production. (G) Polymer for film. Prod. range: Confidential.

P 91-1296

Manufacturer. Confidential.

Chemical. (G) Monoester of 2-propenoic acid, 2-hydroxyethyl ester and aliphatic isocyanate.

Use/Production. (S) Coating for electronics industry. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (rat). Acute dermal toxicity: LD50 > 2 g/kg species (rabbit). Eye irritation: none species (rabbit). Skin irritation: moderate species (rabbit).

P 91-1297

Manufacturer. Donlar Corporation.

Chemical. (S) Potassium salt of polyaspartic acid.

Use/Production. (S) Anti-redeposition agent in detergent. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (rat).

P 91-1298

Manufacturer. Donlar Corporation.

Chemical. (S) Ammonium salt of polyaspartic acid.

Use/Production. (S) Anti-redeposition agent in detergent. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (rat).

P 91-1299

Manufacturer. Donlar Corporation.

Chemical. (S) Polyaspartic acid.

Use/Production. (S) Anti-redeposition agent in detergent. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (rat).

Dated: August 16, 1991.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 91-20046, Filed 8-20-91; 8:45am]

BILLING CODE 6560-50-F

[OPTS-59301; FRL 3942-5]

Toxic and Hazardous Substances; Test Market Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substance Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt are discussed in EPA's final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice, issued under section 5(h)(6) of TSCA, announces receipt of 2 applications for exemption, provides a summary, and requests comments on the appropriateness of granting these exemptions.

DATES: *Written comments by:*

T 91-24, 91-25, September 4, 1991.

ADDRESSES: Written comments, identified by the document control number "(OPTS-59301)" and the specific TME number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., rm. L-100, Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, rm. EB-44, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer of the TME received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office NE-G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

T 91-24

Close of Review Period. September 18, 1991.

Importer. Confidential.

Chemical. (G) Polyisobutylene amine (PIBA).

Use/Import. (G) Gasoline additive. Import range: Confidential.

T 91-25

Close of Review Period. September 18, 1991.

Manufacturer. Confidential.

Chemical. (G) Cationic aqueous polyurethane dispersion.

Use/Production. (S) Leather treatment. Prod. range: 15,000-64,000 kg/yr.

Dated: August 15, 1991.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 91-20048 Filed 8-20-91 8:45 am]

BILLING CODE 6560-50-F

[OPTS-59912; FRL 3942-4]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 12 such PMN(s) and provides a summary of each.

DATES: Close of review periods:

Y 91-145, June 1, 1991.

Y 91-188, August 19, 1991.

Y 91-189, 91-190, August 20, 1991.

Y 91-192, 91-193, 91-194, 91-195, 91-196, 91-197, 91-198, August 21, 1991.

Y 91-199, August 27, 1991.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, rm. E-545, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office, NE-G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

Y 91-145

Manufacturer. Confidential.

Chemical. (G) Hydroxy functional acrylic polymer.

Use/Production. (S) Coatings. Prod. range: Confidential.

Y 91-188

Importer. Confidential.

Chemical. (G) Aliphatic-aromatic polyurethane.
Use/Import. (G) Industrial adhesive. Import range: Confidential.

Y 91-189

Importer. Confidential.
Chemical. (G) Styrenated acrylic copolymer.
Use/Import. (G) Paint. Import range: Confidential.

Y 91-190

Importer. Confidential.
Chemical. (G) Styrenated acrylic copolymer.
Use/Import. (G) Paint. Import range: Confidential.

Y 91-192

Importer. S. C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic polymer.
Use/Import. (G) Open, nondispersive use. Import range: Confidential.

Y 91-193

Importer. S. C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic polymer.
Use/Import. (G) Open, nondispersive use. Import range: Confidential.

Y 91-194

Importer. S. C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic polymer.
Use/Import. (G) Open, nondispersive use. Import range: Confidential.

Y 91-195

Importer. S. C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic polymer.
Use/Import. (G) Open, nondispersive use. Import range: Confidential.

Y 91-196

Importer. S. C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic polymer.
Use/Import. (G) Open, nondispersive use. Import range: Confidential.

Y 91-197

Importer. S. C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic polymer.
Use/Import. (G) Open, nondispersive use. Import range: Confidential.

Y 91-198

Importer. S. C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic polymer.
Use/Import. (G) Open, nondispersive use. Import range: Confidential.

Y 91-199

Manufacturer. PPG Industries, Inc.
Chemical. (G) Silicones and silicones, dimethyl, methyl alkyl.
Use/Production. (G) Siloxanes and silicone, dimethyl methyl alkyl. Prod. range: Confidential.

Dated: August 15, 1991.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 91-20049 Filed 8-20-91; 8:45 am]
BILLING CODE 6560-50-F

FEDERAL MARITIME COMMISSION

Thompson Shipping Co., Ltd., et al.; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 217-011343.

Title: Thompson Shipping Co. Ltd./ Cayman Islands Shipping Ltd. Space Charter Agreement.

Parties:

Thompson Shipping Co. Ltd.,
Cayman Islands Shipping Ltd.

Synopsis: The proposed Agreement would permit Cayman Islands Shipping Ltd. to charter space from Thompson Shipping Co. Ltd. in the trade from Tampa, Flordia to Cayman Islands, B.W.I.

Dated: August 15, 1991.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 91-19951 Filed 8-20-91; 8:45 am]
BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 88N-0394]

Generic Animal Drug and Patent Term Restoration Act; Eighth Policy Letter; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of an eighth policy letter, dated July 23, 1991, concerning implementation of the Generic Animal Drug and Patent Term Restoration Act (GADPTRA). The letter states the Center for Veterinary Medicine's (CVM'S) policy on generic copying of certain pre-1962 drug products which were reviewed for effectiveness under the National Academy of Sciences/ National Research Council, Drug Efficacy Study Implementation (NAS/ NRC DESI) program. The agency is soliciting comments on the letter.

DATES: Written comments may be submitted at any time regarding this or previous policy letters or implementation of GADPTRA in general.

ADDRESSES: Submit written requests for single copies of the eighth policy letter to the Industry Information Staff (HFV-12), Center for Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send two self-addressed adhesive labels to assist that office in processing your request. Submit written comments on the letter to the Dockets Management Branch (HFA-305), Food and Drug Administration, Park Bldg., rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857. Requests and comments should be identified with docket number found in brackets in the heading of this document. The policy letter and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV-102), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8623.

SUPPLEMENTARY INFORMATION: On November 16, 1988, the President signed

GADPTRA into law (Pub. L. 100–670, 102 Stat. 3971). GADPTRA amends the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 *et seq.*) by extending the generic approval system to copies of new animal drugs that were approved after October 10, 1962, and provides patent extension of certain animal drugs.

FDA has published notices of availability for seven policy letters concerning implementation of GADPTRA. See the **Federal Register** of June 18, 1990 (55 FR 24645) for a list of the publication dates and topics of the first five letters. In the **Federal Register** of October 31, 1990 (55 FR 45860), FDA published a notice of availability of the sixth letter dated October 17, 1990. In the **Federal Register** of April 15, 1991 (56 FR 15083), FDA published a notice of availability of the seventh policy letter dated March 20, 1991.

FDA is now announcing the availability of an eighth policy letter dated July 23, 1991. The letter announces that CVM will not permit generic copying of certain new animal drugs that were: (1) Approved before October 10, 1962, (2) reviewed under the NAS/NRC DESI program, (3) found to be less than effective, and (4) not supported by supplemental new animal drug applications to bring the drugs into full compliance with the DESI requirements (i.e., "DESI-finalize"). The letter also discusses how and why CVM is removing the nonfinalized drugs from the list of drugs that have been approved for safety and effectiveness in the publication entitled FDA Approved Animal Drug Products (the Green Book).

The agency anticipates that changes in these policy statements may occur in the future. When and if changes are made, copies of the revised policy statements will be placed on display in the Dockets Management Branch (address above) and a notice of availability will be published in the **Federal Register.**

In addition, the subjects contained in these policy statements may be addressed in the regulations that will implement GADPTRA. Comments submitted in response to this notice will be considered in the drafting of the proposed regulations.

Dated: August 15, 1991.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 91–20052 Filed 8–20–91; 8:45 am]

BILLING CODE 4160–01–M

Health Resources and Services Administration

Project Grants for Renovation or Construction at Tertiary Perinatal Facilities in Those States Whose Infant Mortality Rate Is Significantly Above the National Average

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of availability of funds.

SUMMARY: The Bureau of Health Resources Development (BHRD), Health Resources and Services Administration (HRSA), announces that fiscal year (FY) 1991 funds are available for project grants for renovation or construction at tertiary perinatal facilities in those states whose infant mortality rate is significantly above the national average. Funds were appropriated for this purpose by Public Law 101–517 under the authority of section 1610(b) of the Public Health Service (PHS) Act.

DATES: To receive consideration, applications must be received by the close of business October 21, 1991, by the Grants Management Officer, Ms. Glenna Wilcom, at the address below. Applications will meet the deadline if they are either: (1) Received on or before the deadline date; or (2) postmarked on or before the deadline date, and received in time for submission to the review committee. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted instead of a postmark. Private metered postmarks will not be acceptable as proof of timely mailing. Hand delivered applications must be received by 5 p.m. October 21, 1991. Grant applications that are received after the deadline date will be returned to the applicant.

FOR FURTHER INFORMATION CONTACT: Additional information relating to technical and program issues may be obtained from Ms. Katharine Buckner, Division of Facilities Assistance and Recovery, Bureau of Health Resources Development, Parklawn Building, room 11A–10, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–0271. Grant applications and additional information regarding business, administrative or fiscal issues related to the awarding of grants under this Notice may be requested from the Grants Management Officer, Ms. Glenna Wilcom, Parklawn Building, room 13A–38, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2280. Applicants for grants will use Form PHS 5161–1, approved under OMB Control Number 0937–0189.

SUPPLEMENTARY INFORMATION:

Program Background and Objectives

Public Law 101–517 provides funds for grants under the authority of section 1610(b) of the PHS Act, for renovation or construction at tertiary perinatal facilities in those states whose infant mortality rate is significantly above the national average. The amount of any grant may not exceed 80 percent of the cost of the project for which the grant is made unless the project is located in an area determined by the Secretary to be an urban or rural poverty area, in which case the grant may cover up to 100 percent of such costs. (Urban or rural poverty area is defined as a medically underserved area designated by the Secretary (42 CFR 51c.102)). For information regarding the current medically underserved areas, contact the Director, Office of Shortage Designation, room 4–101, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, or telephone (301) 443–6932.

The purpose of these funds is to support the construction and/or renovation of facilities at institutions with existing tertiary perinatal programs.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS led national activity for setting priority areas. This program announcement is specifically related to the Maternal and Infant Health Objectives of Healthy People 2000. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (telephone 202–783–3238).

Availability of Funds

A total of $966,000 is available in FY 1991 to be awarded for renovation or construction at tertiary perinatal facilities in those states whose infant mortality rate is significantly above the national average. It is anticipated that up to two grants averaging approximately $483,000 each will be awarded.

Eligible Applicants

To be eligible, an applicant must: (1) Be a public or private nonprofit entity; (2) have a source of funding to meet the non-Federal portion of the eligible construction cost; (3) have title to a

building site or have a 25-year lease, or have a written commitment to acquire such title or lease within 6 months from the date of the perinatal care program grant award; (4) currently provide tertiary Perinatal Services as described in Guidelines for Perinatal Care, Second Edition published jointly by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists; and (5) be located in a state whose infant mortality rate is significantly above the national average. An infant mortality rate "significantly above the national average" is defined for purposes of this program as being greater than 12 per 1000 live births, as determined by the National Center for Health Statistics for the most recent year for which data are available. (See appendix A).

Program Requirements

Grantees will be required to sign:

(1) An assurance that the facility or portion thereof to be constructed or renovated will be made available to persons residing or employed in the area served by the facility who need the services offered by the facility, in accordance with 42 CFR part 124, subpart G; and

. (2) An assurance that a reasonable volume of services will be available to persons unable to pay for care in the facility or the portion thereof which is to be constructed or renovated, in accordance with 42 CFR part 124, subpart F (OMB Clearance Number 0915–0077).

In addition, before grant funds can be released, the grantee must record the notice of the Federal interest and grant recovery rights at its local land records office.

Evaluation Criteria

Projects will be selected on a competitive basis by an objective review committee based on the following evaluation criteria:

(1) Adequacy of current function and staffing as measured against Guidelines for Perinatal Care, Second Edition, American Academy of Pediatrics and American College of Obstetricians and Gynecologists. Minimum components include:

—Acceptance and direction of maternal-fetal and neonatal transports;
—Research and outcome surveillance;
—Graduate and postgraduate education;
—Full time board-certified obstetrician with special competence in maternal-fetal medicine;
—Full-time board-certified pediatrician with certification in neonatal medicine;

(2) Clearly defined goals and objectives with the activities required to accomplish the goals of the proposed project;

(3) Documentation that the proposed construction will expand or facilitate the applicant's ability to carry out the functions and activities appropriate for a tertiary perinatal center;

(4) A clearly documented needs assessment which justifies the scope of the project;

(5) A plan demonstrating that needs of racial and ethnic minorities have been considered, and that efforts will be made to meet such needs;

(6) Letters of support or other documents from State and/or local community organizations and health care providers involved with tertiary perinatal care;

(7) The appropriateness of the project design, facility construction/renovation plans, schematic drawings, and time frames from initiation through completion of the project;

(8) The reasonableness and justification for the itemized costs in the construction budget, including unit prices for movable equipment;

(9) The ability of the applicant to provide more than the minimally required matching amount of the cost for the construction project;

(10) Documentation of reimbursement sources and other funding sources sufficient to support program operations and to maintain the ongoing financial viability of the project after the construction has been completed; and

(11) Demonstration of the applicant's intent to continuously use the portion of the facility receiving this Federal assistance for tertiary perinatal care for a period of 20 years.

Allowable Costs

A successful applicant under this Notice must spend funds it receives according to the approved application and budget; the authorizing legislation; terms and conditions of the grant award; the regulations of the Department and PHS applicable to grants; the applicable Office of Management and Budget (OMB) circular for public and private nonprofit grantees; and appendix II of the PHS Grants Policy Statement applicable to construction.

Other Award Information

The grant may be terminated for cause if the grantee materially fails to comply with the terms and conditions of the grant. Unless an approved construction contract is entered into within one year of the grant award date, the grant shall be subject to termination. Grants awarded under this notice are subject to the provisions of Executive Order 12372, as implemented under 45 CFR part 100, which allows States the option of setting up a system for reviewing applications within their States for assistance under certain Federal programs. The application packages to be made available by HRSA will contain a listing of States which have chosen to set up such a review system and will provide a point of contact in the States for the review. Applicants (other than federally-recognized Indian tribal governments) should contact their State Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. The SPOC has 60 days after the application deadline date to submit its review comments. The granting agency does not guarantee to "accommodate or explain" for State process recommendations it receives after that date.

The OMB Catalog of Federal Domestic Assistance number for section 1610(b) is 93.887.

Dated: May 23, 1991.

Robert G. Harmon,

Administrator.

Appendix A

INFANT MORTALITY RATES FOR STATES WHOSE MORTALITY RATES WERE 12 OR MORE PER 1,000 LIVE BIRTHS FOR CALENDAR YEAR 1988

[Based on Excerpts from the Monthly Vital Statistics Report, Volume 39, Number 7, Supplement, November 28, 1990, Published by the National Center for Health Statistics]

State	Rate
District of Columbia	23.2
Geogia	12.6
North Carolina	12.5
Mississippi	12.3
South Carolina	12.3
Alabama	12.1

[FR Doc. 91–20051 Filed 8–20–91; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–943–01–4212–24; IDI–2298]

Termination of Airport Lease Classification; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Classification termination.

SUMMARY: This order terminates a Bureau of Land Management classification affecting 200 acres of public land southwest of Mountain Home, Idaho. After termination of the classification, the underlying lands will immediately become subject to operation of the mining laws but only limited operation of the public land laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law.

EFFECTIVE DATE: September 20, 1991.

FOR FURTHER INFORMATION CONTACT: Sally Carpenter, BLM, Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706, (208) 384–3163.

By virtue of the authority vested in the Secretary of the Interior by the Act of May 24, 1928, as amended (49 U.S.C. 211–214), it is ordered as follows:

1. Pursuant to the regulations in 43 CFR 2091.4–2 and the authority delegated to me by BLM Manual section 1203 (48 FR 85), the classification decision of February 5, 1969, which classified 200 acres of public land as suitable for airport purposes under the Act of May 24, 1928, as amended (49 U.S.C. 211–214), under serial number IDI–2298, is hereby revoked. The lands are described as follows:

Boise Meridian

T. 5 S., R. 5 E.,
Sec. 25, S½SW¼ and SW¼SE¼;
Sec. 26, S½SW¼.

The area described contains 200 acres in Owyhee County.

2. Due to the overlapping Snake River Birds of Prey National Conservation Area withdrawal, the lands will remain segregated from disposal under the Desert Land Act (43 U.S.C. 351 et seq.), the Carey Act (43 U.S.C. 641), the State of Idaho Admissions Act (26 Stat. 215), Revised Statute 2775, as amended (43 U.S.C. 851), and Revised Statute section 2776 (43 U.S.C. 852).

3. At 9 a.m. on September 20, 1991; the lands will be opened to the operation of the public land laws generally, except as provided in paragraph 2, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on September 20, 1991, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 9 a.m. on September 20, 1991, the lands will be opened to location and entry under the United States mining laws. Appropriation of any of the lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest not rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: August 8, 1991.

Pieter J. Van Zanden,

Associate State Director.

[FR Doc. 91–19986 Filed 8–20–91; 8:45 am]

BILLING CODE 4310–GG–M

[ID–060–01–3110–10–D999; I–28415]

Coeur d'Alene District; Exchange of Public Lands; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, exchange of public lands in Idaho County, Idaho.

SUMMARY: This Notice is to advise the public that the Cottonwood Resource Area of the Bureau of Land Management (BLM) and Keymor Land and Timber Co. are proposing a land exchange. The following described public lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716:

Boise Meridian Idaho

T. 29 N., R. 3 E.,
Sec. 3, lot 3, SE¼SW¼;
Sec. 6, SE¼SW¼;
Sec. 10, W½SE¼.

Comprising 195.29 acres in Idaho County, Idaho.

In exchange for these lands, the Federal Government will acquire the following described lands from Keymor Land and Timber Co.:

T. 30 N., R. 1 W.,
Sec. 26, American Bar Placer—Mineral Survey 3393.

Comprising 18.80 acres of private land.

The purpose of this exchange is to improve the resource management programs of the Bureau of Land Management. The public lands to be exchanged are isolated parcels without public access. The private lands to be exchanged are surrounded by public land and have recreation, scenic, and wildlife values that merit acquisition into public ownership. These lands will be managed for multiple use consistent with the surrounding public lands. The exchange is in conformance with the Bureau's land use plans. Lands to be transferred from the United States will be subject to the following reservations:

1. A reservation of the United States of a right-of-way for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945).

2. Valid existing rights of record.

The public lands in section 3, described above, are presently under grazing lease to Frank M. Lantz, the holder of grazing authorization no. 6153. The rights of Mr. Lantz to graze domestic livestock on the lands described in grazing authorization 6153 that may transfer out of public ownership shall cease upon title transfer if he elects to waive his rights in accordance with 43 CFR 2711.1–3 and 43 CFR 2201.1(c).

Lands to be acquired by the United States will be subject to valid existing rights of record.

The publication of this Notice in the **Federal Register** will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. Any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed, and shall be returned to the applicant. The segregative effect shall terminate as provided by 43 CFR 2201.1(b).

Comments

For a period of 45 days from the date of publication of this notice, interested parties may submit comments to the District Manager, Coeur d'Alene District Office, Bureau of Land Management, 1808 North Third Street, Coeur d'Alene, Idaho 83814. Objections will be evaluated by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior. Further information concerning the realty action can be obtained from Ron Grant, Realty Specialist, Cottonwood Resource Area Office, (208) 962–3245.

Dated: August 12, 1991.

Fritz U. Rennebaum,

District Manager.

[FR Doc. 91–19987 Filed 8–20–91; 8:45 am]

BILLING CODE 4310–GG–M

[MT-070-01-4212-21; MTM68606]

Montana; Realty Action; Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Amendment of commercial lease to include additional public lands for enlargement of a ski area in Lewis and Clark County, Montana.

SUMMARY: Great Divide Ski Area, Inc. has requested the use of a portion of the following described lands to accommodate expansion of the Great Divide Ski Area.

Principal Meridian, Montana

T. 12 N., R. 6 W.,
Section 35: Lots 22, 26, 27;

The lands are located on Mt. Belmont, approximately 15 air miles northwest of Helena. The amendment would be issued under section 302 of the Federal Land Policy and Management Act (FLPMA) of 1976; 43 U.S.C. 1732, and would be issued noncompetitively to the above lessee. Only portions (approximately 19 acres) of the above-described lands will actually be included in the lease. The term of this lease is through September 30, 2016. Fair market rental will be collected for these additional lands, as well as reasonable administrative and monitoring costs for processing the amendment. The amendment will be subject to the terms and conditions of the existing lease. Final determination on the lease of these additional lands will be made upon completion of an environmental assessment.

DATES: On or before September 20, 1991, interested parties may submit comments to the Headwaters Resource Area Manager, P.O. Box 3388, Butte, Montana 59702.

FOR FURTHER INFORMATION CONTACT: Bob Rodman, 406–494–5059, at the above address.

Dated: August 12, 1991.

Warren M. Schwabel,

Acting Area Manager.

[FR Doc. 91–19989 Filed 8–20–91; 8:45 am]

BILLING CODE 4310–DN–M

[OR-943-01-4214-10; GP1-309; OR-9345]

Termination of Proposed Withdrawal and Reservation of Land; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Forest Service has cancelled its application to withdraw 960 acres of National Forest System land in the Fremont National Forest for the Thunder Egg Lake Agate Beds. This action will terminate the proposed withdrawal and will relieve the land of the temporary segregative effect.

EFFECTIVE DATE: September 20, 1991.

FOR FURTHER INFORMATION CONTACT: Linda Sullivan, BLM, Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503–280–7171.

SUPPLEMENTARY INFORMATION: The notice of the United States Department of Agriculture, Forest Service application OR–9345 for withdrawal was published as FR Doc. 81–35996 of the issue of December 17, 1981. The purpose of the proposed withdrawal was to protect the Thunder Egg Lake Agate Beds. The applicant agency has determined that the proposed withdrawal is no longer needed and has cancelled the application in its entirety as to the following described land:

Willamette Meridian

Fremont National Forest

T. 40 S., R. 21 E.,
Sec. 8;
Sec. 17, N½ .

The area described contains 960 acres in Lake County, Oregon.

Pursuant to the regulation 43 CFR 2310.2–1(c), at 8:30 a.m., on September 20, 1991, the proposed withdrawal will be terminated and the land will be relieved of the segregative effect of the above-referenced application. The land is included in a new application for withdrawal and remains closed to location and entry under the United States mining laws (30 U.S.C. ch. 2).

Dated: August 8, 1991.

Robert E. Mollohan,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 91–19993 Filed 8–20–91; 8:45 am]

BILLING CODE 4310–33–M

[OR-943-4214-11; GP1-322; ORE-03588C]

Proposed Continuation of Withdrawal; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, proposes that a portion of the land withdrawal for roadside and riverfront zones continue for an additional 20 years and requests that the lands involved remain closed to mining and opened to surface entry.

FOR FURTHER INFORMATION CONTACT: Linda Sullivan, BLM, Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503–280–7171.

The Forest Service proposes that the existing land withdrawal made by Public Land Order No. 1867, be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714.

Wallowa-Whitman National Forests

Lostine River and Imnaha River Roadside and Riverfront Zones, 1,550 acres in Secs. 15, 22, 26, 27, 34, and 35, T. 2 S., R. 43 E., Secs. 2, 11, 14, 23, 24, 25, and 36, T. 3 S., R. 43 E., and Sec. 6, T. 4 S., R. 44 E., W.M., Wallowa County, approximately 15 miles southwest of Enterprise.

The purpose of the withdrawal is to protect the roadside and riverfront zones. The withdrawal currently segregates the lands from operation of the public land laws generally including the mining laws. The Forest Service requests no changes in the purpose or segregative effect of the withdrawal except that the lands be opened to operation of the public land laws generally.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination of the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

Dated: August 7, 1991.

Robert E. Mollohan,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 91–19988 Filed 8–20–91; 8:45 am]

BILLING CODE 4310–33–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–476 and 479 (Final)]

Steel Wire Rope From Argentina and Mexico

Determinations

On the basis of the record [1] developed in the subject investigations, the

[1] The record is defined in sec. 207.2(h) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(h)).

Commission unanimously determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673(b)) (the Act), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Argentina and Mexico of steel wire rope, provided for in subheading 7312.10.90 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV). [2]

Background

The Commission instituted these investigations effective April 18, 1991, following a preliminary determination by the Department of Commerce that imports of steel wire rope from Argentina and Mexico were being sold at LTFV within the meaning of section 733(b) of the act (19 U.S.C. 1673(b)). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of May 1, 1991 (56 FR 20024). The hearing was held in Washington, DC, on July 9, 1991, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in these investigations to the Secretary of Commerce on August 15, 1991. The views of the Commission are contained in USITC Publication 2410 (August 1991), entitled "Steel Wire Rope from Argentina and Mexico: Determinations of the Commission in Investigations Nos. 731–TA–476 and 479 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

Issued: August 15, 1991.

By Order of the Commission:

Kenneth R. Mason,

Secretary.

[FR. Doc. 91–19977 Filed 8–20–91; 8:45 am]

BILLING CODE 7020–02–M

[2] The imported steel wire rope covered by these investigations consists of ropes, cables and cordage, of iron or steel, other than stranded wire, not fitted with fittings or made into articles, and not made of stainless steel or brass plated wire. Such steel wire rope was previously provided for in item 642.16 of the former Tariff Schedules of the United States (TSUS).

[Investigation No. 731–TA–524 (Preliminary)]

Steel Wire Rope From Canada

Determination

On the basis of the record [1] developed in the subject investigation, the Commission unanimously determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of steel wire rope, provided for in subheading 7312.10.90 of the Harmonized Tariff Schedule of the United States, that are allegedly sold in the United States at less than fair value (LTFV).[2]

Background

On June 28, 1991, a petition was filed with the Commission and the Department of Commerce by The Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers, alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV imports of steel wire rope from Canada. Accordingly, effective June 28, 1991, the Commission instituted preliminary antidumping investigation No. 731–TA–524.

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of July 5, 1991 (56 FR 30765). The conference was held in Washington, DC, on July 18, 1991, and all persons who timely requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on August 12, 1991. The views of the Commission are contained in USITC Publication 2409 (August 1991), entitled "Steel Wire Rope from Canada: Determination of the Commission in Investigation No. 731–TA–524 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: August 12, 1991.

By Order of the Commission:

Kenneth R. Mason,

Secretary.

[FR Doc. 91–19978 Filed 8–20–91; 8:45 am]

BILLING CODE 7020–02–M

[1] The record is defined in § 207.2(h) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(h)).

[2] The imported steel wire rope covered by this investigation consists of ropes, cables and cordage, of iron or steel, other than stranded wire, not fitted with fittings or made into articles, and not made of stainless steel or brass plated wire. Such steel wire rope was previously provided for in item 642.16 of the former Tariff Schedules of the United States (TSUS).

[Investigation No. 1205–2]

Proposed Modifications to the Harmonized Tariff Schedule of the United States, Pursuant to Section 1205 of the Omnibus Trade and Competitiveness Act of 1988

AGENCY: United States International Trade Commission.

ACTION: Notice of expansion of scope of investigation and extension of time to submit written comments.

EFFECTIVE DATE: August 15, 1991.

FOR FURTHER INFORMATION CONTACT: Eugene A. Rosengarden, Director, Office of Tariff Affairs and Trade Agreements (telephone 202–205–2592), or Dave Beck, Supervisory Nomenclature Analyst (202–205–2604), U.S. International Trade Commission, Washington, DC 20436.

BACKGROUND: On May 24, 1991, the Commission instituted investigation No. 1205–2, Proposed Modifications to the Harmonized Tariff Schedule of the United States, Pursuant to section 1205 of the Omnibus Trade and Competitiveness Act of 1988. Notice of the investigation was published in the Federal Register of June 5, 1991 (56 FR 25692). Section 1205 directs the Commission to keep the Harmonized Tariff Schedule of the United States (HTS) under continuous review and to recommend modifications to the HTS (1) when amendments to the International Convention on the Harmonized Commodity Description and Coding System (Harmonized System) and the Protocol thereto, are recommended by the Customs Cooperation Council (CCC) for adoption, and (2) as other circumstances warrant.

As instituted, investigation No. 1205–2 addresses proposed modifications to the HTS to reflect decisions of the Harmonized System Committee of the Customs Cooperation Council, with respect to two product groups—extracted oleoresins and orange juice with added calcium. However, in developing recommendations to modify the Harmonized Tariff Schedule of the United States (HTS) with respect to

orange juice, the Commission is considering whether such modifications should apply also to fruit juices other than orange juice and to vegetable juices, whether concentrated, non-concentrated, or reconstituted. Since the **Federal Register** notice of June 5, 1991, did not address the question of these latter juices, the Commission is of the opinion that producers or importers of such juices might not have had sufficient notice or opportunity to provide comment. Therefore, the time period for written comments is being extended through this notice.

The following draft modifications to the HTS are being considered by the Commission for submission to the President:

Recommended Modifications to the Harmonized Tariff Schedule of the United States

1. Subheadings 3301.30, 3301.30.10, 3301.30.50, and 3301.90.00 are deleted and the following inserted in lieu thereof:

"3301.30.00; Resinoids, Free, Free
3301.90.10; Other, Extracted oleoresins, 6%, Free (A, CA, E, IL), 25%
3301.90.50; Other, Free, 20%"

2. Section IV is amended by inserting new additional U.S. Note 2, as follows:

"2. For the purposes of headings 2106 and 2202, references to "*modified fruit or modified vegetable juices*" means fruit or vegetable juice (other than preparations) which—

(a) In the case of fruit juices, have been modified by the addition of constituents not usually found in natural juice (other than sugar or other sweetening matter, preservatives, anti-fermentation agents or standardizing agents);

(b) In the case of vegetable juices, have been modified by the addition of constituents not usually found in the natural juice (other than sugar or other sweetening matter, preservatives, anti-fermentation agents, standardizing agents, sodium chloride, spices or flavoring substances); or

(c) Contain one or more naturally occurring constituents in such quantity that the balance of constituents as found in the natural juice is clearly upset.

3. Heading 2009 is amended by inserting the expression "not modified," after the expression "fruit juices (including grape must) and vegetable juices.".

4. Chapter 21 is amended by inserting new additional U.S. Note 1, as follows:

"1. For the purpose of subheadings 2106.90.16 and 2106.90.19:

(a) The term "*liter*" in the "Rates of Duty" column of the provisions applicable to fruit juices means liter of natural unconcentrated fruit juice or liter of reconstituted fruit juice;

(b) The term "*reconstituted fruit juice*" means the product which can be obtained by mixing the imported concentrate with water in such proportion that the product will have a Brix value equal to that found by the Secretary of the Treasury from time to time to be the average Brix value of like natural unconcentrated juice in the trade and commerce of the United States; and

(c) The term "*Brix value*" means the refractometric sucrose value of the juice, adjusted to compensate for the effect of any added sweetening materials, and thereafter corrected for acid.

(d) In determining the number of liters of reconstituted fruit juice which can be obtained from a concentrate, the degree of concentration shall be calculated on a volume basis to the nearest 0.5 degree, as determined by the ratio of the Brix value of the imported concentrated juice to that of the reconstituted juice, corrected for differences of specific gravity of the juices. Any juice having a degree of concentration of less than 1.5 (as determined before correction to the nearest 0.5 degree) shall be regarded as a natural concentrated juice.

(e) In determining the degree of concentration of mixed fruit juices, the mixture shall be considered as being wholly of the component juice having the lowest Brix value."

5. The text of heading 2106 is deleted and the following text is substituted in lieu thereof: "Food preparations not elsewhere specified or included; modified fruit or modified vegetable juices, concentrated.

6. Subheading 2106.90 is amended by inserting the following new subheadings, with the superior heading at the same level of indentation as the article description in subheading 2106.90.15:

"; Modified fruit or modified vegetable juices, concentrated:
2106.90.16; Orange juice, 9.25¢/liter, Free (E) 5.5¢/liter (CA), 18¢/liter
2106.90.19; Other, The rate applicable to the natural juice in heading 2009, The rate applicable to the natural juice in heading 2009, The rate applicable to the natural juice in heading 2009"

Any staged reductions of a special rate of duty set forth in subheading 2009.11.00 of the Harmonized Tariff Schedule of the United States that were proclaimed by the President before January 1, 1992, and are scheduled to take effect on or after January 1, 1992, shall apply to the corresponding special rate of duty in subheading 2106.90.16.

7. Subheading 2202.90 is amended by inserting the following new subheadings, with the superior heading at the same level of indentation as the article description in subheading 2202.90.90:

"; Modified fruit or modified vegetable juices, not concentrated:
2202.90.30; Orange juice: Not made from a juice having a degree of concentration of 1.5 or more (as determined before correction to the nearest 0.5 degree), 5.3¢/liter, Free (E) 3.1¢/liter (CA), 18¢/liter
2202.90.35; Other, 9.25¢/liter, Free (E) 5.5¢/liter (CA), 18¢/liter
2202.90.39; Other, The rate applicable to the natural juice in heading 2009, The rate applicable to the natural juice in heading 2009, The rate applicable to the natural juice in heading 2009"

Any staged reductions of a special rate of duty set forth in subheading 2009.19.20 of the Harmonized Tariff Schedule of the United States that were proclaimed by the President before January 1, 1992, and are scheduled to take effect on or after January 1, 1992, shall apply to the corresponding special rate of duty in subheading 2202.90.30.

Any staged reductions of a special rate of duty set forth in subheading 2009.19.40 of the Harmonized Tariff Schedule of the United State that were proclaimed by the President before January 1, 1992, and are scheduled to take effect on or after January 1, 1992, shall apply to the corresponding special rate of duty in subheading 2202.90.35.

Written Submissions

Interested parties (including other Federal agencies) are invited to submit written statements concerning the proposed modifications to the HTS outlined above. Such statements must be submitted by no later than September 25, 1991, in order to be considered by the Commission. Commercial or financial information that a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary, 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 the Commission's TDD terminal on 202–205–1810.

Issued: August 15, 1991.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 91–19976 Filed 8–20–91; 8:45 am]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

Information Collections Under Review

August 15, 1991.

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published.

Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;
(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;
(3) How often the form must be filled out or the information is collected;
(4) Who will be asked or required to respond, as well as a brief abstract;
(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;
(6) An estimate of the total public burden (in hours) associated with the collection; and
(7) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Edward H. Clarke, on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Lewis Arnold, on (202) 514–4305.

If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Office of your intent as soon as possible.

Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Lewis Arnold, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

Extension of the Expiration Date of a Currently Approved Collection Without Any Change in the Substance or the Method of Collection

(1) Registration for Classification as Refugee.
(2) I–590, Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. Forms will be used to determine eligibility of applicant for refugee status under Section 207 of the I&N Act.
(5) 150,000 annual respondents at .583 hours per total response.
(6) 87,450 hours.
(7) Not applicable under 3504(h).

Public comment on this item is encouraged.

Lewis Arnold,

Department Clearance Officer, Department of Justice.

[FR Doc. 91–19953 Filed 8–20–91; 8:45 am]

BILLING CODE 4410–10–M

Lodging of Consent Decree Pursuant to Clean Air Act

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on August 13, 1991, a proposed Consent Decree in *United States* v. *American Fructose Decatur Inc.*, was lodged in the United states District Court for the Northern District of Alabama. The Complaint filed by the United States alleged violations of the Clean Air Act and various requirements under the New Source Performance Standards (NSPS). The Consent Decree requires the defendant to pay a civil penalty of $145,000 in full settlement of the claims set forth in a complaint filed by the United States.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments concerning the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States* v. *American Fructose Decatur Inc.*, D.J. Ref. No. 90–5–2–1–1464.

The proposed Consent Decree may be examined at any of the following offices: (1) The United States Attorney for the Northern District of Alabama, 200 Federal Building, 1800 Fifth Avenue North, Birmingham, Alabama 35203 (contact Assistant U.S. Attorney George Batcheler); (2) the U.S. Environmental Protection Agency, Region 4, 345 Courtland Street, NE., Atlanta, Georgia (contact Assistant Regional Counsel Stedman Southall); and (3) the Environmental Enforcement Section, Environment & Natural Resources Division, U.S. Department of Justice, room 1541, 10th & Pennsylvania Avenue NW., Washington, DC. Copies of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, Box 1097, 601 Pennsylvania Avenue NW., Washington, DC 20004, telephone (202) 347–7829. For a copy of the Consent Decree please enclose a check in the amount of $1.50 (25 cents per page reproduction charge) payable to Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 91–19992 Filed 8–20–91; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree

In accordance with the policy of the Department of Justice, 28 CFR 50.7, and pursuant to section 122(d)(2) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9622(d)(2), notice is hereby given that three proposed Consent Decrees in *United States* v. *Allied Corporation, et al.*, C–83–5998 FMS and C–83–5896 FMS, were lodged with the United States District Court for the Northern District of California on August 9, 1991. These actions were brought by the United States Department of the Navy pursuant to section 107 of CERCLA, 42 U.S.C. 9607.

Under one proposed Consent Decree, Sacramento Northern Railroad Company ("SNRR") agrees to pay $14,700 to the Defense Environmental Response Account ("DERA"). Another proposed decree provides that the Southern Pacific Transportation Company ("SPTC") agrees to pay $45,297 to DERA. The other proposed decree provides that Chemical & Pigment Company ("C&P"), O.E. Cooper, ESI Chemicals, Inc., and Earth Sciences, Inc., jointly agree to pay $1.350 million to DERA. These funds are being paid to reimburse the United States for environmental response actions taken and to be undertaken at the United States Naval Weapons Station, Concord, California ("NWS"). SNRR and SPTC further agree to perform environmental response actions on their respective railroad rights-of-way which transect the NWS. C&P further agrees to undertake environmental response actions at its facility on Nichols Road, Concord, California, which is adjacent to the NWS.

The Department of Justice will receive comments relating to the proposed Consent Decrees for a period of 30 days from the date of this publication. Comments should be addressed to the Acting Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, 10th and Pennsylvania Ave., NW., Washington, DC 20530. All comments should refer to *United States* v. *Allied Corporation, et al.*, D.J. Ref. 90–11–3–26.

The proposed Consent Decrees may be examined at the office of the United States Attorney, 450 Golden Gate Ave., room 10605, San Francisco, California 94102. A copy of the proposed Consent Decrees may also be examined at the Environmental Enforcement Section, Document Center, 601 Pennsylvania Avenue Building, NW., Washington, DC 20004 (202–347–2072).

Copies of the proposed Consent Decrees may be obtained in person or by mail from the Environmental Enforcement Section Document Center,

601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004. Any request for a copy of the proposed Consent Decrees should be accompanied by a check in the following amounts for copying costs ($0.25 per page) payable to "Consent Decree Library": the SNRR decree $4.50; the SPTC decree $6.00; and the C&P decree $11.25.

George Van Cleve,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 91-19991 Filed 8-20-91; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to CERCLA; In United States v. the Michael Co. et al.

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on august 13, 1991, a proposed Consent Decree in *United States* v. *The Michael Company, et al.* Civil Action No. 90-70-D-S was lodged with the United States District Court for the Southern District of Iowa (Davenport Division).

The Complaint in this enforcement action was filed on May 25, 1990, against The Michael Company, Q. C. Battery Corporation, F. Raymond Michael, Karen Michael, Aluminum Company of America, Americold Corporation, Caron International, Inc., Hawkeye Wholesale Grocery Company, Inc., Heatilator, Inc., Geo. A. Hormel & Company, Monsanto Company, Swiss Valley Farms, Thoms-Proestler Company, and Wal-Mart Stores, Inc. under section 107 of the Comprehensive environmental Response Compensation and Liability Act (CERCLA), 42 U.S.C. 9607, seeking reimbursement of costs incurred by the United States in responding to the release or threat of release of hazardous substances from four sites (the Bettendorf Site, the Rolff Road Site, the Rockingham Road Site, and the Farragut Road Site) located in the Bettendorf/Davenport area of Iowa. The proposed consent decree has been entered into between the United States and Caron International, Inc. and Wal-Mart Stores, Inc. and relates to the Farragut Road Site.

The Department of Justice will recieve, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States* v. *The Michael Company, et al.* (DoJ # 90-11-3-555).

The proposed Consent Decree may be examined at the office of the United States Attorney, Southern District of Iowa, 115 U.S. Courthouse, East 1st & Walnut Sts., Des Moines, Iowa 50309 and the United States Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101. Copies of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004 (202) 347-2072. In requesting a copy, please enclose a check in the amount of $4.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Barry M. Hartman,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 91-19990 Filed 8-20-91; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 91-46; Exemption Application No. D-7870]

Grant of Individual Exemptions; Equitable Life Assurance Society of the United States

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Equitable Life Assurance Society of the United States (Equitable), Located in New York, NY

[Prohibited Transaction Exemption 91-46; Exemption Application No. D-7870]

Exemption

Section I. Covered Transactions

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the sale, on December 16, 1988, of a 40 percent joint venture interest (the Joint Venture Interest) in the D/E Hawaii Joint Venture by Equitable's General Account (the General Account) to Equitable-managed Separate Account No. 16-IV (the Separate Account) in which two pension plans covered by the Act invest pursuant to the terms of a group annuity contract.

In addition, the restrictions of section 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(E) of the Code, shall not apply to the payment of a one-time performance fee (the Performance Fee) and a one-time disposition fee (the Disposition Fee) to Equitable by plans (the Plans) investing in the Separate Account in connection with certain investment management services

rendered by Equitable to the Separate Account if the conditions set forth in section II are met.

Section II. General Conditions

(1) The investment of Plan assets in the Separate Account, including the terms of the Performance Fee and the Disposition Fee, was approved by a Plan fiduciary independent of Equitable.

(2) Each participating Plan investing in the Separate Account had total assets that were in excess of $50 million and no such Plan invested more than 10 percent of its assets in the Separate Account.

(3) At the time the transactions were entered into, the terms of the transactions were at least as favorable to the Separate Account as those obtainable in arm's length transactions between unrelated parties.

(4) Prior to making an investment in the Separate Account, each plan fiduciary received offering materials which disclosed all material facts concerning the purpose, structure and operation of the Separate Account and the investment in the Joint Venture.

(5) The total fees paid to Equitable constitute no more than reasonable compensation.

(6) The Performance Fee shall be payable only after achievement of the pre-established average annual returns set forth in the Group Annuity Contract. Two-thirds of the Disposition Fee should be payable only after the Plans receive a 100 percent return of capital plus a preferred return of 10 percent.

(7) Each Plan shall receive the following from Equitable with respect to its participation in the Separate Account:

(a) Audited financial statements, prepared by independent qualified public accountants, of the Separate Account and the Joint Venture, on an annual basis.

(b) Quarterly reports relating to the overall financial position and operating results of the Separate Account, which include all fees paid by the Separate Account and by the Joint Venture in which the Separate Account participates as well as dollar-weighted and time-weighted rates of return.

(c) Property updates and outlook reports for Separate Account-held properties.

(8) Except in the case of an enforced disposition under the terms of the Joint Venture Agreement, Equitable is precluded from recommending the disposition of the Separate Account during the first eight years of the Separate Account's initial term.

(9) No disposition of the Separate Account shall occur during years eight to ten of the Separate Account's initial term unless Equitable gives advance notice of such disposition to each participating Plan and it receives approval from those Plans holding a majority of interests in the Separate Account.

(10) Each extension of the Separate Account term shall be approved by those participating Plans holding a majority of interests in the Separate Account. In the event of such extension, the Performance Fee shall be payable during the tenth year of the Separate Account based upon an independent appraisal of the Joint Venture Interest as of the date of the vote to extend.

(11) Equitable shall maintain, for a period of six years, the records necessary to enable the persons described in paragraph (12) of this section to determine whether the conditions of this exemption have been met, except that (a) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of Equitable and/or its affiliates, the records are lost or destroyed prior to the end of the six year period, and (b) no party in interest other than Equitable shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (12) below.

(12) (a) Except as provided in section (b) of this paragraph and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (11) of this section shall be unconditionally available at their customary location during normal business hours by:

(1) Any dully authorized employee or representative of the Department or the Internal Revenue Service;

(2) Any fiduciary of a participating Plan or any duly authorized representative of such fiduciary;

(3) Any contributing employer to any participating Plan or any duly authorized employee representative of such employer; and

(4) Any participant or beneficiary of any participating Plan, or any duly authorized representative of such participant or beneficiary.

(b) None of the persons described above in subparagraphs (2)–(4) of this paragraph (12) shall be authorized to examine the trade secrets of Equitable or commercial or financial information which is privileged or confidential.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on June 24, 1991 at 56 FR 28772.

EFFECTIVE DATE: This exemption is effective as of December 16, 1988.

Written Comments

The Department received two written comments with respect to the notice of proposed exemption and no requests for a public hearing. The first comment was submitted by a participant in a Chevron pension plan whose assets are held in the Chevron Corporation Master Trust (the Chevron Trust). The Chevron Trust invested in the Separate Account. In the comment, the commentator expressed approval of the subject transactions and recommended that the exemption be granted. The second comment was submitted by Equitable. It raised certain technical clarifications to the operative language of the proposed exemption and to the Summary of Facts and Representations (the Summary of Facts and Representations).

Following is a discussion of Equitable's specific areas of concern about the proposed exemption as well as the Department's response with respect thereto.

In its comment, Equitable represents that the operative language of section I of the notice of proposed exemption should be clarified. In this regard, Equitable notes that the initial paragraph of section I provides exemptive relief for the "sale" of the Joint Venture Interest and that, as a matter of New York insurance law, Equitable holds legal title to assets held both in its General Account and in the Separate Account. Therefore, Equitable believes that in the case of a general account/separate account transfer such as that described in the Summary of Facts and Representations, there is no actual transfer of legal title as is customary in a typical sales transaction. Rather, Equitable explains that the interest in the asset has thus been "reallocated" from the General Account to the Separate Account. In Equitable's view, the transaction being exempted is really a "reallocation" of the Joint Venture Interest and the exemptive language should be modified, accordingly.

Despite Equitable's characterization of the transaction as a "reallocation" and the support it has found under New York insurance law to advance its contention, the Department has determined not to recharacterize the transaction described in the exemption as a reallocation. While there may not have been a transfer of legal title from the General Account to the Separate

Account, the Department is of the view that there was a transfer of beneficial ownership from the General Account to the Plans investing in the Separate Account. Therefore, the Department believes that its original characterization of the transaction as a sale is appropriate.

Equitable also requests clarification of the second paragraph of section I of the proposed exemption which provides administrative exemptive relief for the payment (to Equitable) of Performance and Disposition Fees by the Separate Account. Equitable represents that these fees will be paid directly by the Plans participating in the Separate Account rather than by the Separate Account.

After considering this comment, and to avoid any ambiguity on this matter, the Department has determined to modify the operative language of section I of the exemption to provide that the Performance and Disposition Fees will be paid by the Plans participating in the Separate Account rather than by the Separate Account.

In addition, Equitable explains that paragraph 10 of the Summary of Facts and Representations discusses the Performance and Disposition Fees that it will receive from the Plans. Equitable notes that subparagraph 10(b), contains language stating that Equitable "recognizes" that it has discretion to affect the timing and/or amount of these fees. While noting that the status of such fees was the subject of lengthy discussion with the Department, Equitable asserts, however, that its ability to influence the timing or amount of these fees is "extraordinarily" limited. Rather than request an advisory opinion from the Department on whether its receipt of the Performance and Disposition Fees would violate the Act, Equitable explains that it agreed to include these fees in its exemption application. Although it does not suggest that the Department change the provisions of the proposed exemption as it relates to these fees, Equitable says it has decided to comment on its limited exercise of discretion in order to clarify the record. In response to this comment, the Department continues to believe that exemptive relief is required for the receipt of these fees.

Equitable further states that, at the end of paragraph 13 of the Summary of Facts and Representations, there is a representation to the effect that it will correct, at annual meetings of the participating Plans, any material discrepancies between the reports it provides and those furnished by Institutional Property Consultants, Inc., the independent fiduciary retained by the participating Plans to review, negotiate, approve and monitor the subject transactions. Equitable explains that it will not wait until the annual meeting is convened in order to make clarifications and corrections to the reports. Instead, Equitable states that it will attempt to clear up any discrepancies at the time they are brought to its attention.

Finally, Equitable states that paragraph 14 of the Summary of Facts and Representations summarizes the basis upon which the Department is proposing the exemption. For example, in subparagraph 14(f) of the exemption proposal, the Department refers to the "sale" of the Joint Venture Interest for a lump sum cash "payment." Equitable, is however, of the belief that the transaction should more properly be characterized as a "reallocation" for a lump sum cash "contribution."

For the reasons cited above, the Department is of the view that the transfer of the Joint Venture Interest by the General Account to the Separate Account is appropriately characterized as a sale transaction rather than as a reallocation of assets from the General Account to the Separate Account.

Accordingly, upon consideration of the entire record, including the written comments received, the Department has determined to grant the proposed exemption subject to the modification in the operative language of the exemption as discussed above.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested person is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 16th day of August, 1991.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 91–20038 Filed 8–20–91; 8:45 am]

BILLING CODE 4510–29–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) and Advisory Committee on Nuclear Waste (ACNW); Proposed Meetings

In order to provide advance information regarding proposed public meetings of the ACRS Subcommittees and meetings of the ACRS full Committee, of the ACNW, and the ACNW Working Groups the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings was published July 25, 1991 (56 FR 34077). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the Federal Register approximately 15 days (or more) prior to the meeting. It is expected that sessions of ACRS full Committee and ACNW meetings designated by an asterisk (*) will be closed in whole or in part to the public. ACRS full Committee and ACNW meetings begin at 8:30 a.m. and ACRS Subcommittee and ACNW Working Group meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during ACRS full Committee and ACNW meetings, and when ACRS Subcommittee and ACNW Working Group meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled,

cancelled, or rescheduled, or whether changes have been made in the agenda for the September 1991 ACRS and ACNW full Committee meetings can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committees (telephone: 301/492–4600 (recording) or 301/492–7288, Attn: Barbara Jo White) between 7:30 a.m. and 4:15 p.m., Eastern Time.

ACRS Subcommittee Meetings

Instrumentation and Control Systems, August 29, 1991, Bethesda, MD. The Subcommittee will discuss EPRI's reactor set-point methodology for future designs and the Transient Response Implementing Plan (TRIP) procedures.

Regulatory Policies and Practices, September 3, 1991 (1 p.m.), Bethesda, MD. The Subcommittee will continue its review of the resolution of comments and the final NRC staff recommendation on the Regulatory Impact Survey as discussed in SECY–91–172.

Advanced Pressurized Water Reactors, September 4, 1991, Bethesda, MD. The Subcommittee will continue its review of the CE System 80+ Standard Plant with a detailed look at the NUPLEX 80+ Advanced Instrumentation and Control System design and the Probabilistic Risk Assessment as applied to this new design.

Planning and Procedures. September 4, 1991, Bethesda, MD. The Subcommittee will discuss the NRC reactions to ACRS reports during the past two years and the bases for these reactions, other administrative and procedural matters, as appropriate.

Improved Light Water Reactors, September 17, 1991, Bethesda, MD. The Subcommittee will review draft safety evaluation reports corresponding to chapters 1 and 10 of the EPRI's Requirements Document for the Evolutionary Designs.

Advanced Boiling Water Reactors, September 18, 1991, Bethesda, MD. The Subcommittee will review draft safety evaluation reports corresponding to chapters 1, 2, 3, 4, 5, 6 and 17 of the GE Standard Safety Analysis Report for the Advanced Boiling Water Reactor design.

Improved Light Water Reactors, October 9, 1991, Bethesda, MD. The Subcommittee will review draft safety evaluation reports of the EPRI's Requirements Document for the Evolutionary Designs.

Reliability Assurance, October 17, 1991, Bethesda, MD. The Subcommittee will discuss, with the NRC staff and the industry, research and other matters regarding nuclear power plant aging phenomena.

Advanced Boiling Water Reactors, October 23, 1991, Bethesda, MD. The Subcommittee will review draft safety evaluation reports related to chapters 3, 9, 10, 11 and 13 of the GE/Standard Safety Analysis Report for the Advanced Boiling Water Reactor design.

Severe Accidents, October 24–25, 1991, Bethesda, MD. The Subcommittee will discuss elements of the Severe Accident Research Program.

Improved Light Water Reactors, November 20, 1991, Bethesda, MD. The Subcommittee will review draft safety evaluation reports of the EPRI's Requirements Document for the Evolutionary Designs.

Advanced Boiling Water Reactors, November 21, 1991, Bethesda, MD. The Subcommittee will review draft safety evaluation reports related to the GE/Advanced Boiling Water Reactor design.

Regional Programs, December 5–6, 1991 (tentative), NRC Region V Office, Walnut Creek, CA. The Subcommittee will discuss the activities of the NRC Region V Office.

Extreme External Phenomena, Date to be determined (October), San Luis Obispo, CA. The Subcommittee will review the results of the long-term seismic reevaluation program for the Diablo Canyon Nuclear Power Plant.

Thermal Hydraulic Phenomena, Date to be determined (Fall, tentative), Bethesda, MD. The Subcommittee will continue its review of the NRC staff program to address the issue of interfacing systems LOCAs.

Joint Thermal Hydraulic Phenomena and Core Performance. Date to be determined, Bethesda, MD. The Subcommittee will continue its review of the issues pertaining to BWR core power stability.

Thermal Hydraulic Phenomena, Date to be determined, Bethesda, MD. The Subcommittee will review the status of the application of the Code Scaling, Applicability, and Uncertainty (CSAU) Evaluation Methodology to a small-break LOCA calculation for a B&W plant.

Regulatory Activities, Date to be determined, Bethesda, MD. The Subcommittee will review the proposed final resolution of Generic Safety Issue-113, "Dynamic Qualification Testing of Large Bore Hydraulic Snubbers."

Occupational and Environmental Protection System (tentative), Date to be determined, Bethesda, MD. The Subcommittee will review certain regulatory guides related to the implementation of the revised 10 CFR part 20 rule. (This may be combined with the September 23–24 meeting of an ACNW Working Group.)

Systematic Assessment of Experience, Date to be determined, Bethesda, MD. The Subcommittee will discuss the safety significance of the lessons learned from the operating experience with solenoid-operated valves (SOVs). Also, it will discuss the comments received from the Nuclear Utility Group on Equipment Qualification regarding the AEOD's findings on SOV problems at U.S. nuclear power plants.

Thermal Hydraulic Phenomena, Date to be determined, Los Alamos, NM. The Subcommittee will review the documentation associated with the TRAC–PF1/MOD2 code version.

Structural Engineering, Date to be determined, Bethesda, MD. The Subcommittee will discuss with the NRC staff and the industry the status of Containment Structural Integrity programs, including foreign programs.

ACRS Full Committee Meetings

377th ACRS Meeting, September 5–7, 1991, Bethesda, MD. Items are tentatively scheduled.

*A. *Operating Experience and Events (Open/Closed)*—Briefing and discussion of operating events and incidents at nuclear facilities including the effects of a lightning strike at the Yankee Rowe Nuclear Power Station, the potential criticality incident at the GE Wilmington Fuel Facility, and other items of interest. Representatives of the NRC staff and the nuclear industry will participate, as appropriate. Portions of this session will be closed as needed to discuss Safeguards and Proprietary Information applicable to this matter.

B. *Key Technical Issues Applicable to Advanced Nuclear Power Plants (Open)*—Discuss key technical issues in need of early resolution applicable to the advanced reactor designs.

C. *Level of Design Detail and Inspections, Tests, Analyses, and Acceptance Criteria for Design Certifications and Combined Licenses (Open)*—Review and report on the proposed form and content of the Inspections, Tests, Analyses, and Acceptance Criteria for a design certification rule and for combined nuclear power plant licenses (10 CFR part 52). Discuss and report, as appropriate, on the level of design detail required for design certification of standardized nuclear power plants. Representatives of the NRC staff and the nuclear industry will participate, as appropriate.

D. *NRC Regulatory Impact Survey (Open)*—Discuss and report on proposed changes in the NRC regulatory process resulting from the NRC Regulatory Impact Survey, SECY–91–172,

Regulatory Impact Survey Report-Final dated June 7, 1991. Representatives of the NRC staff and the nuclear industry will participate, as appropriate

E. *Site Characteristics to be Used in Revision of 10 CFR part 100, Reactor Site Criteria and Determination of a Large Release (Open)*—Review and comment on the representative site characteristics that will be used to specify the magnitude of the "large release" to be used in revising NRC reactor siting criteria and in implementing the NRC quantitative safety goals.

*F. *Conduct of Employees—Proposed Rule (Open/Closed)*—Discuss with representatives of the NRC Office of the General Counsel the impact of the rule proposed by the Office of Government Ethics for application government-wide to employees of the Executive Branch. Portions of this session will be closed, as appropriate, to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

G. *Meeting with NRC Chairman (tentative) (Open)*—Discuss the scope and conduct of ACRS activities including related issues of mutual interest.

*H. *Meeting with Director, NRC Office of Nuclear Material Safety and Safeguards (Open/Closed)*—Discuss topics of mutual interest including design features of nuclear power plants to enhance safeguards capabilities. Portions of this session will be closed as necessary to discuss Safeguards and Proprietary Information applicable to this matter.

I. *ACRS Subcommittee and Member Activities (Open)*—Discuss the status of designated subcommittee activities including consideration of reactor set-point methodology for future designs, the NUPLEX 80+ Advanced Instrumentation and Control system design, and the scope and conduct of ACRS activities. Hear and discuss a trip report on the visit of some ACRS members to the Trojan Nuclear Plant.

J. *Future ACRS Activities (Open)*—Discuss anticipated subcommittee activities and items proposed for consideration by the full Committee.

K. *Miscellaneous (Open)*—Discuss administrative and operational issues related to the conduct of Committee business, as appropriate. Complete discussion of issues that were not completed at previous meetings as time and the availability of information permit.

L. *Solenoid Operated Valves (tentative) (Open)*—Discuss proposed NRC staff action to address the safety implications of solenoid-operated valve problems in nuclear power plants. Representatives of the NRC staff and the nuclear industry will participate, as appropriate.

378th ACRS Meeting, October 10–12, 1991—Agenda to be announced.

379th ACRS Meeting, November 7–9, 1991—Agenda to be announced.

378th ACRS Meeting, December 12–14, 1991—Agenda to be announced.

ACNW Full Committee and Working Group Meetings

ACNW Working Group on Preparation of Regulatory Guides for Implementing Revisions to 10 CFR part 20, September 23–24, 1991. The Working Group will review nine regulatory guides related to the implementation of the revised 10 CFR part 20, which assess the impacts of handling, storage and treatment of nuclear waste materials, as well as other activities related to nuclear energy. (This may be a combined meeting with the ACRS Subcommittee on Occupational and Environmental Protection Systems to review also those regulatory guides that are within the purview of the ACRS.)

35th ACNW Meeting, September 27, 1991, Bethesda, MD. Items are tentatively scheduled.

A. Briefing on the proposed revisions to 10 CFR part 61.

B. Review and comment on draft regulatory guides related to the implementation of the revised 10 CFR part 20, Standards for Protection Against Radiation.

C. Continue deliberations on what technical and scientific questions are necessary to make a determination that adequate technology is available for safe storage of high-level radioactive waste (spent fuel) resulting from nuclear power plant operations on an interim basis for the next 50 years.

D. Discuss the probability limit for distinguishing between unlikely and very unlikely events.

E. Discuss anticipated and proposed Committee activities, future meeting agenda, administrative, and organizational matters, as appropriate. Also, discuss matters and specific issues that were not completed during previous meetings as time and availability of information permit.

36th ACNW Meeting, October 23–24, 1991—Agenda to be announced.

ACNW Working Group on Residual Contamination Clean-up Criteria, October 25, 1991, Bethesda, MD. The Working Group will review the clean-up criteria for unrestricted use of contaminated sites that have been, or were at one time, under AEC or NRC license. The NRC staff is in the process of determining acceptable levels for uranium- and thorium-contaminated soils and structures to be released for unrestricted use.

ACNW Working Group on Geologic Dating, November 19, 1991, Bethesda, MD. The Working Group will review the problems and limitations with various Quaternary dating methods to be used in the assessment of volcanic features and materials for the site characterization of a high-level waste repository.

37th ACNW Meeting, November 20–21, 1991—Agenda to be announced.

ACNW Working Group on Post-Closure Monitoring, November 22, 1991, Bethesda, MD. The Working Group will review the potential problems and possible limitations associated with the post-closure monitoring of a proposed high-level waste repository. The potential utilization of non-invasion methods for the attainment of such a capability as well as the duration of such monitoring, and the significance and impact of results will also be considered.

ACNW Working Group on the Impact of Long-Range Climate Change in the Area of the Southern Basin and Range, December 17, 1991, Bethesda, MD. The Working Group will review the potential long-range climate changes and their impact on performance assessments of a proposed high-level repository.

38th ACNW Meeting, December 18–19, 1991—Agenda to be announced.

ACNW Working Group on NRC staff Computer Modeling and Performance Assessment Capabilities in Low-Level Waste, Date to be determined, Bethesda, MD. The Working Group will review, discuss and make recommendations regarding the NRC staff capabilities to make independent evaluations of licensee proposals with respect to the performance of low-level and high-level radioactive disposal facilities. Emphasis will be placed on computational capabilities involving computer modeling, documentation, verification and validation.

ACNW Working Group on Inadvertant Human Intrusion Related to the Presence of Natural Resources at a High-Level Waste Site, Date to be determined, 1991, Bethesda, MD. The Working Group will review the methodologies for assessment of the potential for natural resources at a proposed high-level waste site.

Dated: August 15, 1991.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 91–20026 Filed 8–20–91; 8:45 am]

BILLING CODE 7590–01–M

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from July 29, 1991 through August 9, 1991. The last biweekly notice was published on August 7, 1991 (56 FR 37575).

Notice of Consideration of Issuance of Amendment To Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By September 20, 1991, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any

hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to **(Project Director)**: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room for the particular facility involved.

Alabama Power Company, Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendments request: July 1, 1991.

Description of amendments request: The proposed changes would update Technical Specification 5.3 (Reactor Core) and Technical Specification 5.6 (Fuel Storage) for the Joseph M. Farley Nuclear Plant, Units 1 and 2, to increase maximum allowable enrichments to 5.05 weight percent (including a 0.05 weight percent manufacturer's uncertainty) U-235 maximum enrichment for Optimized Fuel Assemblies (OFA) and for VANTAGE-5 fuel assemblies taking credit for the presence of integral fuel burnable absorbers (IFBA). These proposed Technical Specification amendments allow for storage of 5.05 weight percent enrichment U-235 OFA and VANTAGE-5 fuel in spent fuel and new fuel pit storage racks. The current licensing basis of 4.3 weight percent maximum enrichment for low parasitic (LOPAR) fuel remains unchanged. A request for Technical Specification amendments to allow for use of VANTAGE-5 fuel in reactor operation has been received from the licensee by letter dated July 15, 1991, and will be addressed separately.

Since VANTAGE-5 fuel as reload fuel must be received on site several weeks prior to reactor operation, these amendments are being requested at this time to allow for receipt of the fuel. Approval of the future VANTAGE-5 fuel amendment requests will be required to allow for loading of fuel into the core and for operation of the reactor with the VANTAGE-5 fuel.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. Increased Fuel Enrichment for Reactor Core

1) Operation of Joseph M. Farley Units 1 & 2 in accordance with the proposed license amendment[s] does not involve a significant increase in the probability or consequences of an accident previously evaluated because the applicable safety limits are within the bounds previously established. Neither actuation of safety systems nor accident mitigating capabilities are adversely affected by operation of the plant in accordance with the proposed license amendment[s]. The analysis demonstrated that the proposed amendment[s] does not pose a challenge to installed safety systems. Therefore, no new performance requirements are being imposed on any system or component important to safety such that any design criteria will be exceeded. The implementation of the criticality reanalysis is not an initiator for any of the postulated FSAR accidents analyzed. This analysis does not impact accident analyses or plant accident scenarios. This analysis does not impact the accidents as analyzed in the FSAR. All accident acceptance criteria continue to be met. The analysis demonstrates that the proposed amendment[s] meets the acceptance criteria for criticality for spent fuel storage racks and new fuel storage racks. Operation of the plant in accordance with the proposed license amendment[s] will not impact accident analyses or plant accident scenarios as analyzed in the FSAR.

2) The proposed license amendment[s] does not create the possibility of a new or different kind of accident from any accident previously evaluated because no changes are being made to fuel which affect fuel handling methods. No change to the plant other than that described for fuel is being made. Thus, no new failure modes are being introduced. Operation of the plant in accordance with the proposed license amendment[s] will not create any initiators for accidents, including any accidents that may be different than already evaluated in the FSAR.

3) The proposed license amendment[s] does not involve a significant reduction in a margin of safety because increasing the fuel enrichment does not change the conclusions of the accident analyses or safety limits of the plant. This analysis does not decrease the margin of safety as described in the bases to any Technical Specification. The analysis does not adversely affect the operation of the fuel.

B. Increased Allowable Enrichment of New Fuel in the Spent Fuel Storage Racks

1) Operation of Joseph M. Farley Units 1 & 2 in accordance with the proposed license amendment[s] does not involve a significant increase in the probability or consequences of an accident previously evaluated with respect to new fuel in the new fuel storage racks because the applicable safety limits do not change and are within the bounds previously established. Neither actuation of safety system nor accident mitigating capabilities are adversely affected by operation of the plant in accordance with the proposed license amendment[s]. The analysis demonstrates that the proposed amendment[s] does not pose a challenge to installed safety systems. Therefore, no new performance requirements are being imposed on any system or component important to safety such that any design criteria will be exceeded. The implementation of the criticality reanalysis is not an initiator for any of the postulated FSAR accidents analyzed. This analysis does not impact accident analyses or plant accident scenarios. The analysis does not impact the accidents as analyzed in the FSAR. All accident acceptance criteria continue to be met. In addition, the Keff design limits of 0.95 for the full water density condition and 0.98

for the optimum moderation condition are not exceeded. Therefore, dose calculations are not affected by this reanalysis. The ability to mitigate the consequences of any accidents analyzed in the FSAR is not adversely affected by the implementation of the criticality reanalysis. As such, the conclusions presented in the FSAR remain valid such that no increase in radiological consequences will result.

2) The proposed license amendment[s] does not create the possibility of a new or different kind of accident from any accident previously evaluated with respect to new fuel in the new fuel storage racks because no changes are being made to fuel which affect fuel handling methods. No change to the plant other than that described for fuel is being made. Thus, no new failure modes are being introduced. Operation of the plant in accordance with the proposed license amendment[s] will not create any initiators for accidents, including any accidents that may be different than already evaluated in the FSAR.

3) The proposed license amendment[s] does not involve a significant reduction in a margin of safety with respect to new fuel in the new fuel storage racks because increasing the fuel enrichment does not change the conclusions of the accident analyses or safety limits of the plant. The Keff design limits of 0.95 for the full water density condition and 0.98 for the optimum moderation condition continue to be met.

C. Increased Allowable Enrichment of Fuel in the Spent Fuel Storage Racks

1) Operation of Joseph M. Farley Units 1 & 2 in accordance with the proposed license amendment[s] does not involve a significant increase in the probability or consequences of an accident previously evaluated with respect to fuel in the spent fuel storage racks because the applicable safety limits do not change and are within the bounds previously established. Neither actuation of safety systems nor accident mitigating capabilities are adversely affected by operation of the plant in accordance with the proposed license amendment[s]. The analysis demonstrates that the proposed amendment[s] does not pose a challenge to installed safety systems. Therefore, no new performance requirements are being imposed on any system or component important to safety such that any design criteria will be exceeded. The implementation of the criticality reanalysis is not an initiator for any of the postulated FSAR accidents analyzed. This analysis does not impact accident analyses or plant accident scenarios. The analysis does not impact the accidents as analyzed in the FSAR. All accident acceptance criteria continue to be met. In addition, the Keff design limit of 0.95 is not exceeded. Therefore, dose calculations are not affected by this reanalysis. The ability to mitigate the consequences of any accidents analyzed in the FSAR is not adversely affected by the implementation of the criticality reanalysis. As such, the conclusions presented in the FSAR remain valid such that no increase in radiological consequences will result.

2) The proposed license amendment[s] does not create the possibility of a new or different kind of accident from any accident previously evaluated with respect to fuel in the spent fuel storage racks because no changes are being made to fuel which affect fuel handling methods. No change to the plant other than that described for fuel is being made. Thus, no new failure modes are being introduced. Operation of the plant in accordance with the proposed license amendment[s] will not create any initiators for accidents, including any accidents that may be different than already evaluated in the FSAR.

3) The proposed license amendment[s] does not involve a significant reduction in a margin of safety with respect to fuel in the spent fuel storage racks because increasing the fuel enrichment does not change the conclusions of the accident analyses or safety limits of the plant. The Keff design limit of 0.95 continues to be met.

The NRC staff has reviewed the 50.92(c) licensee's analysis; and, based on this review, it appears that the three standards are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Houston-Love Memorial Library, 212 W. Burdeshaw Street, P. O. Box 1369, Dothan, Alabama 36302

Attorney for licensee: James H. Miller, III, Esq., Balch and Bingham, P. O. Box 306, 1710 Sixth Avenue North, Birmingham, Alabama 35201

NRC Project Director: Elinor G. Adensam

Commonwealth Edison Company, Docket No. 50-265, Quad Cities Nuclear Power Station, Unit 2, Rock Island County, Illinois

Date of application for amendment: June 28, 1991

Description of amendment request: The proposed amendment reflects a proposed modification to the High Pressure Coolant Injection (HPCI) turbine steam exhaust line. The proposed amendment adds the requirements for the new containment isolation valves which are part of the modification.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident.

Table 3.2-1

The addition of the HPCI steam line low pressure isolation setpoint to Table 3.2-1 does not increase the probability of an accident. The isolation feature of HPCI is part of the original design basis for the system; however, the isolation setpoint has not been included in the Technical Specifications. This proposed amendment corrects the omission by adding the isolation signal to the Technical Specifications. The calculation which supports the proposed setpoint assures that HPCI is not prematurely isolated. The isolation setpoint does not affect any accident initiators; therefore, does not represent any increase to the probability of the accident.

The addition of the HPCI steam line low pressure isolation setpoint to Table 3.2-1 does not increase the consequences of the accident. The purpose of the HPCI steam line low pressure isolation is to ensure that steam and radioactive gases will not escape from the HPCI turbine shaft seals into the reactor building after steam pressure has decreased below turbine operating pressure. A calculation has been performed to confirm the value of the HPCI low pressure isolation. The calculation ensures that the isolation does not occur prior to a decreasing reactor pressure of 150 psig which is consistent with the accident analysis. The lower bound for the isolation is based on engineering judgment and is conservative when compared to anticipated stall pressures for the HPCI turbine. The HPCI isolation setpoint, therefore, does not increase the consequences of the accident but rather provides further assurances that the isolation function initiated at an appropriate pressure.

Table 3.7-1

The elimination of the existing vacuum breaker line and the addition of a new vacuum breaker line does not affect any accident initiator and as such does not affect the probability of the accident. Currently, the vacuum breaker relief line, which is located inside of the torus, creates a potential flow path from the containment air space through the existing vacuum breakers to the HPCI exhaust line. Containment atmosphere leakage is prevented by the existing turbine exhaust check valves which are periodically tested in accordance with 10 CFR 50 Appendix J.

The proposed modification changes the primary containment boundary. The modification does not affect any accident initiators and therefore does not affect the probability of the accident. The design features of the new vacuum breaker assures that the consequences of the accident are not increased. The new design isolates the torus air space from the HPCI steam exhaust line through the use of motor-operated valves. The new vacuum breaker valves are designed to accommodate 10 CFR 50 Appendix J leak rate testing and will be added to the Station's 10 CFR Appendix J Test Program. As such, the valve leakage will be included in the limits for containment leakage, as defined in the Technical Specifications, to ensure that the resulting doses will not exceed 10 CFR Part 100 limits.

The consequences of the accident are also unaffected by the closure time of the new motor-operated valves. The valve closure time is based on the ability of the valve to close and does not significantly affect the dose rates. The most severe radiological release would result from fuel damage due to a loss of water level which is accompanied by a loss of reactor pressure. Since the HPCI

vacuum breaker lines would be isolated at low reactor pressure concurrent with an indication of a break inside of the drywell, the vacuum breaker isolation valves would be closed prior to fuel damage.

Finally, the isolation logic assures that the HPCI system is isolated during conditions in which the HPCI reactor inventory or pressure control function cannot be maintained and there is indication of a large break in the drywell. This isolation logic assures that the consequences of the accident are not significantly increased by providing the necessary isolation of containment during accident conditions.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated.

Table 3.2-1

As indicated previously, the HPCI low pressure isolation was included as part of the original system design; however, [it] was not included in Technical Specification Table 3.2-1. As such, the proposed amendment does not introduce the use of new equipment which has a different failure mechanism or whose failure is considerably more probable than the existing equipment. The proposed change to Table 3.2-1, therefore, does not create the possibility of a new or different kind of accident from any previously evaluated.

Table 3.7-1

The proposed modification to the HPCI system improves the reliability of the isolation system. The proposed design utilizes smaller isolation valves (when compared to the turbine exhaust check valve) and more effective isolation design (motor-operated gate valve versus check valves). The HPCI isolation sensors and control logic are optimally arranged to provide high degree of reliability. Independent control circuits are provided to each isolation valve so that the failure of a single control circuit power supply cannot prevent isolation. Periodic testing of the instruments, as described in the Technical Specifications, ensures that the instruments are maintained and functional within design parameters. Manual operation of the valves (both local and remote) are backups in the unlikely event of a failure to automatically isolate HPCI.

The control logic for the new isolation valves provides reliable operation for HPCI performance. The new valves will be normally open during operation and therefore, are not required to stroke from their normal position in the case of a HPCI initiation. The valves will automatically isolate on indications of a large break inside containment (drywell pressure greater than 2 psi) and when HPCI is no longer capable of providing pressure control and/or reactor inventory.

A gross failure of the vacuum breaker function and/or new containment isolation valves in the closed position has been evaluated for the potential hazard of collapsing the turbine exhaust line and containment penetration due to a vacuum. Using conservative parameters for the HPCI exhaust piping (Length to diameter = 50 and Diameter to thickness = 40) and the methods of ASME Section III NB-3133.3 for cylindrical shells made of low yield carbon steel, the maximum external pressure exceeds 300 psia. Since the maximum theoretical external pressure is less than 15 psia, the collapse of any HPCI turbine exhaust component is not a concern.

Finally, the proposed design for the new vacuum breaker is consistent with the design of newer BWR plants for external vacuum breaker lines (e.g., LaSalle RCIC).

3. The proposed change does not involve a signficant reduction in the margin of safety.

Table 3.2-1

As previously indicated, the original design for the system included the HPCI low reactor pressure isolation. The existing setpoint for the HPCI isolation is 90 psig which was based on the previous requirements for HPCI operability. The new calculated setpoint (100 psig) does not involve a significant reduction in the margin of safety since the calculation inputs; (1) assure that HPCI will remain operable as assumed in the accident analysis; and, (2) assure that the isolation occurs prior to reaching the stall pressure for the turbine. The lower bound for the calculation is conservative when compared to the actual anticipated stall flow. The margin of safety remains essentially unchanged in that the isolation setpoint assures HPCI is isolated prior to steam pressure reaching a level such that the turbine can no longer operate.

Table 3.7-1

The proposed design for the new vacuum breaker does not involve a significant reduction in the margin of safety. Technical Specifications specify the acceptance criteria for containment integrity determination and also requires that containment undergo testing as specified in 10 CFR 50 Appendix J. Due to the modification of the containment boundary with the new vacuum breaker, the motor-operated valves will be tested in accordance with 10 CFR 50 Appendix J to ensure Technical Specifications leakage limits are maintained. The testing will ensure that any potential leakage will result in dose limits well below 10 CFR Part 100 limits. In addition, the existing containment boundary for the HPCI steam exhaust system utilizes two large check valves. The new vacuum breaker design utilizes smaller, motor-operated valves which provide additional reliability in maintaining long-term containment integrity.

The closure time for the HPCI vacuum breaker lines does not significantly decrease the margin of safety. The most severe radiological release results from fuel damage due to a loss of reactor water level which is accompanied by a loss of reactor pressure. Since the HPCI vacuum breaker lines would be isolated at a low reactor pressure (concurrent with indications of a break inside of the drywell), the vacuum breaker isolation valves would be closed prior to fuel damage. The closure times are therefore based on reasonable closure times for the motor-operated valves.

Finally, the isolation logic is designed to assure that HPCI remains in a "standby operational mode and isolates during conditions which are indicative of a large break in the drywell (greater than 2 psi pressure in the drywell) and HPCI is no longer capable of performing its intended function (reactor pressure less than 95 psi).

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

NRC Project Director: Richard J. Barrett

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: May 30, 1991

Description of amendment request: The proposed amendment would change the Variable High Power Trip (VHPT) restart margin from 10% to 15%. The VHPT is incorporated in the reactor protection system to provide a reactor trip for transients exhibiting a core power increase from any initial power level.

Specially, Technical Specification Table 2.3.1, "Reactor Protective System Trip Setting Limits," is proposed to be changed to incorporate the new 15% reset margin. The Basis and References sections, relating to this Technical Specification, also are updated to reflect the set point change.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

The licensee has determined that the change does not:

1. Involve a significant increase in the possibility or consequences of an accident previously evaluated.

The proposed technical specification changes do not involve a significant increase in the probability or consequences of an accident previously evaluated. Advanced Nuclear Fuels (ANF)- 90-181, "Review and Analysis of Standard Review Plan (SRP) Chapter 15 Events for Palisades with a 15% Variable High Power Trip Reset," is the safety analysis that bounds the proposed technical specification change. Two events were re-analyzed for increasing the variable trip set point from 10% - 15%;

a. Uncontrolled Control Bank Withdrawal at Power 14.2.2 MDNBR-1.420.

b. Control Rod Mis-operation 14.2.3 MDNBR-1.197.

In both events the Minimum Departure from Nucleate Boiling Ration (MDNBR) was greater than the Technical Specification Limit

for Cycle 9 (1.190 for K and L fuel, and 1.174 for M fuel) and only changed by -1.5% and -4.0% respectively from the previous analysis (ANF-90-078). The purpose of making this set point change is to eliminate unnecessary plant trips following a rapid power reduction from high power levels. Near beginning of cycle (BOC) conditions, the positive reactivity feedback due to a S/G overcooling event, can increase the core power more than 10% above the minimum power level as steady state conditions are reached. By changing the VHPT from 10% to 15%, reactor trips could be avoided thereby, not putting the plant through unnecessary transients. The higher delta-power of 15% is still low enough to provide the minimum departure from nucleate boiling (MDNB) margins required for all other affected transients.

2. Create the possibility of a new or different kind of accident from any previously evaluated

The proposed technical specification change does not create the possibility of a new or different kind of accident from any previously evaluated. The VHPT set point is used to define the radial peaking factors as a function of power that are used in the generation of the core protection limits for the thermal margin/low pressure (TM/LP). ANF-90-181 contains ANF's disposition of Chapter 15 analysis which identifies the events that are impacted by the proposed increase. SRP events 15.4.2, and 15.4.3 are the only two events that were identified requiring reanalysis. The plant hardware was not changed and the plant operating conditions were not changed.

3. Involve a significant reduction in the margin of safety

The margin of safety as defined by plant licensing bases is not significantly reduced by the proposed technical specification change. The proposed technical specification maintains 95% probability, at a 95% confidence level, that departure from nucleate boiling (DNB) will not occur for all reactivity insertion transient calculations. Plant safety also may be increased by reducing the potential for unnecessary plant trips.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Attorney for licensee: Judd L. Bacon, Esq., Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: L. B. Marsh.

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: June 13, 1991

Description of amendment request: The proposed amendment would incorporate NRC Generic Letter 90-09 guidance (Alternative Requirements for Snubber Visual Inspection Intervals and Corrective Actions) in modifying Technical Specification Section 4.16.1. This change provides a new inspection schedule based on the number of unacceptable snubbers found during the previous inspection in proportion to the sizes of the various snubber populations or categories.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The licensee has determined that the change does not:

1. Involve a significant increase in the possibility or consequences of an accident previously evaluated.

The proposed technical specifications [do] not involve a significant increase in the possibility or consequences of an accident previously evaluated. A safety related snubber is considered a passive device which is called upon to perform during a seismic or dynamic event, the failure of a snubber would have no effect on the probability of an accident.

The consequences of an accident previously evaluated in the FSAR will not be increased by changing the snubber visual inspection schedule in Technical Specification 4.16.1.a. All safety related snubbers at Palisades are subjected to visual and functional testing. Functional testing provides a 95 percent confidence level that 90 to 100 percent of the snubbers will operate within the specified acceptance limits. The performance of visual examinations complement the functional testing program and provides additional confidence in snubber operability. The existing snubber visual inspection schedule is based on the number of inoperable snubbers found during the previous inspection period with no regard to the total number of snubbers inspected. The new inspection schedule will still depend on the number of inoperable snubbers found during the previous inspection, however, it will have the added advantage of being based on the percentage of the total number of snubbers inspected. Since the same confidence level as the existing schedule is maintained, it is concluded that the probability of a snubber failure, as a result of imposing this new inspection schedule, will not be increased. If the probability of a snubber failure will not increase, it can also be concluded that the consequences of an accident will not increase.

2. Create the possibility of a new or different kind of accident from any previously evaluated.

The proposed technical specifications change does not create the possibility of a new or different kind of accident from any previously evaluated. The change does not introduce any new equipment into the plant or require any existing equipment to be operated in a manner different than that in which it was designed to be operated. A safety related snubber is considered a passive device which is called upon to perform during a seismic or dynamic event, therefore, the failure of a snubber would have no effect on the possibility of an accident. Imposing a new inspection schedule will have no effect on the method or thoroughness of the snubber inspections. The new schedule is an administrative control only. Therefore, the possibility of a malfunction of a different type than any previously evaluated in the FSAR will not be created.

3. Involve a significant reduction in the margin of safety.

The proposed technical specifications change does not involve a significant reduction in the margin of safety. This change to the snubber inspection schedule maintains the same confidence level of snubber operability as the existing schedule and replaces it. As stated previously, the functional testing of the snubbers provides a 95 percent confidence level that 90 to 100 percent of the snubbers will operate within the specified acceptance limits. Therefore, the margin of safety as defined by plant licensing bases will not be reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Attorney for licensee: Judd L. Bacon, Esq., Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: Ledyard B. Marsh

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: July 15, 1991

Description of amendment request: The proposed amendment aligns the requirements of the Technical Specifications with the restructured Consumers Power Company, Palisades Plant, Nuclear Operating Department. As a result of a Palisades Plant reorganization effective April 1, 1991, a new design engineering group and a Nuclear Performance Assessment Department were formed. These organizational changes were made by utilizing a combination of resources from the plant site and the corporate headquarters. Additionally, changes are proposed in the composition of the plant review committee.

Specifically, changes are proposed to Technical Specification Sections 6.5.1, "Plant Review Committee"; 6.5.2, "Nuclear Safety Services Department (NSSD)"; 6.7, "Safety Limit Violation"; and 6.10, "Record Retention." All of the above changes are related to the recent reorganization at the Palisades Plant.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The licensee has determined that the changes do not:

1. Involve a significant increase in the possibility or consequences of an accident previously evaluated.

This change does not affect the probability or consequences of an accident. The changes are to the administrative section of the TS with the significant changes affecting the PRC composition and changing the NSSD to NPAD.

The PRC member titles will be removed from the TS to facilitate not requiring that a TS change be submitted for NRC approval when position titles change. PRC member qualifications will still be consistent with those described for the Plant Staff and meet or exceed ANSI 18.1-1971 as endorsed by the NRC in SRP 13.4. The Plant General Manager will be required to designate the PRC members, chairmen and alternate chairmen in administrative procedures, this places appropriate authority over PRC selection.

Therefore, these changes will not affect the probability or consequences of an accident.

The NPAD will continue to provide independent review. Changes to delete certain areas in the TS where the NPAD provides independent review align the TS with the Standard Technical Specifications. The NPAD will still continue to review some activities as appropriate in the areas that have been deleted in the TS, but they will not be TS required functions. This change, although it reduces the functional requirements presently in the TS, aligns the TS to the Standard TS and does not increase the probability or consequences of an accident.

The review method of the NPAD has changed as a second level review is no longer required, but the depth of review will be enhanced as appropriate either through the past practice of use of consultants or by NPAD committee review. The NPAD staff tasked with review of the TS required functional areas will meet or exceed the qualifications described in Section 4 of ANSI/ANS 3.1-1987 in accordance with SRP 13.4. This change also does not increase the probability or consequences of an accident.

The change to reference the reporting requirements to Section 6.9.2 is purely administrative to gain consistency throughout the technical specifications. The changes do not affect the operation or material condition of the facility. The accident analyses are not affected by this proposed change. Proper review and independent oversight by qualified personnel as recommended or required by the Standard Technical Specifications, Standard Review Plan, and Administrative Procedures will be in place. Therefore, the changes do not increase the probability or consequences of an accident.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The composition of PRC and NPAD will be made up of qualified individuals providing functional reviews that are consistent with the Standard Technical Specifications, Standard Review Plan and administrative program requirements. These changes and the purely administrative changes do not affect the material condition, plant operation or accident analysis and, therefore, do not create the possibility of a different type of accident than any previously evaluated.

3. Involve a significant reduction in the margin of safety.

The changes to PRC composition provide internal flexibility in changing the organization titles, but do not reduce the PRC function to provide review and advise the Plant General Manager on matters of nuclear safety. The PRC is comprised of individuals from appropriate functional areas of Operations, Maintenance, Radiological Services, and Engineering Departments and will be designated in administrative procedures by the Plant General Manager. The NPAD will continue to provide an independent overview by qualified individuals, or by committee, of the functional areas delineated in the TS. These changes do not affect the material condition or plant operation and neither the consequences of an accident nor have the fission product boundaries have been affected. Therefore the margin of safety has not been reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Attorney for licensee: Judd L. Bacon, Esq., Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: Ledyard B. Marsh

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: October 28, 1987

Description of amendment request: The licensee's application dated October 28, 1987, proposed 18 changes of an administrative and clarifying nature to the Technical Specifications (TSs) for the Catawba Nuclear Station, Units 1 and 2. These 18 changes were identified in a Notice in the **Federal Register** on November 15, 1989 (54 FR 47601). This Notice indicated that changes (4) and (6) were not covered by the Notice and would be handled separately. Change (4), to maintain consistency between TS 3.4.4 and other TS LCOs, was addressed by the licensee's subsequent separate application dated May 9, 1991, and is being addressed in response to that application. Change (6), to add the word "path" to TS 4.7.1.2.2 for clarification purposes, is hereby addressed by this Notice.

On November 29, 1990,

Amendment Nos. 80 and 74 to Facility Operating Licenses NPF-35 and NPF-52 for Catawba Units 1 and 2, respectively, was issued. These amendments dealt with the 18 issues of the October 28, 1987, application except for: (4) TS 3.4.4, (5) TS 3.7.1.5, (6) TS 4.7.1.2.2, (8) TS 4.8.1.1.2a, and (11) TS 6.2.2.f. Therefore, since change (4) will be addressed separately, the amendment proposed to be issued subsequent to this Notice would address changes (5), (8), and (11) as included in the Notice of November 15, 1989, and change (6) as addressed in this Notice. It is noted that by letter dated June 18, 1991, the licensee reduced the scope of change (11) by withdrawing the proposal to increase the number of hours that could be worked in a 48 hour period from 24 to 28. The remaining portion of change (11) remains as it was described in the Notice of November 15, 1989.

Basis for proposed no significant hazards consideration determination: In accordance with 10 CFR 50.91(a), the analysis of the issue of no significant hazards consideration is presented below.

The proposed change to insert the word "path" into Surveillance Requirement (SR) 4.7.1.2.2 to clarify that the intent of the SR is to ensure the availability of an auxiliary feedwater flowpath is administrative in nature and does not involve a significant hazards consideration because:

1. It does not involve a significant increase in the probability or consequences of an accident previously evaluated because it provides a clarification and is administrative in nature. As such, it does not involve any hardware changes to the Catawba facility and does not affect the capability of the Catawba facility to preclude, mitigate, or withstand the effects of those postulated events analyzed or evaluated as part of the Catawba licensing basis.

2. It does not create the possibility of a new or different kind of accident. It

does not involve any facility design or operational changes and, therefore, no new failure modes, operational configurations, or equipment vulnerabilities are introduced.

3. It does not involve a reduction in a margin of safety. The change was proposed to fulfill a previous licensee commitment that had been relied upon in the NRC staff's Safety Evaluation of the initial authorization to operate the Catawba facility. Clarification that it is the flowpath that is to be verified by this SR and not the flow rate, which is addressed by another SR, provides an enhancement to the TS. Therefore, current margins of safety are not reduced.

Based on the staff's review of the licensee's application, it appears that the requested change covered by this Notice meets the three standards of 10 CFR 50.92. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: David B. Matthews

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of amendment request: May 14, 1991

Description of amendment request: The proposed amendment would modify the Limiting Condition for Operation (LCO) and Action Statement for Technical Specification (TS) 3.6.4.3 to address operability requirements for the chemical addition system (CAS) on a subsystem level. The LCO would require two chemical injection subsystems to be operable vice four chemical injection pumps, and the Action Statement would be directed to the inoperability of the CAS subsystems.

Surveillance Requirement 4.6.2.3.b would be modified to reflect a revised CAS pump flow requirement. The modified flow requirement for the chemical injection pumps satisfies the containment spray and sump pH requirements stated in the Beaver Valley Power Station, Unit 1 UFSAR and is consistent with the analysis for the loss-of-coolant accident.

Surveillance Requirement 4.6.2.3.d.3 would be added to require verification that each chemical injection pump starts automatically upon a test signal.

Surveillance Requirement 4.6.2.3.d.4 would be added to require verification at least once every 18 months that one chemical injection pump in each subsystem will stop on a signal from the cutback control valve.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

A. The proposed changes to the LCO and Action Statement would assure that at least one spray path with the appropriate pH would be available during an accident assuming a single failure. The changes to the Surveillance Requirements merely revise the required flow to reflect the results of a new analysis that is consistent with the Updated Final Safety Evaluation Report (UFSAR). The changes do not affect the manner by which the facility is operated or change equipment or features which affect the operational characteristics of the facility. Therefore, the changes do not involve a significant increase in the probability or consequences of an accident previously evaluated (10 CFR 50.92(c)(1)).

B. The changes do not create the possibility of a new or different kind of accident from any accident previously evaluated (10 CFR 50.92(c)(2)) because the proposed changes provide additional assurance of equipment operability and revise flow requirements based on new analyses. The changes do not affect the manner by which the facility is operated or change equipment or features which affect the operational characteristics of the facility.

C. The proposed changes do not affect the manner by which the facility is operated or involve equipment or features which affect the operational characteristics of the facility. The modified flow requirement for the chemical injection pumps satisfies the containment spray and sump pH requirements stated in the Beaver Valley Power Station, Unit 1 UFSAR and is consistent with the analysis for the loss-of-coolant accident. The other changes provide additional assurance of equipment operability. Therefore, the changes do not involve a significant reduction in a margin of safety (10 CFR 50.92(c)(3)).

Based on this review, it appears that the three criteria of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Duquesne Light Company, et. al., Docket No. 50-412, Beaver Valley Power Station, Unit 2, Shippingport, Pennsylvania

Date of amendment request: April 12, 1991

Description of amendment request: The proposed amendment would modify Technical Specification 3.3.3.8 by deleting a nonapplicable Action statement and reducing the total number of channels for Table 3.3-11, Item 10, Reactor Vessel Level Indication System (RVLIS), from 2 to 1.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

A. The changes do not involve a significant increase in the probability or consequences of an accident previously evaluated (10 CFR 50.92(c)(1)) because the proposed deletion of the nonapplicable Action statement is administrative and does not affect the Updated Final Safety Analysis Report (UFSAR) accident analysis. Since the Reactor Vessel Level Indication System (RVLIS) is only used as a backup system (as described in UFSAR Section 7.5.2) and performs no automatic actions, reducing the total number of channels from 2 to 1 will not affect the UFSAR accident analysis. Therefore the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

B. The changes do not create the possibility of a new or different kind of accident from any accident previously evaluated (10 CFR 50.92(c)(2)) because the proposed changes do not involve plant hardware changes and do not result in a change in the manner in which RVLIS performs its function or assists in plant protection.

C. The changes do not involve a significant reduction in a margin of safety (10 CFR 50.92(c)(3)) because the proposed changes do not affect the manner by which the facility is operated or involve equipment or features which

affect the operational characteristics of the facility.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037.

Duquesne Light Company, Docket No. 50-412, Beaver Valley Power Station, Unit No. 2, Shippingport, Pennsylvania

Date of amendment request: May 14, 1991

Description of amendment request: The proposed amendment would modify the Limiting Condition for Operation (LCO) and Action Statement for Technical Specification (TS) 3.6.4.3 to address operability requirements for the chemical addition system (CAS) on a subsystem level. The LCO would require two chemical injection subsystems to be operable vice four chemical injection pumps, and the Action Statement would be directed to the inoperability of one of the CAS subsystems. These changes would assure that at least one spray path with the appropriate pH would be available during an accident assuming a single failure. Surveillance Requirement 4.6.2.3.d.3 would be added to require verification that each chemical injection pump starts automatically upon a test signal.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

A. The changes do not involve a significant increase in the probability or consequences of an accident previously evaluated (10 CFR 50.92(c)(1)). The proposed changes to the LCO and Action Statement would assure that at least one spray path with the appropriate pH would be available during an accident assuming a single failure. The change to the Surveillance Requirements merely adds a new surveillance requirement. These changes do not affect the manner by which the facility is operated or change equipment or features which affect the operational characteristics of the facility.

B. The changes do not create the possibility of a new or different kind of accident from any accident previously evaluated (10 CFR 50.92(c)(2)) The proposed changes merely provide additional assurance of equipment operability. These changes do not affect the manner by which the facility is operated or change equipment or features which affect the operational characteristics of the facility.

C. The changes do not involve a significant reduction in a margin of safety (10 CFR 50.92(c)(3)) because the proposed changes do not affect the manner by which the facility is operated or involve a change to equipment or features which affect the operational characteristics of the facility.

Based on this review, it appears that the three criteria of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Duquesne Light Company, et. al., Docket Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of amendment request: May 6, 1991

Description of amendment request: The proposed amendment would add a surveillance requirement to Technical Specification 3/4.4.9, Pressure/Temperature Limits Reactor Coolant System. The new surveillance requirement, 4.4.9.1.c, will provide for the removal and examination of the reactor vessel material irradiation surveillance specimens in accordance with 10 CFR Part 50, Appendix H.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

A. The changes do not involve a significant increase in the probability or consequences of an accident previously evaluated (10 CFR 50.92(c)(1)) because the proposed addition of the surveillance requirement will not affect the reactor vessel material surveillance program. Implementation of the proposed change will add a surveillance requirement that will ensure further that the reactor material irradiation surveillance specimens be removed and examined in accordance with 10 CFR Part 50, Appendix H. The surveillance requirement will also ensure further that the results of the specimen examination are used to update the Reactor Coolant System heatup and cooldown curves of Figures 3.4-2 and 3.4-3 respectively. Therefore these changes are considered to be administrative and do not significantly increase the probability or consequences of an accident previously evaluated.

B. The changes do not create the possibility of a new or different kind of accident from any accident previously evaluated (10 CFR 50.92(c)(2)) because the changes will not alter any plant configuration or mode of operation. Compliance with existing regulations will ensure continued confidence in the reactor vessel material properties.

C. The changes do not involve a significant reduction in a margin of safety (10 CFR 50.92(c)(3)) because the proposed changes do not affect the manner by which the facility is operated or involve equipment or features which affect the operational characteristics of the facility.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037.

NRC Project Director: John F. Stolz

Entergy Operations, Inc., Docket No. 50-313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: June 24, 1991

Description of amendment request: The proposed amendment to the Technical Specifications (TS) incorporate the recommendations of Generic Letter (GL) 87-09. The proposal revises Limiting Conditions for Operations Section 3.0.4 and Surveillance Requirement Section 4, their associated Bases, and those associated TS which no longer need to be exempt from the provisions of TS 3.0.4 due to its rewording. Section 4 is

reformatted for clarity and consistency with GL 87-09 and the licensee's Inservice Inspection and Testing Program. Also, a specific exemption to the provisions of TS 4.0.4 has been added to Item 31 of Table 4.1-1.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1 - Does not involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The proposed amendment does not involve an increase in the probability or consequences of any previously evaluated accident.

The change to TS 3.0.4 will allow mode changes while the Unit is in an Action Statement which does not prohibit power operation. Exceptions to TS 3.0.4 have already been taken in many of the individual Action statements. This change will allow a mode change when appropriate TS Action statements are implemented. Current TS identify sufficient Actions should the component or system become inoperable during the applicable mode of operation. These Actions ensure that an adequate level of protection exists until the equipment can be required. The proposed change allows the Unit to enter operational modes if the Actions have been met.

Incorporating the proposed change into TS 3.0.4 will ensure that exceptions will be consistently applied throughout the TS, when justified.

The proposed TS 4.0.3 will allow a delay of implementation of Action requirements for up to 24 hours under certain conditions when a surveillance has been missed. Additionally, in some cases a surveillance should be delayed for optimum plant conditions. This will not significantly increase the probability or the consequences of an accident, in that surveillances normally verify system or component operability as opposed to discovering inoperability. Without the 24 hour delay, it is possible that a missed surveillance would force the Unit to be placed in a shutdown condition. Avoidance of these unnecessary shutdowns is beneficial as this induces stresses into the reactor vessel materials and far outweighs any disadvantages associated with the additional 24 hours in which to perform a missed surveillance.

If a plant shutdown is required before a missed surveillance is completed, it is likely that it would be conducted when the plant is being shut down because completion of a missed surveillance would terminate the shutdown requirement. This is undesirable since it increases the risk to the plant and public safety for two reasons. First, the plant would be in a transient state involving changing plant conditions that offer the potential for an upset that could lead to a demand for the system or component being tested. This would occur when the system or component is either out of service to allow performance of the surveillance test or there is a lower level of confidence in its operability because the normal surveillance interval was exceeded. If the surveillance did demonstrate that the system or component was inoperable, it usually would be preferable to restore it to operable status before making a major change in plant operating conditions. Second, a shutdown would increase the pressure on the plant staff to expeditiously complete the required surveillance so that the plant could be returned to power operation. This would further increase the potential for a plant upset when both the shutdown and surveillance activities place a demand on the plant operators.

The proposed TS 4.0.4 will not result in a change to the design or operation of the facility, therefore, this change will not result in an increase in the probability or consequences of an accident previously evaluated.

Criterion 2 - Does not create the possibility of a New or Different Kind of Accident from any Previously Evaluated.

The proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated for the reasons stated below.

The change to TS 3.0.4 will allow the plant to enter applicable operational modes if an Action statement which already allows continued operation is met. Several TS Actions currently allow continued operation with an inoperable component or system when compliance with the Action requirements is satisfied. No new modes of operation are being introduced by this change.

The proposed TS 4.0.3 would allow the plant to continue operation for an additional 24 hours after discovery of a missed surveillance. Missing a surveillance does not mean that a component or system is inoperable. In most cases, surveillance demonstrate the continued operability of the components and systems. This change will not affect the design of the plant and will not allow the plant to be operated outside the currently allowed modes of operation.

The proposed TS 4.0.4 will alleviate a contradiction within the TS. The change is necessary to allow the plant to proceed through or to required operational modes to comply with Action requirements even though applicable Surveillance Requirements may not have been performed. This change does not effect any of the accident analyses.

Criterion 3 - Does not Involve a Significant Reduction in the Margin of Safety.

The proposed amendments will not involve a significant reduction in a margin of safety.

The change to TS 3.0.4 will allow mode changes while still in Action statements that do not require plant shutdowns, given that Action statements are complied with prior to changing mode. Exceptions to TS 3.0.4 are already contained within many of the applicable Action statements. Incorporating a standard exception within the body of the requirement will ensure consistent application of the exception.

The proposed TS 4.0.3 will allow up to 24 hours to perform a missed surveillance. In some cases this will eliminate the need for a plant shutdown. The overall effect is a net gain in plant safety due to avoidance of unnecessary shutdowns due to missed surveillances.

The proposed TS 4.0.4 will eliminate a contradiction within the TS and is necessary to allow the plant to proceed through or to required operational modes to comply with Action requirements even though applicable Surveillance Requirements may not have been performed. This change does not effect any margin of safety.

The NRC in issuing Generic Letter 87-09 recommended these changes and concluded that they would result in improved TS. Entergy Operations concurs with this conclusion.

Based on the above evaluation, it is concluded that the proposed TS change does not constitute a significant hazards concern.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: Theodore R. Quay

Entergy Operations, Inc., Docket No. 50-368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of amendment request: June 24, 1991

Description of amendment request: The proposed amendment to the Technical Specifications (TS) incorporate the recommendations of Generic Letter 87-09. The changes revise Limiting Conditions for Operations Section 3.0.4 and Surveillance Requirements Sections 4.0.3 and 4.0.4 and associated specifications which have been exempted from the 3.0/4.0 requirements.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1 - Does not involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The proposed amendment does not involve an increase in the probability or consequences of any previously evaluated accident.

The change to TS 3.0.4 will allow mode changes while the Unit is in an Action

Statement which does not prohibit power operation. Exceptions to TS 3.0.4 have already been taken in many of the individual Action statements. This change will allow a mode change when appropriate TS Action statements are implemented. Current TS identify sufficient Actions should the component or system become inoperable during the applicable mode of operation. These Actions ensure that an adequate level of protection exists until the equipment can be required. The proposed change allows the Unit to enter operational modes if the Actions have been met.

Incorporating the proposed change into TS 3.0.4 will ensure that exceptions will be consistently applied throughout the TS, when justified.

The proposed TS 4.0.3 will allow a delay of implementation of Action requirements for up to 24 hours under certain conditions when a surveillance has been missed. Additionally, in some cases a surveillance should be delayed for optimum plant conditions. This will not significantly increase the probability or the consequences of an accident, in that surveillances normally verify system or component operability as opposed to discovering inoperability. Without the 24 hour delay, it is possible that a missed surveillance would force the Unit to be placed in a shutdown condition. Avoidance of these unnecessary shutdowns is beneficial as this induces stresses into the reactor vessel materials and far outweighs any disadvantages associated with the additional 24 hours in which to perform a missed surveillance.

If a plant shutdown is required before a missed surveillance is completed, it is likely that it would be conducted when the plant is being shut down because completion of a missed surveillance would terminate the shutdown requirement. This is undesirable since it increases the risk to the plant and public safety for two reasons. First, the plant would be in a transient state involving changing plant conditions that offer the potential for an upset that could lead to a demand for the system or component being tested. This would occur when the system or component is either out of service to allow performance of the surveillance test or there is a lower level of confidence in its operability because the normal surveillance interval was exceeded. If the surveillance did demonstrate that the system or component was inoperable, it usually would be preferable to restore it to operable status before making a major change in plant operating conditions. Second, a shutdown would increase the pressure on the plant staff to expeditiously complete the required surveillance so that the plant could be returned to power operation. This would further increase the potential for a plant upset when both the shutdown and surveillance activities place a demand on the plant operators.

The proposed TS 4.0.4 will not result in a change to the design or operation of the facility, therefore, this change will not result in an increase in the probability or consequences of an accident previously evaluated.

Criterion 2 - Does not create the possibility of a New or Different Kind of Accident from any Previously Evaluated.

The proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated for the reasons stated below.

The change to TS 3.0.4 will allow the plant to enter applicable operational modes if an Action statement which already allows continued operation is met. Several TS Actions currently allow continued operation with an inoperable component or system when compliance with the Action requirements is satisfied. No new modes of operation are being introduced by this change.

The proposed TS 4.0.3 would allow the plant to continue operation for an additional 24 hours after discovery of a missed surveillance. Missing a surveillance does not mean that a component or system is inoperable. In most cases, surveillance demonstrate the continued operability of the components and systems. This change will not affect the design of the plant and will not allow the plant to be operated outside the currently allowed modes of operation.

The proposed TS 4.0.4 will alleviate a contradiction within the TS. The change is necessary to allow the plant to proceed through or to required operational modes to comply with Action requirements even though applicable Surveillance Requirements may not have been performed. This change does not effect any of the accident analyses.

Criterion 3 - Does not Involve a Significant Reduction in the Margin of Safety.

The proposed amendments will not involve a significant reduction in a margin of safety.

The change to TS 3.0.4 will allow mode changes while still in Action statements that do not require plant shutdowns, given that Action statements are complied with prior to changing mode. Exceptions to TS 3.0.4 are already contained within many of the applicable Action statements. Incorporating a standard exception within the body of the requirement will ensure consistent application of the exception.

The proposed TS 4.0.3 will allow up to 24 hours to perform a missed surveillance. In some cases this will eliminate the need for a plant shutdown. The overall effect is a net gain in plant safety due to avoidance of unnecessary shutdowns due to missed surveillances.

The proposed TS 4.0.4 will eliminate a contradiction within the TS and is necessary to allow the plant to proceed through or to required operational modes to comply with Action requirements even though applicable Surveillance Requirements may not have been performed. This change does not effect any margin of safety.

The NRC in issuing Generic Letter 87-09 recommended these changes and concluded that they would result in improved TS. Entergy Operations concurs with this conclusion.

Based on the above evaluation, it is concluded that the proposed TS change does not constitute a significant hazards concern.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: Theodore R. Quay

Entergy Operations, Inc., Docket No. 50-368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of amendment request: June 27, 1991

Description of amendment request: The proposed amendment to the Arkansas Nuclear One, Unit 2 (ANO-2) Technical Specifications (TSs) would revise Table 3.8-1 to add the following Overcurrent Protective Devices (breakers): 52-31G1 and 52-31G2 on motor control center (MCC) 2B31 and 52-41F4 and 52-41F5 on MCC 2B41. Also, Surveillance Requirement 4.8.2.5.a.1 would be revised to provide testing consistent with the specific breaker design. A new section (4.8.2.5.a.2) would be added for 480 volt air frame breakers and section 4.8.2.5.a.3 on testing for the molded case circuit breakers would be reformatted with the same requirements. The licensee also requested changes to the associated bases to clarify the tests.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1 - Does Not Involve a Significant Increase in the Probability of Consequences of an Accident Previously Evaluated.

This change merely clarifies the current TS, appropriate to the design, provides testing in line with the intent of the requirements and adds overcurrent devices not previously listed in the table and, therefore, does not involve an increase in the probability or consequences of an accident previously evaluated.

Criterion 2 - Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

No new or different kind of accident from any previously evaluated is created by providing testing consistent with the intent of the TS and adding new overcurrent devices to the table.

Criterion 3 - Does Not Involve a Significant Reduction in the Margin of Safety.

This proposed change provides more explicit testing requirements, clearly within

the intent of the current requirements and adds new devices to the table of overcurrent protective devices, for electrical cables which penetrate the containment. Therefore, the margin of safety will not be reduced by this change.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: Theodore R. Quay

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1 West Feliciana Parish, Louisiana

Date of amendment request: May 14, 1991

Description of amendment request: The proposed amendment would change Technical Specification 4.8.1.1 to increase the minimum required starting time for the high pressure core spray (HPCS) diesel generator from 10 to 13 seconds. In addition, the amendment would revise the acceptance criteria for the 10-year test to require the diesel to accelerate to at least 882 rpm rather than 900 rpm within 10 seconds from starting.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensees analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

1.No significant increase in the probability or the consequences of an accident previously evaluated results from this change because

The current design of River Bend Station requires that the high pressure core spray (HPCS) system be injecting water into the reactor pressure vessel 30 seconds after a design basis Loss of Coolant Accident (LOCA). Three seconds after the LOCA occurs, a start signal is given to the HPCS system. The remaining 27 second time period allows the Division III (HPCS) diesel generator (DG) to start, the HPCS pump to start, and the HPCS injection motor operated valve (MOV) to open. Of these three major activities, the HPCS DG start time and the HPCS injection MOV stroke time are the only two activities that occur in series. The basic sequence that is followed during a HPCS system initiation without offsite power is that the first ten seconds is used by the HPCS DG to start, accelerate to running speed, flash the generator field, and close the DG output breaker. Once power is restored to the bus, the HPCS injection MOV receives power and starts to open. The design required stroke time for this valve is twelve seconds. Therefore, the current total time required to start and complete the initiation sequence for the HPCS system is 22 seconds. The proposed change would allow the HPCS DG to start and accelerate to 882 RPM with DG output breaker closure occurring within 13 seconds of receipt of the initiation signal. Once power was restored to the bus, the HPCS injection MOV would still stroke open in twelve seconds. This would result in a total time from receipt of injection signal to injecting water into the reactor vessel of 25 seconds. The new time sequence is still within the existing analysis for the HPCS system of 27 seconds. Therefore, this change does not increase the possibility or consequences of an accident because the proposed change reallocates some of the margin in the existing design of the high pressure core spray system. The reduction in the minimum required rpm during the 10 year test start from 900 to 882 rpm is consistent with the speed required by the monthly tests. Since the monthly test assures that the diesel will start and attain sufficient speed/voltage for the HPCS system to operate, the probability of an accident is not increased.

2.This change would not create the possibility of a new or different kind of accident from any accident previously evaluated because:

The proposed changes to the HPCS DG start time and rpm requirement, will not create any new accident scenarios because no new equipment is required to implement the changes and the methods of testing are not changed.

3. The change would not involve a significant reduction in the margin of safety because:

The current design requirement for the HPCS system to respond to an initiation signal when offsite power is lost is 27 seconds. The 27 second time period allows the diesel generator to start, close the DG output breaker, open the HPCS injection MOV, and allow cooling water to flow into the reactor under high pressure. A reduction in the margin of safety would occur if the time required to complete these actions were to increase above 27 seconds. With a 13 second HPCS diesel start, the allowed time for these actions to occur is increased from 22 to 25 seconds. However, since this remains less than the design requirement of 27 seconds, the technical specification margin of safety has not been reduced.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

Attorney for licensee: Mark Wetterhahn, Esq., Bishop, Cook, Purcell and Reynolds, 1401 L Street, N.W., Washington, D.C. 20005

NRC Project Director: George F. Dick, Jr., Acting Director

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit 2, Scriba, New York

Date of amendment request: April 24, 1991

Description of amendment request: The proposed amendment would make the Shift Technical Advisor (STA) position a normally dedicated STA position, rather than the dual-role Assistant Station Shift Supervisor/Shift Technical Advisor (ASSS/STA) position currently specified. In particular, this proposed modification consists of wording changes to Technical Specifications 6.2.2.e and 6.2.4, and a reflection of those changes in the format and content of Technical Specification Table 6.2.2-1. Additionally, the modification corrects an error in Table 6.2.2-1 to alleviate potential ambiguity, and makes editorial changes in order to clarify Technical Specifications 6.2.2.e and 6.2.4.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed change will provide an additional person, on-shift, responsible for assisting with off-normal conditions, and will therefore help to mitigate the consequences of an accident. In addition,

having a dedicated STA on-shift, by relieving the ASSS of the STA function, will help facilitate the initiation of the Emergency Operating Procedures.

Concerning the correction to Table 6.2.2-1, the last column of the current table (Operational Mode 2) has always required an extra Operator to be on-shift at all times while the unit is operating in Operational Mode 2 (Startup). The third column of the current table appears to omit this requirement for periods of operation longer than 8 hours without the process computer, but this is not the intent of this column. The omission of the extra Operator requirement from the third column has not affected operating shift composition in the past because of the Mode 2 column, which requires the extra operator at all times while in Mode 2 (regardless of the condition of the process computer) and thus takes precedence over the third column for Mode 2). Therefore, this change will have no effect on the operation of the unit, and is being proposed in order to correct the apparent inconsistency in the table and prevent the possibility of any future confusion.

The proposed change does not involve a physical modification to the plant, a new mode of operation or a change to the USAR transient analyses. No Limiting Condition for Operation (LCO), ACTION Statement, or Surveillance Requirement is affected by any of the proposed changes.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated because the effect of the proposed change is to add an additional person on shift who is trained to assist with off-normal conditions, and who will relieve the ASSS of the burden of assuming the STA functions during an accident. As noted above, the correction to the third column of Table 6.2.2-1 will have no effect on the operation of Nine Mile Point Unit 2. Normal plant operation will not be affected, and no physical alterations of plant configuration or changes to setpoints or operating parameters are proposed.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

The proposed amendment does not involve a significant reduction in a margin of safety because the effect of the proposed change is to add an additional person of shift who is trained to assist with off-normal conditions, and who will relieve the ASSS of the burden of assuming the STA functions during an accident. As noted above, the correction to the third column of Table 6.2.2-1 will have no effect on the operation of Nine Mile Point Unit 2, and thus will not affect any margins of safety. Normal plant operation will not be affected, and no physical alterations of plant configuration or changes to setpoints or operating parameters are proposed.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. The NRC staff also notes that the editorial changes to Technical Specifications 6.2.2.e and 6.2.4 are similar to example (i) of the Commission's Examples of Amendments That Are Considered Not Likely To Involve Significant Hazards Considerations published in the Federal Register on March 6, 1986 (51 FR 7744) in that these proposed changes would be purely administrative changes and therefore do not involve a significant hazards consideration. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC. 20005-3502.

NRC Project Director: Robert A. Capra

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Units 2 and 3, York County, Pennsylvania

Date of application for amendments: July 2, 1991

Description of amendment request: The amendment proposes changes to the Technical Specifications (TS) Surveillance Requirement 4.9.C.1.a for the testing of the Emergency Service Water (ESW) pumps. Specifically, the changes would allow pump performance testing to be performed under flow conditions rather than at pump shutoff head. A plant modification has been completed to allow for this testing method.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes to the Peach Bottom Atomic Power Station Operating Licenses are in the interest of safety and do not constitute a significant hazards consideration in that they would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The four design basis accidents described in Section 14 of the Updated Final Safety Analysis Report (UFSAR) are: Control Rod Drop Accident, Loss of Coolant Accident, Refueling Accident and Main Steam Line Break. Revising the SRs in Section 4.9.C.1.a will not affect the accident precursors, initial conditions, assumptions or sequences of events of these accidents as decribed in the UFSAR. It is concluded that the probability or consequences of an accident previously evaluated will not be increased by the implementation of these proposed changes.

2. Create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes concern changing the method of testing the ESW pumps. Implementing these changes will not involve any unanalyzed plant conditions, piping configurations or valve line-ups and therefore will not create the possibility of a new or different kind of accident from any previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed changes will not affect the discharge temperature, pressure or flow rate from the pumps. The proposed changes may increase the reliability of the ESW pumps by replacing a potential damaging method of testing with a more effective method of testing. Therefore the margin of safety will not be reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for Licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

NRC Project Director: Walter R. Butler

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego, New York

Date of amendment request: July 9, 1991

Description of amendment request: This proposed amendment to the James A. FitzPatrick Technical Specifications (TS) revises Table 3.2-7, "Instrumentation That Initiates Recirculation Pump Trip," and Table 4.2-7, "Minimum Test and Calibration Frequency For Recirculation Pump Trip," to reflect a modification to the Reactor Water Recirculation Pump Trip (RPT) system logic. The licensee changed the logic for the system as part of the modifications required by 10 CFR 50.62, "Requirements for Reduction of

Risk from Anticipated Transients Without Scram (ATWS) Events for Light-Water-Cooled Nuclear Power Plants."

The ATWS reactor water recirculation pump trip system provides a way to limit the consequences of a failure to scram during an anticipated transient. The licensee modified the logic of the reactor water recirculation pump trip actuation instrumentation during the 1990 refueling outage to comply with the requirements of 10 CFR 50.62. The primary objective of the logic change was to maintain or improve reliability of the trip logic while providing a design with on-line testability. The new logic is 1 out of 2 taken twice on reactor low low water level or reactor high pressure for both pumps. That is, both pumps are tripped together, but they must receive signals from both trip systems. A signal can be generated in either the level trip function or the pressure trip function, but two separate channels must generate the signal to trip the recirculation pumps.

The proposed amendment to the James A. FitzPatrick Technical Specifications updates Tables 3.2-7 and 4.2-7 to reflect the stated changes to the logic of the Reactor Water Recirculation Pump Trip System. Specifically, the minimum number of operable channels per trip system would be changed from one to two. Furthermore, the required action statements to be implemented when channels become inoperable would be revised to read:

Action A

When the number of operable channels is one less than the required number of operable channels per trip system for one or both trip systems, restore the inoperable channel to an operable condition within 72 hours. If not restored within 72 hours, place the inoperable channel in a tripped condition within one hour. If placing the inoperable channel in the tripped condition would result in a recirculation pump trip, take Action C.

Action B

When the number of operable channels is two less than the required number of operable channels per trip system for one or both trip systems, either restore at least one channel per trip system to an operable status within one hour or place the inoperable channels in the tripped condition with one hour. If placing the inoperable channel in the tripped condition would result in recirculation pump trip, take Action C.

Action C

If Action A or B is not completed within the allowed time, be in the start-up/hot standby mode within the next six hours.

The proposed amendment would also revise the format and content of Tables 3.2-7 and 4.2-7 to improve their clarity.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Operation of the FitzPatrick plant in accordance with the proposed amendment would not involve a significant hazards consideration as defined in 10 CFR 50.92, since it would not:

1. involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes reflect modifications in the logic of the ATWS reactor water recirculation pump trip system. The logic changes ensure that instrumentation would be available in case of an ATWS event by using a logic design which is reliable and which is testable while the reactor is at power. Requirements for instrument operability and surveillance do not increase the probability or consequences of a previously evaluated accident.

2. create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes reflect modifications in the logic of the ATWS recirculation pump trip system. This new logic cannot contribute to or initiate any new type of plant transient. The requirements for instrument operability and surveillance do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. involve a significant reduction in a margin of safety.

The proposed changes provide operability and surveillance requirements for instrumentation required in case of an ATWS. These changes increase the level of protection provided at the FitzPatrick plant. The operability and surveillance requirements for the new instrumentation are consistent with those previously approved for emergency core cooling system instrumentation at the FitzPatrick plant.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mr. Charles M. Pratt, 1633 Broadway, New York, New York 10019.

NRC Project Director: Robert A. Capra

Tennessee Valley Authority Docket No. 50-260 Browns Ferry Nuclear Plant, Unit 2, Limestone County, Alabama

Date of amendment requests: July 11, 1991 (TS 296)

Description of amendment request: The proposed amendment would make changes to Table 3.2.B and Tables 3.11.A to correct the instrument identification associated with the function of the instruments, and to correct administrative errors in previous TS submittals and implementation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Table 3.2.B (Instrumentation That Initiates or Controls The Core and Containment Cooling Systems) is being revised for Unit 2 to identify the correct level switch that enables the High Pressure Coolant Injection System pump to automatically switch from the normal suction path, the condensate storage tank to the alternate suction path, the suppression pool, upon low level in the condensate system storage tank. Table 3.2.B identifies the instruments that perform this function LS-73-55A & B when actually the instruments that perform the function is LS-73-56A & B.

Table 3.11.A (Fire Detection Instrumentation), Item 4, describes detection and instrumentation associated with the Elevation 565 preaction system. The local panel number is incorrectly identified as 2-25-291, it should be identified as 2-25-286. Panel 2-25-291 has never been associated with the preactive system. Panel 2-25-291 was associated with the fixed spray system. This system was removed from service as part of the Appendix R and National Fire Protection Upgrades performed on BFN Unit 2. Items 3, 4, 5, and 6 describe fire detection through the use of smoke detectors. In addition to smoke detectors, heat detectors are also provided in these areas to actuate the preaction sprinkler system. For better identification of the area protected, Item 21 should include "A & B" for the mechanical equipment rooms. Item 25, panel number 2-25-326 was inadvertently omitted from this table. Item 41, both heat and smoke detectors actuate the preaction sprinkler system, therefore, "or" is being replaced with "and." Item 46, cable spray zone D is also associated with panel 1-25-334, therefore, it is being added to the table.

These changes are administrative in nature and are being made to correct administrative errors in previous TS submittals. The changes do not affect any of the design basis accidents and do not change or affect the Final Safety Analysis Report (FSAR). These changes do not involve an increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from previously evaluated.

The proposed changes are administrative in nature. They are being made to correct administrative errors in previous Technical Specification (TS) submittals and implementation. No modifications to any

plant equipment are involved. There are no effects on system interactions made by these changes. The changes will correct the TS so that they are accurate and reflect actual plant configuration.

3. The proposed changes do not involve a significant reduction in the margin of safety.

The proposed changes are administrative in nature. They correct administrative errors in previous TS submittals and implementation. The proposed changes do not reduce or adversely affect the capabilities of the system involved. The margin of safety for the HPCI and fire protection system is not reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902

NRC Project Director: Frederick J. Hebdon

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: April 27, 1990

Description of amendment request: The proposed amendment would delete the March 5, 1980 Order from the Davis-Besse Nuclear Power Station, Unit No. 1, Facility Operating License NPF-3. The March 5, 1980 Order required implementation of certain training, qualification, and staffing requirements.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The staff's review is presented below:

1.The proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated because the licensee's Licensed Operator Training Program meets the requirements of 10 CFR Part 55, "Operators' License," the licensee's Operator Training Programs are systems based and accredited by the Institute of Nuclear Power Operations (INPO), and Technical Specification (TS) Table 6.2-1, "Minimum Shift Crew Composition," is met.

2.The proposed change will not create the possibility of a new or different kind of accident from any previously evaluated accident because no hardware changes are being made, no new testing is being created, and no new operating manipulations are being created.

3.The proposed change will not involve a significant reduction in a margin of safety because the licensee's Licensed Operator Training Program meets the requirements of 10 CFR 55, the licensee's Operator Training Programs are systems based and accredited by INPO, and TS Table 6.2-1 is met.

Based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037.

NRC Project Director: John N. Hannon

Notice of Issuance of Amendment To Facility Operating License

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, D.C., and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: May 24, 1991

Brief description of amendments: The amendments change the Technical Specifications (TS) for both units by deleting the TS 4.6.1.2 requirement to use the methods and provisions of ANSI N45.4-1972 to determine the containment leakage rates. The requirement to perform three Type A tests during each 10-year service period at 40 plus or minus 10 month intervals is also deleted. The amendments allow the use of the criteria, methods, and provisions specified in Appendix J of 10 CFR Part 50 to determine the containment leakage rates. In addition, the schedule is revised to require that three Type A tests be performed at approximately equal intervals during each 10-year service period.

Date of issuance: July 30, 1991

Effective date: July 30, 1991

Amendment Nos.: 157 and 137

Facility Operating License Nos. DPR-53 and DPR-69. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated July 30, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: May 24, 1991

Brief description of amendments: The amendments revise the Technical Specifications (TS) for both Units 1 and 2 by deleting Table 4.4.5, "Reactor Vessel Material Irradiation Surveillance Schedule," changing the reference in TS 4.4.9.1.2 from the deleted table to the requirements of 10 CFR Part 50, Appendix H; and update the Bases to reflect the changes indicating the withdrawal schedule is in the Updated Final Safety Analysis Report, Table 4-13.

Date of issuance: July 30, 1991

Effective date: July 30, 1991

Amendment Nos.: 158 and 138

Facility Operating License Nos. DPR-53 and DPR-69: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: June 26, 1991 (56 FR 29269) The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated July 30, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: February 4, 1985, as supplemented on April 10, 1991 and June 13, 1991.

Brief description of amendment: Amendment imposes reactor coolant leak detection requirements and leakage limits.

Date of issuance: July 29, 1991

Effective date: July 29, 1991

Amendment No.: 139

Facility Operating License No. DPR-35: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 25, 1985 (50 FR 12137) The information in the April 10, 1991 and June 13, 1991 supplemental letters were not outside the scope of the March 25, 1985 Notice. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 26, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Commonwealth Edison Company, Docket No. 50-249, Dresden Nuclear Power Station, Unit 3, Grundy County, Illinois

Date of application for amendment: March 6, 1991

Brief description of amendment: The amendment will incorporate, by reference, the new Advanced Nuclear Fuels' methodologies previously approved by the NRC staff and the resultant increase in Minimum Critical Power Ratio Safety Limit into the Technical Specifications.

Date of issuance: August 5, 1991

Effective date: August 5, 1991

Amendment No.: 110

Facility Operating License No. DPR-25. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 17, 1991 (56 FR 15838) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 5, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450.

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: October 31, 1990

Brief description of amendment: The amendment revises Technical Specifications Sections 3.5 and 4.1 and associated Bases to allow routine analog channel testing in a bypassed condition instead of a tripped condition and to increase the surveillance intervals for the Reactor Protection System and the Engineered Safety Features analog channel tests from monthly to quarterly.

Date of issuance: July 29, 1991

Effective date: July 29, 1991

Amendment No.: 154

Facility Operating License No. DPR-26: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 12, 1990 (55 FR 51176) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 29, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of application for amendment: August 17, 1990

Brief description of amendment: This amendment revises the Technical Specification by eliminating the requirements for the Turbine Overspeed Protection System and relocating the requirements for system testing and maintenance to the plant preventive maintenance and performance testing program.

Date of issuance: July 23, 1991

Effective date: July 23, 1991

Amendment No.: 71

Facility Operating License No. NPF-43. The amendment revises the Technical Specifications

Date of initial notice in Federal Register: February 20, 1991 (56 FR 6872) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 23, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of application for amendment: May 18, 1990

Brief description of amendment: This amendment revised the Technical Specifications (TS) by adding a second Fuel Storage Pool Area Criticality Monitor Table 3.3.7.1-1 to the TS.

Date of issuance: August 1, 1991

Effective date: August 1, 1991

Amendment No.: 72

Facility Operating License No. NPF-43. The amendment revises the Technical Specifications

Date of initial notice in **Federal Register:** July 2, 1991 (56 FR 30405) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 1, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: June 5, 1991

Brief description of amendments: The amendments revise Technical Specification 3/4.6.5.1 on a one-time basis to defer the mid-cycle ice weighing surveillance for McGuire Unit 2 until the next scheduled refueling outage or outage of sufficient duration. The amendments only affect McGuire Unit 1

administratively because it shares a common TS document with Unit 2.

Date of issuance: July 30, 1991

Effective date: July 30, 1991

Amendment Nos.: 123 and 105

Facility Operating License Nos. NPF-9 and NPF-17: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: June 26, 1991 (56 FR 29272) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 30, 1991

No significant hazards consideration comments received: No.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Entergy Operations, Inc., Docket No. 50-368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of application for amendment: January 29, 1991, as revised July 29, 1991.

Brief description of amendment: The amendment to the Technical Specifications revised the time limits for monitoring linear heat rate and departure from nucleate boiling ratio using the core protection calculators when the core operating limit supervisory system is inoperable.

Date of issuance: August 6, 1991

Effective date: 30 days from date of issuance.

Amendment No.: 122

Facility Operating License No. NPF-6. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 6, 1991 (56 FR 9378) The additional information contained in the supplemental letter dated July 29, 1991, was clarifying in nature and thus, within the scope of the initial notice and did not affect the NRC staff's proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 6, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Mississippi Power & Light Company, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: June 19, 1989, as revised May 31 and December 7, 1990, and as supplemented February 7, March 4 and April 10, 1991.

Brief description of amendment: The amendment changes TS 3/4.1.5 "Standby Liquid Control System" and associated Bases by specifying an acceptable range of sodium pentaborate solution temperature (75 - 130 ° F), concentration (13.6 - 15.2 weight percent) and volume (4281 - 5088 gallons) for normal operation in lieu of the presently specified range of solution temperature (67 - 130 ° F), concentration (13.6 - 28.5 weight percent), minimum volume (4530 gallons) and minimum weight (5800 pounds). An additional Action statement allows the solution concentration to be as high as 28.5 weight percent for 72 hours provided the solution temperature is above the saturation temperature as measured each 4 hours. An additional surveillance requirement is the daily determination of the operability of heat tracing on pump suction piping by determining that power is available to at least one of the two redundant circuits.

Date of issuance: July 30, 1991

Effective date: July 30, 1991

Amendment No: 79

Facility Operating License No. NPF-29. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** June 26, 1991 (56 FR 29273) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 30, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Judge George W. Armstrong Library, Post Office Box 1406, S. Commerce at Washington, Natchez, Mississippi 39120.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Mississippi Power & Light Company, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: April 11, 1991

Brief description of amendment: The amendment revised Technical Specifications by stating that written reports required to be submitted to the NRC will be submitted pursuant to 10 CFR 50.4.

Date of issuance: July 30, 1991

Effective date: July 30, 1991

Amendment No: 80

Facility Operating License No. NPF-29. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** May 29, 1991 (56 FR 24209) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 30, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Judge George W. Armstrong Library, Post Office Box 1406, S. Commerce at Washington, Natchez, Mississippi 39120.

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of application for amendment: July 9, 1991, as supplemented August 6, 1991.

Brief description of amendment: The amendment temporarily increases the allowable amount of primary-to-secondary leakage from 0.1 gallons/minute to 0.2 gallons/minute. This increase will be in effect until the end of the current fuel cycle in September 1991.

Date of Issuance: August 9, 1991

Effective date: August 9, 1991

Amendment No.: 163

Facility Operating License No. DPR-50. Amendment revised the License. Public comments requested as to proposed no significant hazards consideration: Yes. (56 FR 33311 dated July 19, 1991). That notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. The notice also provided for an opportunity to request a hearing by August 19, 1991, but indicated that if the Commission makes a final no significant hazards consideration determination any such hearing would take place after issuance of the amendment. The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated August 9, 1991.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of application for amendments: January 25, 1991

Brief description of amendments: The amendments modify the Technical Specifications to reflect the composition of membership to the Plant Review Board.

Date of issuance: August 9, 1991
Effective date: within 30 days of issuance
Amendment Nos.: 40 and 20
Facility Operating License Nos. NPF-68 and NPF-81: Amendments revised the Technical Specifications.
Date of initial notice in Federal Register: May 1, 1991 (56 FR 20039) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 9, 1991.
No significant hazards consideration comments received: No.
Local Public Document Room location: Burke County Library, 412 Fourth Street, Waynesboro, Georgia 30830

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of application for amendments: March 29, 1991
Brief description of amendments: The amendments revise the Technical Specification (TS) surveillance requirements regarding visual inspection of snubbers.
Date of issuance: August 9, 1991
Effective date: within 30 days of issuance
Amendment Nos.: 41 and 21
Facility Operating License Nos. NPF-68 and NPF-81: Amendments revised the Technical Specifications.
Date of initial notice in Federal Register: May 1, 1991 (56 FR 20040) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 9, 1991.
No significant hazards consideration comments received: No.
Local Public Document Room location: Burke County Library, 412 Fourth Street, Waynesboro, Georgia 30830

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: April 25, 1991 as supplemented by letter dated June 28, 1991
Brief description of amendment: The amendment changed the Technical Specifications to reduce the low reactor water level scram setpoint (Level 3) from greater than or equal to 12.5 inches to greater than or equal to 4.5 inches above instrument zero. The amendment also makes administrative changes involving editorial and typographical corrections.
Date of issuance: July 31, 1991
Effective date: July 31, 1991
Amendment No.: 145
Facility Operating License No. DPR-46. Amendment revised the Technical Specifications.
Date of initial notice in Federal Register: May 29, 1991 (56 FR 24213) The additional information contained in the supplemented letter dated June 28, 1991, was clarifying in nature and thus, within the scope of initial notice and did not affect the NRC staff's proposed no significant hazards consideration determine.
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 31, 1991.
No significant hazards consideration comments received: No.
Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: November 19, 1990, as supplemented April 1, 1991, May 20, 1991 and June 14, 1991.
Brief description of amendments: These amendments increased the enrichment of Westinghouse Standard and Vantage 5H fuel that can be stored in the new fuel storage racks, the spent fuel pool or placed in the reactor core.
Date of issuance: August 1, 1991
Effective date: Both units effective as of date of issuance and shall be implemented within 60 days of the date of issuance.
Amendment Nos. 128 and 107
Facility Operating License Nos. DPR-70 and DPR-75. These amendments revised the Technical Specifications.
Date of initial notice in Federal Register: June 28, 1991 (56 FR 29732) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 1, 1991.
No significant hazards consideration comments received: No
Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia.

Date of application for amendments: November 3, 1989, as supplemented April 27, 1990.
Brief description of amendments: These amendments provide an allowed outage time and action statement for inoperable control rods.
Date of issuance: August 8, 1991
Effective date: August 8, 1991
Amendment Nos. 159, 158
Facility Operating License Nos. DPR-32 and DPR-37: Amendments revised the Technical Specifications.
Date of initial notice in Federal Register: May 30, 1990 (55 FR 21982) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 8, 1991.
No significant hazards consideration comments received: No
Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185
Dated at Rockville, Maryland, this 14th day of August 1991.
For the Nuclear Regulatory Commission
Steven A. Varga,
Director, Division of Reactor Projects - I/II, Office of Nuclear Reactor Regulation
[Doc. 91-19893 Filed 8-20-91; 8:45 am]
BILLING CODE 7590-01-D

[Docket No. 55-8615, License No. SOP-10561-1, EA 91-054]

David M. Manning, Senior Reactor Operator; Modification of Order Suspending License (Effective Immediately)

I

David M. Manning (Licensee) is the holder of Senior Reactor Operator License No. SOP-10561-1 (License) issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to CFR part 55 on September 2, 1988. The License authorizes the Licensee to manipulate, and supervise the manipulation of, the controls of the nuclear power reactor at the New York Power Authority's (Facility Licensee) FitzPatrick Nuclear Power Plant in Scriba, New York.

II

On May 2, 1991, an Order Suspending License (Effective Immediately) and Order to Show Cause Why License Should Not Be Revoked was issued to the Licensee. The Licensee responded to this order on June 6, 1991, by requesting relief from the conditions of this Order or a hearing at which he and witnesses on his behalf may be heard.
In his response, the Licensee admitted some of the factual allegations of sections I, II, III, and V of this Order but denied any inference or subjective conclusion that he is not reliable, trustworthy, a person of integrity or is not a person that the Commission and his employer, the Facility Licensee, can reasonably be assured will exercise should judgment in the safe and efficient

operation of the FitzPatrick facility. The Licensee further denied that he willfully or materially misrepresented his drug habit on NRC Form 396.

The Licensee further asserted that denial is one of the symptoms of cocaine use, which is manifested in attempts to avoid drug tests or other disclosure of that use.

In support of these assertions, the Licensee described his participation in various rehabilitation programs. The Licensee further stated he has committed himself to compliance with and obedience to the Fitness for Duty requirements of the Commission and the Facility Licensee, has been drug tested eight times since his return to work and all test results have been negative, and continues to be subject to frequent random testing.

III

The Staff has carefully reviewed the Licensee's response, including financial and medical records attached thereto, and the arguments made in it, and has consulted a medical expert in the field of drug rehabilitation. The Staff agrees that denial, including attempts to conceal use of illegal drugs, may be a symptom of the drug use itself, and therefore, the drug user may attempt to conceal the drug use.

However, the Staff does not agree, based on expert medical advice, that the Licensee's progress to date indicates that he is rehabilitated or that the symptoms that may be associated with drug use, including denial, are completely eradicated. Rehabilitation requires long-term abstinence accompanied by counseling and participation in support groups, among other measures. Since the Licensee's efforts to date, however successful, represent only detoxification and short-term abstinence, the Staff is not prepared to conclude that he is rehabilitated and to permit his resumption of licensed duties. The Staff has concluded, based on the reasons given in the initial Order and Licensee's answer, that the License should remain suspended. However, based on expert medical advice, the License will not be revoked and the suspension will be for a period of time that will allow adequate assurance that the Licensee is rehabilitated. This time period must include testing, counseling, and other measures to ensure that the Licensee has abstained from drug use and to provide a high degree of assurance that he will not resume drug use in the future.

IV

Therefore, pursuant to sections 107, 161b, 161c, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 55, *It Is Hereby Ordered, Effective Immediately, That The Order Of May 2, 1991, Is Hereby Modified To Require That:*

A. The License No. SOP–10561–1 is suspended for a minimum of three years from the date of this Order.

B. License No. SOP–10561–1 may be reinstated and/or renewed provided Licensee provides the Staff with evidence that he has completed the following three year drug rehabilitation program. The three year drug rehabilitation program shall commence upon written notification by Licensee to the Regional Administrator, NRC Region I, of Licensee's intent to comply with the program and approval by the Staff of the parties to conduct the drug tests required by C(1) below, if the Facility Licensee does not conduct the tests, and the party described in C(5) below. After completion of the program, Licensee may apply for such license reinstatement or renewal. In addition, Licensee must also comply with all the requirements of 10 CFR part 55, including submission of a favorable medical certification.

C. The three year drug rehabilitation program must include:

(1) Drug testing conducted by the Facility Licensee or a third party mutually acceptable to the Licensee and the NRC Staff that includes:

(a) Random observed drug tests at least once a week for the first year of the program;

(b) Random observed drug tests at least twice a month for the second year of the program;

(c) Random observed drug tests at least once a month for the third year of the program; and

(d) For the entire three years of the program, observed drug testing on the first day back from any unexcused or unanticipated absence of 24 hours or more, or after any scheduled absence of more than three calendar days;

(2) Participation in self-help groups or other group counseling meetings, such as those conducted by Alcoholics Anonymous and Narcotics Anonymous, at least three times a week for the three years of the program;

(3) Neurological and neuro-psychological testing by qualified clinicians mutually acceptable to the Licensee and the Staff within six months prior to applying for renewal or reinstatement of his license under 10 CFR part 55;

(4) Meeting with NRC senior management and an NRC medical consultant prior to return to 10 CFR part 55 licensed duties; and

(5) Participation, for the purposes of monitoring his progress, in an initial interview and in follow-up sessions at least twice a month for the first year of this program and at least once a month for the next two years with a qualified professional drug counselor who is mutually acceptable to the Licensee and the Staff.

D. Licensee must inform NRC Region Regional Administrator immediately of any positive drug test and maintain records of each negative drug test and each attendance at self-help meetings and counseling sessions as referenced in C(2) and C(5) above. Licensee must provide the Region I Regional Administrator with these records on a semiannual basis. Any deviations from the requirements of C(2) and C(5) above shall be explained and justified in the records provided to the Regional Administrator.

E. The portion of the May 2, 1991 Order requiring Mr. Manning to show cause why license should not be revoked, 56 FR 22020 (May 13, 1991), is hereby rescinded.

Upon application by Licensee, the Regional Administrator, NRC Region I, may relax or terminate these conditions for good cause shown.

V

In his answer to the May 2, 1991 Order Suspending License (Effective Immediately) and Order to Show Cause Why License Should Not Be Revoked, the Licensee requested a hearing. In response, an Atomic Safety and Licensing Board was established and a proceeding is underway. Thus, in accordance with 10 CFR 2.717(b) and 2.718, any further answers by the parties shall be as directed by the presiding Licensing Board.

Dated at Rockville, Maryland this 9th day of August 1991.

For the Nuclear Regulatory Commission.

James H. Sniezek,

Deputy Executive Director for Nuclear Reactor Regulation, Regional Operations and Research.

[FR Doc. 91–20027 Filed 8–20–91; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF NATIONAL DRUG CONTROL POLICY

President's Drug Advisory Council; Meeting

AGENCY: President's Drug Advisory Council; Office of National Drug Control Policy.

ACTION: Notice of open meeting.

SUMMARY: Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. appendix), of a meeting of the president's Drug Advisory Council.

DATE AND TIME: September 11, 1991 from 9:30 a.m. to 12 p.m. and from 1:15 p.m. to 3:30 p.m.

PLACE: Old Executive Office Building (OEOB), Washington DC 20500. The morning session will be held in room 180; the afternoon session will be held in room 450.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Cavanagh, Confidential Assistant, President's Drug Advisory Council, Executive Office of the President, Washington, DC 20500, (202) 466–3100.

SUPPLEMENTARY INFORMATION: The President's Drug Advisory Council was created by Executive Order 12696 of November 13, 1989 (54 FR 47507, November 15, 1989), with the general purpose of advising the President and the Director of the Office of National Drug Control Policy on the development, dissemination, explanation and promotion of national drug policy.

At the morning session of the meeting on September 11, the Council will conduct pending general business. The Council will receive updates and reports from some of its committees, including the Drug-Free Workplace Committee, the Private Prisons Committee and the National Coalition Committee.

The afternoon session, beginning at 1:15 p.m. will consist of a seminar on community anti-drug coalitions, moderated by Council member Alvah Chapman. Participants will include Edward T. Foote 2d, President of the University of Miami, and Sheriff Brad Gates or Orange County, California.

Members of the public interested in attending the meeting should contact the President's Drug Advisory Council, (202) 466–3100, at least one day prior to the meeting. Callers should be prepared to give their birthdate and social security number over the telephone, in order to facilitate clearance into the Old Executive Office Building.

John Walters,

Chief of Staff, Office of National Drug Control Policy.

[FR Doc. 91–19957 Filed 8–20–91; 8:45 am]

BILLING CODE 3180–02–M

POSTAL RATE COMMISSION

[Docket No. A91-13; Order No. 899]

Order Accepting Appeal and Establishing Procedural Schedule

Issued August 15, 1991.

Before Commissioners: George W. Haley, Chairman; Henry R. Folsom, Vice-Chairman; John W. Crutcher; W. H. "Trey" LeBlanc III; Patti Birge Tyson.

In the matter of: Wiley, Georgia 30525 (Lisa T. McCall, Petitioner).

Docket Number: A91-13.

Name of Affected Post Office: Wiley, Georgia.

Name(s) of Petitioner(s): Lisa T. McCall.

Type of Determination: Closing.

Date of Filing of Appeal Papers: August 8, 1991.

Categories of Issues Apparently Raised:

1. Effect on the community (39 U.S.C. 404(b)(2)(A));
2. Effect on postal services (39 U.S.C. 404 (b) (2) (C)).
3. Effect on the economic savings of the Postal Service (39 U.S.C. 404 (b)(2)(D)).

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition, in light of the 120-day decision schedule (39 U.S.C. 404 (b)(5)), the Commission reserves the right to request of the postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the petitioner. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memoranda previously filed.

The Commission Orders

(A) The record in this appeal shall be filed on or before August 23, 1991.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register.**

By the Commission.

Cyril J. Pittack,

Acting Secretary.

Appendix

August 8, 1991—Filing of Petition.
August 15, 1991—Notice and Order of Filing of Appeal
September 3, 1991—Last day for filing of petitions to intervene (see 39 CFR 3001.111(b))
September 13, 1991—Petitioner's Participant Statement or Initial Brief (see 39 CFR 3001.115(a) and (b))
October 3, 1991—Postal Service Answering Brief (see 39 CFR 3001.115(c))
October 18, 1991—Petitioner's Reply Brief should petitioner choose to file one (see 39 CFR 3001.115(d))
October 25, 1991—Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written fillings (see 39 CFR 3001.116)
December 5, 1991—Expiration of 120-day decisional schedule (see 39 U.S.C. 404(b)(5)).

[FR Doc. 91-19940 Filed 8-20-91; 8:45 am]

BILLING CODE 7710-FW-M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Incorporated

August 15, 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:

North American Vaccine
Common Stock, No Par Value (File No. 7–7149)
USAIR Group
Preferred Stock, No Par Value (File No. 7–7150)
UNC Incorporated
Common Stock, $.20 Par Value (File No. 7–7151)

These securities are listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before September 6, 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 Fifth 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 application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR. Doc. 91-19941 Filed 8-20-91; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18274; 811-4968]

Cologne Re-Investments Inc.; Notice of Application

August 15, 1991.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for exemption under the investment Company Act of 1940 ("1940 Act").

APPLICANT: Cologne Re-Investments Inc.

RELEVANT 1940 ACT SECTIONS: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on April 22, 1991. By letter dated August 14, 1991, counsel for applicant clarified some minor aspects of the information in the application.

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 September 9, 1991, and should be accompanied by proof of service on the 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, 31 Adelaide Road, Dublin 2, Ireland.

FOR FURTHER INFORMATION CONTACT: Barbara Chretien-Dar, Staff Attorney, at (202) 272-3022, or H.R. Hallock, Jr., Special Counsel, at (202) 272-3030 (Office of Investment Company Regulation, Division of Investment Management).

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, a Maryland corporation, registered under the 1940 Act on December 31, 1986, as an open-end investment company. Applicant never made a public offering of its securities in the United States but sold its securities in a private placement to foreign purchasers seeking favorable tax treatment under a tax treaty between the United States and the Federal Republic of Germany.

2. On February 22, 1991, all of applicant's shareholders redeemed all outstanding shares (500,100) for a total of $48,115,583 or $96.21 per share. The applicant's board of directors authorized the distribution of any cash remaining after payment of all fees and the establishment of a reserve account of $20,000 to meet anticipated costs of liquidation. Such payments totalling $52,397 were made on April 16, 1991 and April 18, 1991 to shareholders of record as of February 22, 1991. The board of directors also authorized the liquidation of applicant pursuant to Maryland corporate law which permits the dissolution by board action under certain conditions.

3. Liquidation expenses, including accounting, legal, and administrative fees, so far have totalled $35,270. The reserve account will cover any further expenses.

4. Applicant has filed articles of dissolution with the State of Maryland and has no other assets or liabilities. Applicant is not a party to any litigation or administrative proceedings. Applicant has no remaining shareholders and is not now engaged, nor proposes to engage, in any business activities other than those necessary for the winding-up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-20020 Filed 8-20-91; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-9983]

Issuer Delisting; Application To Withdraw From Listing and Registration; Diasonics, Inc., Common Stock, $0.01 Par Value

August 15, 1991.

Diasonics, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission") pursuant to section 12(d) of the Securities Exchange Act of 1934 and rule 12d2-2(d) promulgated thereunder to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

Effective at the opening of business on August 1, 1991, the Company's common stock commenced trading on the New York Stock Exchange ("NYSE"), and concurrently therewith, such stock was suspended from trading on the Amex. In making the decision to withdraw its common stock from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing of its common stock on the NYSE and the Amex. The Company does not see any particular advantage in the dual trading of its common stock and believes that dual listing would fragment the market for its common stock.

Any interested person may, on or before September 6, 1991, submit by letter to the Secretary of the Commission, 450 Fifth Street NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-19942 Filed 8-20-91; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18276; No. 811-5778]

PFL Endeavor Variable Annuity Account

August 15, 1991.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: PFL Endeavor Variable Annuity Account.

RELEVANT 1940 ACT SECTION: Order requested under section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has

ceased to be an investment company as defined by the 1940 Act.

FILING DATE: The application was filed on July 1, 1991.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on September 9, 1991. Request a hearing in writing, giving the nature of your interest, the reason for the request and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or for lawyers, by certificate. Request notification of the date of a hearing by writing to the secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, c/o Pacific Fidelity Life Insurance Company, 4333 Edgewood Road, NE., Cedar Rapids, Iowa 52499.

FOR FURTHER INFORMATION CONTACT: Wendy B. Finck, Attorney (202) 272–3045, or Heidi Stam, Assistant Chief (202) 272–2060, Office of Insurance Products and Legal Compliance (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. On March 2, 1989, Applicant filed a notification of registration as an investment company on Form N–8A and a registration statement on Form N–4. The registration statement was declared effective on August 16, 1989.

2. Applicant was established as a separate account of Pacific Fidelity Life Insurance Company ("Pacific Fidelity") on January 30, 1989, under the provisions of California insurance law to sell variable annuity contracts. On March 31, 1991, substantially all the assets of Pacific Fidelity were acquired by an affiliate, PFL Life Insurance Company.

3. No annuity contracts have been sold by the Applicant. Applicants has no security holders. Applicant has never had and does not now have any assets or outstanding debts, and is not a party to any litigation or administrative proceeding.

4. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs. No contracts will be sold and no contributions or premiums will be accepted.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–20021 Filed 8–20–91; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Region VI Advisory Council Meeting

The U.S. Small Business Administration Region VI Advisory Council, located in the geographical area of El Paso, will hold a public meeting at 9:30 a.m. on Friday, September 13, 1991, at the MBank, 221 N. Kansas, the Old El Paso Room, 7th Floor, El Paso, Texas, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call John E. Scott, District Director, U.S. Small Business Administration, 10737 Gateway West, suite 320, El Paso, Texas 79935, telephone (915) 540–5676.

Dated: August 14, 1991.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 91–19981 Filed 8–20–91; 8:45 am]

BILLING CODE 8025–01–M

[License No. 06/06–5302]

North Texas Mesbic, Inc.; Issuance of a Small Business Investment Company License

On August 2, 1990, a notice was published in the **Federal Register** (Vol. 55, No. 149, Page 31477) stating that an application has been filed by North Texas Mesbic, Inc., Dallas, Texas, with the Small Business Administration (SBA) pursuant to the Regulations governing small business investment companies (13 CFR 107.102 (1991)) for a license as a small business investment company.

Interested parties were given until close of business September 4, 1990, to submit comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(d) of the Small Business Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 06/06–5302 on July 11, 1991, to North Texas Mesbic, Inc. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 12, 1991.

Wayne S. Foren,

Associate Administrator for Investment.

[FR Doc. 91–19982 Filed 8–20–91; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Advisory Commission on Conferences in Ocean Shipping; Open Meeting

AGENCY: Office of the Secretary, Department of Transportation (DOT).

ACTION: Notice of open meeting of the Advisory Commission on Conferences in Ocean Shipping.

SUMMARY: The Commission will be holding its fifth field hearing in New York, NY on September 12 and 13, 1991; the hearing will be open to the public. The Commission plans to hear testimony on all issues relating to the Shipping Act of 1984 and conferences in the ocean shipping industry, focusing in particular on issues related to antitrust immunity. The Commission plans to hear testimony on all issues relating to the Shipping Act of 1984 and conferences in the ocean shipping industry.

DATES: Public hearing: Thursday, September 12, 2 p.m. to 5 p.m. e.s.t.; Friday, September 13, 1991, 9 a.m. to 5 p.m. e.s.t.

Deadline for requests to speak at the public hearing: Tuesday, September 3, 1991.

ADDRESSES: The address for the public hearing is World Trade Institute, 55th Floor West, rooms 4 and 5, One World Trade Center, New York, NY 10048.

FOR FURTHER INFORMATION CONTACT: Sandra L. Kusumoto, Economist, or Jeff Rupp, Counsel, Advisory Commission on Conferences in Ocean Shipping, Department of Transportation, 400 Seventh Street SW., room 5102, Washington, DC. 20590; telephone (202) 366–9781; FAX (202) 366–7870

SUPPLEMENTARY INFORMATION: The Commission was created by the Shipping Act of 1984 to conduct an independent and comprehensive study of conferences in ocean shipping, particularly whether the Nation would be best served by prohibiting conferences, or by closed or open conferences. The Commission is to provide its report, including recommendations, to the President and the Congress by April 10, 1992. The

Commission began formal operations on April 10, 1991, at a day-long open meeting in Washington, DC, at which the Commission heard reports from Federal agencies on the impact of the 1984 Act and discussed issues to be studied by the Commission.

As part of its study, the Commission has been holding a series of public hearings across the country. It held hearings on June 3, 1991 in New Orleans, LA; June 21, 1991, in San Francisco, CA; July 12, 1991 in Charleston, SC; and August 9, 1991 in Portland, OR. At each hearing, a part of the day has been dedicated to issues generally raised by the 1984 Act, and part of each hearing has focused on a specific predesignated issue.

The Commission will be holding its fifth and last field hearing on September 12 and 13, 1991 in New York, NY, at the World Trade Institute, One World Trade Center, New York, NY 10048, on the 55th Floor, Rooms 4 and 5. Attendance is open to the public but limited to space available. Both sessions will hear testimony on all issues related to any aspect of the Shipping Act of 1984, focusing in particular on issues related to antitrust immunity for conferences.

Interested members of the public are invited to address the Commission at the September 12 and 13, 1991 hearing. In order to be assured of an opportunity to do so, each person wishing to speak should contact Sandra Kusumoto or Jeff Rupp at the address set out above by September 3, 1991. Each such person is also requested to provide by September 3, 1991 a copy of the testimony he/she will present at the Commission hearing. Persons from similar segments of the international ocean shipping industry (e.g., shippers, freight forwarders, carriers) may be grouped into panels of 2–3 persons. In this situation, each person will be given 5 minutes to summarize (give key points of) his testimony, followed by a question and answer period. Persons who the staff believes cannot effectively be placed in a panel will present testimony individually (5 minutes for a summary statement), followed by a question and answer period.

Persons appearing before the Commission are encouraged to support all opinions with factual information and evidence.

Persons who wish to provide written comments for the Commission's consideration may do so at any time by forwarding them to the address set out above.

Florizelle B. Liser,

Executive Director.

[FR Doc. 91–20163 Filed 8–20–91; 8:45 am]

BILLING CODE 4910–62–M

Federal Aviation Administration

Public Meeting; Public Hearing and Availability of Draft Environmental Assessment for Runway 11 ILS/MLS at Newark International Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: A Draft Environmental Assessment (EA) has been prepared for the Federal Aviation Administration, Eastern Region and the United States Department of Transportation. The EA is being prepared in accordance with the National Environmental Policy Act (NEPA) of 1969, as amended, FAA Order 1050.1D, "Policies and Procedures for Considering Environmental Impacts," and FAA Order 5050.4A, "Airport Environmental Handbook." The proposed development action is consistent with the National Airspace System Plan prepared by the U.S. Department of Transportation, Federal Aviation Administration (FAA).

The major elements of the EA include:

1. Project Purpose and Need.
2. Proposed Action and Schedule.
3. Alternatives.
4. Affected Environment.
5. Environmental Consequences—Specific Impact Categories.
6. Environmental Consequences—Other Considerations.

The draft Environmental Assessment will be available for public review starting August 19 at the following locations: Newark Public Library, 5 Washington Street, Newark, NJ 01707 Elizabeth Public Library, 11 S. Broad St., Elizabeth, NJ 07201 Cranford Public Library, 224 Walnut Avenue, Cranford NJ 07016 Newark International Airport, room 112, Air Traffic Control Tower, Tower Road. (Ask for Mr. Ron Jackson).

DATE, TIME AND PLACE: September 19, 1991 10 a.m.–1 p.m. 7 p.m.–11 p.m. Holiday Inn Jetport, Intersection of Rts.1 and 9, Elizabeth, New Jersey.

ADDRESSES: Written comments are encouraged from persons or interested parties unable to attend a public meeting or who do not wish to make public statements. Written comments should be Region, Airway Facilities Division, Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York, Attention: Runway 11 ILS/MLS.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Hom, AEA 451.3, FAA Eastern Region, Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. Telephone Number 718–917–1505.

SUPPLEMENTARY INFORMATION: .

Background

Newark International Airport experiences a high demand for aircraft activity. In the past several years, the Airport has accommodated more aircraft operations (arrivals and departures) than either of the other two New York metropolitan area commercial service airports. In 1988, the Airport experienced 52,000 hours of delay time; ranking fifth in the country.

The FAA has proposed to install a precision instrument landing system on Runway 11 at the Airport. At a later date, it is proposed that a Microwave Landing System be installed. It is estimated that the provision of an ILS/MLS on Runway 11 would reduce delays by some 20,000 hours per year.

Public comments received during the hearing and written comments will be addressed in the Final Environmental Assessment.

Meeting Procedures

(a) Persons wishing to speak at the meeting are asked to limit their comments to five minutes. This could be extended depending on the number of persons wishing to speak.

(b) Persons wishing to make oral presentations will be required to identify themselves for the record.

(c) Proceedings of the meeting will be documented and recorded. Any person who wishes to submit a position paper for the record may do so.

(d) The sessions may be adjourned at any time if all persons present have had the opportunity to speak.

(e) This meeting is designed for listening carefully to public statements. As such, there will be no rebuttal from persons facilitating the meeting.

Issued in New York, New York on August 15, 1991.

Charles Hoch,

Manager, Airway Facilities Division, FAA Eastern Region.

[FR Doc. 91–19970 Filed 8–20–91; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[No. 91-484]

Capital and Accounting Standards

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Notice of Report to Congress.

SUMMARY: Pursuant to the reporting requirements of section 1215 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), We have submitted our annual report to the Chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs of the House of Representatives of differences between the capital standard used by the Office of Thrift Supervision ("OTS") and capital standards used by the other Federal banking agencies.

Notwithstanding the relatively long list of differences, it is important to note that the agencies' rules are mostly identical. Moreover, many of the differences are a result of either statutory requirements *(e.g.,* goodwill, deferred loan losses) or historical differences between the banking and thrift industries (*e.g.,* investment authorities, mutual form of organization). The agencies continue to work together to minimize the differences.

We believe that OTS' capital requirements comply with the statutory requirements under FIRREA, which provide that they must be no less stringent than the standards applied to national banks.

FOR FURTHER INFORMATION CONTACT: Robert Pomeranz, Senior Accountant, Accounting Policy, (202) 906-5650; Robert Kazdin, Senior Project Manager, Supervision Policy (202) 906-5759, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Attachment I—Summary of Differences in Capital Standards

FIRREA requires a report to Congress on the differences in the bank and savings association capital standards. Below is a summary of the differences.

A. Major Differences

1. Core Capital

Core Capital Requirement: The bank regulatory agencies recently finalized new leverage requirements tied to core capital. These requirements set the minimum leverage ratio rule requirement at 3% plus 100 to 200 basis points (depending on the CAMEL ratings). The Office of Thrift Supervision ("OTS") is in the process of finalizing its leverage ratio rule to conform with the rules of the bank regulatory agencies.

Goodwill: FIRREA and the OTS rule allow "qualifying supervisory goodwill" as part of core capital through 12/31/94. The bank regulators, in general, do not allow goodwill to be used in calculating core capital (the only limited exception is for some "grandfathered" goodwill through 12/31/92).

Reasons for OTS Differences: The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") requires OTS to establish a core capital requirement that is no less stringent than the OCC standard Home Owners' Loan Act [("HOLA") 5(t)(2)(A), 5(t)(1)(C)]. FIRREA also requires that the OTS capital rules include a limited amount of qualifying supervisory goodwill in core capital until 12/31/94 (HOLA 5(t)(3)(A)).

2. Subsidiaries

Subsidiary (general): OTS defines a subsidiary as ownership of at least 5% and requires consolidation of the subsidiary with the insured institution if the subsidiary is considered to be controlled by the insured institution under generally accepted accounting principles ("GAAP") (except for those engaged in impermissible activities, as described below). For the bank regulatory agencies, subsidiaries are generally consolidated if the parent institution holds more than 50% of the outstanding voting stock, or if the subsidiary is otherwise controlled or capable of being controlled by the parent institution (*see* exception for depository institutions).

Reason for OTS Difference: OTS needed to distinguish between investments in subsidiaries and equity investments. Savings associations, particularly state-chartered institutions, have in the past been allowed to invest in a more expansive list of subsidiaries and equity investments than banks.

Subsidiaries ("impermissible"): OTS rule requires deduction of investments in and loans to subsidiaries that engage in activities not permissible for a national bank. There is a 5 year phase-in of the requirement if the investments or loans were made prior to 4/13/89; during the phase-in period, "pro-rata" consolidation is required for the amounts not deducted. The bank regulators can require deduction on a case-by-case basis (in general, they do not permit subsidiaries to engage in impermissible activities).

Reason for OTS Difference: Savings associations may legally own subsidiaries that engage in activities that are prohibited for national banks. FIRREA requires the deduction of investments and loans to such subsidiaries and grants the 5 year phase-in period. (HOLA 5(t)(5)). "Pro-rata" consolidation is required to ensure appropriate capital held by savings associations during the phase-in period.

Subsidiaries ("permissible—minority ownership"): OTS rule requires a pro-rata consolidation of subsidiaries where association does not have GAAP control, but owns 5% or more. The bank regulators generally require capital to be held only against the investments in such subsidiaries but also may, on a case-by-case basis, deduct them from capital or consolidate them either fully or on a pro-rata basis.

Reason for OTS Difference: Policy decision to ensure appropriate capital is held against the risks of such investments. OTS believes the risk of such investments is related to the assets of the subsidiaries rather than the investment in the subsidiaries. In most cases, the OTS consolidation rule will result in a higher capital requirement.

Subsidiaries (lower-tier depository institutions): For OTS, a depository institution subsidiary is automatically consolidated if acquired prior to May 1, 1989 or the investment in such subsidiaries is automatically excluded if acquired May 1, 1989 or later (except if it engages only in activities permissible for a national bank, in which case it is consolidated). The OTS has stated that its policy is to require consolidation of lower-tier depository institutions, through the use of an individual minimum capital requirement (if necessary), if such a requirement results in a more stringent capital requirement than the exclusion requirement. For purposes of the risk-based capital regulations, such subsidiaries are generally consolidated by the banking agencies.

Reason for OTS Difference: OTS has interpreted FIRREA in this way to address policy concerns about (i) "double-leveraging" of the parent association's capital, (ii) incentives to minimally capitalize lower-tier depository institutions, and (iii) to ensure OTS capital standards are no less stringent than those imposed on banks. (HOLA 5(t)(5) (A), (C), (E)).

3. Equity Investment

OTS deducts these assets from capital (over 5 years phase-in period). Bank

regulators allow only a limited range of equity investments. Such investment are placed in the 100% risk-weight category.

Reasons for OTS Difference: Policy decision to ensure appropriate capital against risk of these assets. Such risk is highly variable. A separate capitalization requirement will insulate the institution and the insurance fund from the risk and will probably result in such assets being either divested or "pushed down" into subsidiaries, where savings associations can leverage their investment (to the extent permitted by the market).

4. 20% Risk-Weight For High Quality MBS

OTS includes high-quality private-issue mortgage-related securities (Secondary Mortgage Market Enhancement Act or ("SMMEA") securities) in the 20% risk-weight category. These are mortgage-backed securities ("MBS") that are rated in the two highest investment grade rating categories by nationally recognized rating agencies (plus other requirements). Generally, bank regulators place private-issue MBS in the 50% or 100% risk-weight category; the only exception would be for private-issue MBS collateralized by government agency (or government-sponsored agency) securities, which receive the 20% risk-weight category.

Reason for OTS Difference: Policy decision to ensure appropriate capital against credit risk of these assets, which OTS believes are not sufficiently different from Federal National Mortgage Association ("FNMA") and Federal Home Loan Mortgage Corporation ("FHLMC") mortgage-backed securities MBS to warrant a different capital requirement.

5. Qualifying Multi-family Mortgage Loans

OTS allows certain low-risk multi-family mortgage loans (buildings with 5–36 units, maximum 80% loan-to-value ratio ("LTV"), minimum 80% occupancy rate, etc.) to qualify for the 50% risk-weight category. Bank regulators place all multi-family mortgage loans in the 100% risk-weight category.

Reason for OTS Difference: Policy decision to ensure appropriate capital against risk of these assets. We believe that multi-family mortgage loans that pose a lower risk to the institution and insurance fund should be subject to a lower capital requirement.

6. Purchased Mortgage Servicing Rights ("PMSR)"

All agencies subject intangible assets to, among other criteria, a three part test. Additionally, all agencies impose limits on PMSR. OTS and the Federal Deposit Insurance Corporation ("FDIC") imposes both a 90% of fair market value test and a 100% of tangible capital and 50% of core capital limit for both savings associations and state chartered non-member banks.

OCC currently imposes a 25% of core capital limit on all intangible assets that pass the three-part test. PMSR in excess of any of these limits must be deducted from capital and assets. The Federal Reserve Board ("FRB") requires a case-by-case review and close scrutiny of intangible assets, imposing the requirements of the three-part test and occasionally allowing a limited amount above 25%.

Reason for OTS Difference: FIRREA requires OTS to impose the 90% of fair market value limitation (HOLA 5(t)(4)) and OTS is required by FIRREA to follow the FDIC rules on the amount of PMSR that may be included in assets when calculating core capital.

7. Recourse Arrangements

Assets sold with recourse (non-mortgage): If a savings association sells non-mortgage assets with recourse (where the transaction is treated as a sale under GAAP), OTS (i) considers it a sale and (ii) requires capital to be held through the use of the 100% off-balance sheet conversion factor. If a bank sells a non-mortgage asset with recourse, it is not considered a sale by the bank regulators, and capital is held as an on-balance sheet item (for both the leverage ratio and risk-based capital requirements).

Reason for OTS Difference: Policy decision to ensure appropriate capital against risk of these assets. OTS, in general, follows GAAP in determining whether a transaction is a sale. Regardless of "sale" treatment, OTS requires capital if savings associations are liable for losses.

Assets sold with recourse (mortgages—private transactions): If savings associations sell mortgage assets (with recourse) to private entities (where the transaction is treated as a sale under GAAP), OTS (i) considers it a sale and (ii) requires capital to be held through the use of the 100% off-balance sheet conversion factor.

Banks that sell pools of residential mortgages with recourse to private entities are required to hold the full amount of capital against the mortgages regardless of the amount of recourse retained and the treatment of the transaction for regulatory reporting purposes. If insignificant recourse is retained (*e.g.*, recourse is less than the expected loss), the transaction is considered a sale for reporting purposes, but capital will be required against 100% of the off-balance sheet contingent liability for risk-based capital purposes. (The FRB and Office of the Comptroller of the Currency ("OCC") have proposed a rule under which no capital would be required against pools of residential mortgages sold to private entities with insignificant recourse for which a specific non-capital reserve or liability account is established and maintained for the maximum amount of possible loss under the recourse provision.) If significant recourse is retained, the transaction is not reported as a sale and the assets remain on the balance sheet. Capital is required to be held against the on-balance sheet amount of the assets.

Reason for OTS Difference: Policy decision to ensure appropriate capital against risk of these assets. OTS, in general, follows GAAP in determining whether a transaction is a sale. Regardless of "sale" treatment, OTS requires capital if savings associations are liable for losses.

Assets sold with recourse (limited recourse): For risk-based capital purposes only, (not leverage capital purposes), the OTS limits the capital required on assets sold with recourse (that are treated as sales under GAAP) to the lesser of (i) the amount of recourse or (ii) the "normal" capital charge. For both leverage and risk-based capital purposes, the bank regulators require the "normal" capital charge regardless of recourse amount. The FRB and OCC, however, have proposed an exception for pools of residential mortgages sold to private parties (as described above).

Reason for OTS Difference: Policy decision to ensure appropriate capital against risk of these assets, which is limited in cases where recourse is limited.

Recourse servicing: Where savings associations are responsible for credit losses on loans they service, OTS requires capital against the amount of the underlying loans. While savings associations do not "own" the underlying assets, they hold a contingent liability and are subject to losses on those assets. While the bank regulators are not explicit on this point, the general principle of the bank regulators' capital rule is that capital generally will be required whenever there is credit risk.

8. Purchased Subordinated Securities

Savings associations that purchase subordinated securities are required to hold capital against the total underlying loans; banks are required to hold capital

only against the purchased security. (Note that both OTS and the bank regulatory agencies require capital against the underlying loans if the subordinated security is created by the institution.)

Reason for OTS Difference: Policy decision to ensure appropriate capital against risk of these assets. Whether institutions create subordinated securities or purchased subordinated securities, the risks are similar.

9. Repossessed Assets/Assets More Than 90 Days Past Due (Except Single Family Home Loans)/Equity Investments With Similar Characteristics

OTS currently places these assets in the 200% risk-weight category. The bank regulators place them in the 100% risk-weight category. In conjunction with our proposed changes in accounting for real estate owned ("REO"), OTS is considering placing REO in the 100% risk-weighted category.

10. Consequences of Failure To Meet Capital Standards

OTS has *statutory* requirements on growth limitations, capital directives and a capital exemption process that the bank regulators do not have. The bank regulators have non-statutory supervisory constraints that they impose on a case-by-case basis.

Reasons for OTS Difference: FIRREA requires OTS to impose these sanctions (HOLA 5(t)(6)).

11. Status of Institutions With Approved Capital Plans

Under FIRREA, savings associations that fail the capital standards requirement must submit and adhere to approved capital plans. Savings associations with approved capital plans are not considered in compliance with the capital standards and must disclose that fact.

Banks that do not meet their minimum capital requirements and have an approved capital plan are regarded as "in compliance" with the capital standards by the OCC (though they are required to disclose to investors that they fail to meet minimum capital standards.) State non-member banks that fail to meet minimum capital requirements are deemed to be not "in compliance" with the capital standards by the FDIC.

Reasons for OTS Difference: Initial OTS policy decision was to distinguish between savings associations passing the capital standards and those that do not. OTS is currently reviewing whether it should change its existing policy to comport with the OCC.

B. Minor Differences

1. 1.5% Tangible Capital Requirement

OTS has an explicit 1.5% tangible capital requirement; the bank regulators do not.

Reason for OTS Difference: FIRREA requires OTS to establish a tangible capital requirement of at least 1.5% (HOLA 5(t)(2)(B)). The bank regulators, in making a final determination of a bank's overall capital adequacy, evaluate the level of a bank's tangible capital on both a risk-based and leveraged basis.

2. Phase-in Requirement

OTS requires 90% of the 8% Risk-Based Capital standard (or 7.2%) from 12/31/90 to 12/30/92, and 100% (or 8%) thereafter. Bank regulators require 7.25% on 12/31/90 and 8% on 12/31/92. (The 7.25% standard allows for some supplementary capital items to count as core capital.)

Reason for OTS Difference: FIRREA required savings associations to comply with a risk-based capital standard as of December 7, 1989 (HOLA 5(t)(1)(D)), over 1 year before the banks' risk-based capital rules are imposed. OTS made a policy decision to phase-in the full 8% requirement in a fashion and on a timetable similar to the bank agencies.

3. Inclusion of Supplementary Capital In Core Capital

The bank regulators allow, until 12/31/92, banks to include a limited amount of supplementary capital instruments in the calculation of core capital for purposes of the risk-based capital standard. OTS generally does not allow this for savings associations.

Reasons for OTS Differences: OTS policy decision to not include supplementary capital instruments in core capital during the transition period since supplementary capital generally is inferior to core capital.

4. Collateralized Mortgage Obligations ("CMO") Tranches

OTS has issued guidance (Thrift Bulletin 38) identifying categories of CMO tranches that it places in the 100% risk-weight category (versus the 20% risk-weight category). OTS has also indicated a preference to deal with this issue through an explicit interest rate risk component in the risk-based capital rule.

The bank regulators vary in their approach: OCC has stated that any CMO tranche absorbing more than its pro-rata share of principal loss risk is risk-weighted at 100% (others generally at 20%); FRB has stated that any CMO tranche absorbing more than its pro-rata share of loss is risk weighted at 100% (others generally at 20%); FDIC undertakes a case-by-case review.

Reason for OTS Difference: Policy decision to ensure appropriate capital against risk of these assets. Unlike most other risk issues addressed in the risk-based capital rules, the risk posed by these instruments is interest rate risk, not credit risk. Certain CMO tranches are no more risky than straight mortgage-backed securities and some tranches may, in fact, impose less risk; others are more risky than MBS and are appropriately risk-weighted at a higher level.

5. Pledged Deposits/Nonwithdrawable Accounts

OTS includes these instruments as core capital for mutual associations if they meet the same requirements as non-cumulative perpetual preferred stock. If they do not meet the requirements for inclusion as core capital, OTS includes them as supplementary capital provided they meet the standards for preferred stock or subordinated debt. The bank regulators do not address this issue since these instruments do not exist in the banking industry.

Reason for OTS Difference: Policy decision to treat items that offer equivalent protection to the insurance fund and the institution in the same way.

6. Qualifying Single Family Mortgage Loans

In order to be placed in the 50% risk-weight category, OTS requires that mortgages have no more than an 80% loan-to-value ("LTV") ratio (unless they have private mortgage insurance ("PMI") bringing the LTV ratio down to 80%). The bank regulators require "prudent, conservative" underwriting without specific LTV ratio requirements.

Reason for OTS Difference: Policy decision to make explicit what OTS believes is generally "prudent and conservative"; the bank regulators have indicated to OTS that they may use the 80% LTV ratio in examiner guidance.

7. Loans To Individual Purchasers For The Construction Of Their Home

The OTS and OCC place these assets in the 50% risk-weight category. The FRB and FDIC may treat them as construction loans (100%) or as mortgage loans (50%) depending on how the loan is written, its maturity, and other factors.

Reason for OTS Difference: Policy decision to ensure appropriate capital against risk of these assets.

8. Holding Of 1st And 2nd Liens On Home Mortgages By The Same Institution

If there are no intervening liens, the FRB and FDIC view holding both 1st and 2nd liens as a single loan. This could result in assigning the total amount of these transactions to the 100% risk-weight category, if, in the aggregate, the two loans exceed a prudent loan-to-value ratio, and therefore, did not qualify for the 50% risk-weight. The OTS and OCC place second liens in the 100% risk-weight category.

Reason for OTS Difference: Policy decision to ensure appropriate capital against risk of these assets. Second mortgages (depending on their characteristics) may be sufficiently higher risk to require a higher capital requirement.

9. Core Deposit Intangibles (CDI):

While all agencies subject these assets to the three-part intangible asset test, and all agencies are silent in their regulations as to whether they pass the three-part test, OTS has issued temporary guidance stating that CDI may be included in core capital if management documents that it passes the three-part test. The bank regulators have not issued any guidance. OCC has issued an Advance Notice of Proposed Rulemaking requesting comment on whether core deposit intangibles meet the three-part test. FDIC generally deducts all intangible assets (other than PMSR) except if institutions have received case specific approval. FRB has not generally allowed CDI to be included in capital for purposes of calculating core capital.

Reason for OTS Difference: Policy decision to give examiners and institutions interim guidance pending inter-agency review of the issue.

10. Rules On Maturing Capital Instruments ("MCI")

OTS and bank agencies use different rules to determine how much of MCI counts toward capital. OTS (i) grandfathers 11/7/89 and earlier issuances of MCI (which was the date of the rule change) and (ii) allows two options on post-11/7/89 issuances of MCI (a) the bank rule (five year amortization) or (b) a limit of 20% of total capital maturing in any one year for instruments within seven years of maturity. Bank regulators use a five year amortization rule.

Reason for OTS Difference: Policy decision to minimize unnecessary disincentives for issuance of subordinated debt and to not unduly penalize pre-FIRREA issuances of MCI.

11. Limitation On Subordinated Debt

The bank regulatory agencies limit subordinated debt to 50% of core capital. OTS has no limit on the amount of subordinated debt to 50% of core capital. OTS has no limit on the amount of subordinated debt that can count as supplementary capital.

Reason for OTS Difference: Policy decision not to unduly limit the ability of subordinated debt to qualify as supplementary capital.

12. Non-residential Construction And Land Loans

OTS requires amount of these loans above an 80% LTV ratio to be deducted from total capital (with a 5 year phase-in). The bank regulators place the whole loan amount in the 100% risk-weight category.

Reason for OTS Difference: Policy decision to ensure appropriate capital against risk of these assets. OTS experience indicates that high LTV ratio land loans and nonresidential construction loans present particularly high levels of risk.

13. FSLIC/FDIC-covered Assets

OTS places these assets in 0% risk-weight category. The banking agencies generally place these assets in the 20% risk-weight category.

Reason for OTS Difference: Policy decision to ensure appropriate capital against risk of these assets. OTS notes that these obligations are supported by a "backup" call on the United States Treasury.

14. Mutual Funds

In general, OTS bases risk weighting on the mutual fund's actual asset with the highest capital requirement. The bank regulators base it on the highest risk-weighted asset that is a permissible investment by the mutual fund. OTS allows, on a case-by-case basis, "pro-rata" risk-weighting of investments in mutual funds, based on the assets of the mutual fund (*i.e.*, if 90% of a mutual fund's assets are 20% risk-weight assets and 10% are 100% risk-weight assets, we may allow 90% of the investment in 20% risk-weight category and 10% in the 100% risk-weight category). Bank regulators do not allow pro-ration.

Reason for OTS Difference: Policy decision to ensure appropriate capital against risk of these assets. OTS believes that allowing pro-ration and focusing on actual assets ensures that savings associations hold capital in an amount essentially equivalent to that required if they directly held the assets the mutual fund invested in.

15. Capital Requirement On Holding Companies

FRB applies the risk-based capital requirements to bank holding companies; OTS does not apply them to thrift holding companies.

Reason for OTS Difference: OTS policy decision to not impose capital requirements on corporate entities that do not pose a risk to the deposit insurance fund.

16. Agricultural Loan Losses

The bank regulators, due to a statutory requirement, allow such losses to be deferred (and, effectively, allow these losses to be "included" in supplementary capital). OTS does not allow such losses to be deferred or included in assets or capital.

Reason for OTS Difference: OTS has no statutory requirement to allow such deferred losses in assets or capital. FIRREA repealed prior Federal Home Loan Bank Board authority to include deferred loan losses in calculating required capital.

C. Insignificant Differences

1. Income Capital Certificates ("ICCs") And Mutual Capital Certificates ("MCCs")

OTS allows in supplementary capital. Because these items do not exist in the banking industry, the bank regulators do not address them.

Reasons for OTS Difference: ICCs/MCCs allowed as supplementary capital due to their being functionally equivalent to net worth certificates (which are required, by statute, to be included in capital).

2. Restrictions On Hybrid Capital Instruments

The bank regulators state in the capital rule certain restrictions on hybrid capital instruments (priority of debt, etc.). OTS does not have these restrictions in its capital rule (rather, they are elsewhere in OTS regulations or policy statements).

Reasons for OTS Difference: Policy decision to retain flexibility to adapt to innovations in capital instruments. (There is no difference in practice.)

Attachment II—Summary of Differences in Supervisory Reporting Practices

Differences by each agency in supervisory reporting practices may cause differences in amounts of regulatory capital maintained by depository institutions. These differences are the result of an evolutionary process that primarily reflects historical agency philosophy

and industry trends. A summary of these differences is presented below.

1. Specific Valuation Allowances for and Charge-Offs of Troubled Loans

Currently, the Office of Thrift Supervision ("OTS") uses net realizable value ("NRV") to determine the level of specific valuation allowances or charge-offs for troubled, collateral-dependent loans. The bank agencies use fair value.

OTS expects to soon propose a new policy for the classification and valuation of troubled collateral-dependent real estate loans that relies on the use of fair value rather than NRV of the collateral. The policy will be substantially similar to the bank regulatory agencies' policy.

2. Valuation of Foreclosed Real Estate

OTS requires foreclosed real estate to be valued at the lower of book value of the loan (historical cost) or "fair value" (based on market price using acceptable appraisal standards) at the date of foreclosure.

Currently, valuation allowances for real estate owned after the acquisition date are generally based on the NRV of the property using a cost of capital discount rate. The risk weight of 200% for real estate owned for risk based capital provides a further cushion against other risk of loss. The OTS expects to soon propose a new policy that relies on the use of fair value rather than NRV.

If adopted, real estate owned will be moved from the 200% risk-weight category to the 100% risk-weight category, to parallel the bank agencies' capital requirement.

The banking regulators require foreclosed real estate to be valued at the lower of book value of the loan or fair value at the date of foreclosure. The banking regulators require additional write-downs of the real estate owned if fair value declines further after foreclosure.

3. Accounting for Stripped Mortgage Backed Securities, Residuals and Long-Term Zero Coupon Bonds

Until the recent inter-agency proposal on securities activities, the OTS and the banking agencies had differing views on the suitability of these investments that affected the manner in which they were recorded.

OTS and the banking agencies have proposed a policy that states these instruments are not suitable holdings for most insured depository institutions. However, these holdings may be appropriate when they reduce interest rate risk and management understands how the cash flows change in response to changing interest rates and how such changes effect interest rate risk.

When OTS and the banking agencies have determined that these holdings are not used to reduce interest rate risk, the instrument is considered to be an unsuitable investment.

When these instruments are deemed to be an unsuitable holdings, the OTS and banking regulators may seek the depository institution's commitment to dispose of the securities in an orderly manner. When the depository institution commits to a disposal plan, the securities are to be reported as "held for sale" and any mark to market depreciation is classified as loss.

4. Futures and Forward Contracts

OTS practice is to follow generally accepted accounting principles ("GAAP"). In accordance with SFAS 80, when hedging criteria are satisfied, the accounting for the futures contract shall be related to the accounting for the hedged item. Changes in the market value of the futures contract are recognized in income when the effects of related changes in the price or interest rate of the hedged item are recognized. Such reporting can result in deferred losses in accordance with GAAP.

The banking agencies do not follow GAAP, but report changes in the market value of futures contracts even when used as hedges in the current period's income statement. However, futures contracts used to hedge mortgage banking operations are reported in accordance with GAAP.

5. Excess Service Fees

OTS practice is to follow GAAP in valuing excess service fees. When loans are sold with servicing retained and the stated servicing fee rate differs materially from a normal servicing fee rate, the sales price should be adjusted in determining the gain or loss from the sale of the loans. This provides for the recognition of a normal fee in each subsequent year that servicing continues on the loans. The gain recorded at the date of sale cannot be larger than the gain assuming the loans were sold servicing released. The subsequent valuation of the excess servicing is adjusted based upon anticipated prepayment rates and interest rates.

The banking agencies follow GAAP for residential mortgage loan pools. For all other loans (including individual residential mortgage loans), the banking agencies do not follow GAAP. In those cases they require that excess servicing fees retained on loans sold be reported as realized over the contractual life of the transferred asset.

6. In-Substance Defeasance of Debt

OTS practice is to follow GAAP. In accordance with SFAS 76, when a debtor irrevocably places risk-free monetary assets in a trust solely for satisfying the debt and the possibility that the debtor will be required to make further payments is remote, the debt is considered extinguished. The transfer can result in a gain or loss in the current period.

The banking agencies do not follow GAAP. The banking agencies continue to report the defeased debt as a liability and the securities contributed to the trust as assets with no recognition of any gain or loss on the transaction.

7. Sales of Assets With Recourse

OTS practice is to follow GAAP. A transfer of receivables with recourse is recognized as a sale if (i) the transferor surrenders control of the future economic benefits, (ii) the transferor's obligation under the recourse provisions can be reasonably estimated, and (iii) the transferee cannot require repurchase of the receivables except pursuant to the resource provisions.

However, in the calculation of OTS risk-based capital, certain off-balance sheet conversions are performed that result in capital being required for the risk retained. See further discussion of capital differences with respect to this item in Attachment I, Capital Differences.

The practice of the banking agencies is generally to report transfers of receivables with recourse as sales only when the transferring institution (i) retains no risk of loss from the assets transferred and (ii) has no obligation for the payment of principal or interest on the assets transferred. As a result, assets transferred with recourse are reported as financings, not sales.

However, this general rule does not apply to the transfer of mortgage loans under one of the government programs Government National Mortgage Association, Federal National Mortgage Association, and Federal Home Loan Mortgage Corporation. Transfers of mortgages under one of these programs are automatically treated as sales. Furthermore, private transfers of mortgages are also reported as sales if the transferring institution does not retain a significant risk of loss on the assets transferred

Dated: August 15, 1991.

By the Office of Thrift Supervision.

Jonathan L. Fiechter,

Deputy Director for Washington Operations.

[FR Doc. 91-19952 Filed 8-20-91; 8:45 am]

BILLING CODE 6720-01-M

Great American Bank a Federal Savings Bank, San Diego, CA; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Great American Bank, a Federal Savings Bank, San Diego, California, on August 9, 1991.

Dated: August 15, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–19935 Filed 8–20–91; 8:45 am]

BILLING CODE 6720–01–M

Amigo Federal Savings and Loan Association, Brownsville, TX; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Amigo Federal Savings and Loan Association, Brownsville, Texas ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on June 27, 1991.

Dated: August 16, 1991.

By the Office of Thrift Supervision

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–20002 Filed 8–20–91; 8:45 am]

BILLING CODE 6720–01–M

Brookhaven Federal Savings and Loan Association; Brookhaven, MS; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Brookhaven Federal Savings and Loan Association, Brookhaven, Mississippi ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on July 12, 1991.

Dated: August 16, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–20004 Filed 8–20–91; 8:45 am]

BILLING CODE 6720–01–M

Certified Federal Savings Association, Georgetown, TX; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift supervision duly replaced the Resolution Trust Corporation as Conservator for Certified Federal Savings Association, Georgetown, Texas ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on July 19, 1991.

Dated: August 16, 1991

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–20011 Filed 8–20–91; 8:45 am]

BILLING CODE 6720–01–M

Commonwealth Federal Savings Association, New Orleans, LA; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Commonwealth Federal Savings Association, New Orleans, Louisiana ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on July 11, 1991.

Dated: August 16, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–20006 Filed 8–20–91; 8:45 am]

BILLING CODE 6720–01–M

Commonwealth Federal Savings Association, Houston, TX; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Commonwealth Federal Savings Association, Houston, Texas ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on June 21, 1991.

Dated: August 16, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–20014 Filed 8–20–91; 8:45 am]

BILLING CODE 6720–01–M

Continental Federal Savings & Loan Association, F.A.; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Continental Federal Savings and Loan Association, F.A., Oklahoma City, Oklahoma ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on August 9, 1991.

Dated: August 15, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–19934 Filed 8–20–91; 8:45 am]

BILLING CODE 6720–01–M

First Federal Savings and Loan Association of Thief River Falls; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(A) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for First Federal Savings and Loan Association of Thief River Falls, Thief River Falls, Minnesota, OTS No. 2817, on August 9, 1991.

Dated: August 15, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–19936 Filed 8–20–91; 8:45 am]

BILLING CODE 6720–01–M

First City Federal Savings Bank, Lucedale, MS; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as

Conservator for First City Federal Savings Bank, Lucedale, Mississippi ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on July 19, 1991.

Dated: August 16, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-20012 Filed 8-20-91; 8:45 am]

BILLING CODE 6720-01-M

First Federal Savings Association, Borger, TX; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owner's Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for First Federal Savings Association, Borger, Texas ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on June 27, 1991.

Dated: August 16, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-20003 Filed 8-20-91; 8:45 am]

BILLING CODE 6720-01-M

First Federal Savings Association of Conroe, Conroe, TX; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owner's Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for First Federal Savings Association of Conroe, Conroe, Texas ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on July 19, 1991.

Dated: August 16, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-20015 Filed 8-20-91; 8:45 am]

BILLING CODE 6720-01-M

First Jackson Federal Savings Bank, Jackson, MS; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owner's Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for First Jackson Federal Savings Bank, Jackson, Mississippi ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on July 11, 1991.

Dated: August 16, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-20007 Filed 8-20-91; 8:45 am]

BILLING CODE 6720-01-M

First South Federal Savings Association, Houston, TX; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owner's Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for First South Federal Savings Association, Houston, Texas ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on July 11, 1991.

Dated: August 16, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-20008 Filed 8-20-91; 8:45 am]

BILLING CODE 6720-01-M

Freedom Savings Association, F.A.; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Freedom Savings Association, F.A., Columbus, Ohio ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on August 9, 1991.

Dated: August 15, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-19938 Filed 8-20-91; 8:45 am]

BILLING CODE 6720-01-M

Unity Federal Savings & Loan Association, F.A.; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Unity Federal Savings and Loan Association, F.A., Beverly Hills, California ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on August 2, 1991.

Dated: August 15, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-19939 Filed 8-20-91; 8:45 am]

BILLING CODE 6720-01-M

Liberty County Federal Savings and Loan Association, Liberty, TX; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Liberty County Federal Savings and Loan Association, Liberty, Texas ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on July 19, 1991.

Dated: August 16, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-20013 Filed 8-20-91; 8:45 am]

BILLING CODE 6720-01-M

Mechanics and Farmers Savings Bank, FSB; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owner's Loan Act, the Office of Thrift Supervision has duly appointed the Federal Deposit Insurance Corporation as sole Receiver for Mechanics and Farmers Savings Bank, FSB, Bridgeport, Connecticut (OTS No. 7291), on August 9, 1991.

Dated: August 15, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-19937 Filed 8-20-91; 8:45 am]

BILLING CODE 6720-01-M

Mutual Savings and Loan Association, F.A., Weatherford, TX; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Mutual Savings and Loan Association, F.A., Weatherford, Texas ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on July 11, 1991.

Dated: August 16, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-20009 Filed 8-20-91; 8:45 am]

BILLING CODE 6720-01-M

Southeast Texas Federal Savings Association, Woodville, TX; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Southeast Texas Federal Savings Association, Woodville, Texas ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on June 27, 1991.

Dated: August 16, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-20005 Filed 8-20-91; 8:45 am]

BILLING CODE 6720-01-M

Travis Federal Savings and Loan Association, San Antonio, TX; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Travis Federal Savings Association, San Antonio, Texas ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on June 21, 1991.

Dated: August 16, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-20016 Filed 8-20-91; 8:45 am]

BILLING CODE 6720-01-M

Windsor Federal Savings Association, Austin, TX; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Windsor Federal Savings Association, Austin, Texas ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on July 11, 1991.

Dated: August 16, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-20010 Filed 8-20-91; 8:45 am]

BILLING CODE 6720-01-M

[AC-42; OTS No. 3511]

The Homestead Savings (FA), Utica, NY; Final Action; Approval of Conversion Application

Notice is hereby given that on August 12, 1991, the Office of the Chief Counsel, Office of Thrift Supervision, acting pursuant to delegated authority, approved the application of The Homestead Savings (FA), Utica, New York, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1776 G Street NW., Washington, DC 20552, and Regional Director, Northeast Regional Office, Office of Thrift Supervision, 10 Exchange Place Centre, Jersey City, New Jersey 07302.

Dated: August 15, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-20017 Filed 8-20-91; 8:45 am]

BILLING CODE 6720-01-M

[AC-43; OTS No. 2823]

Kirksville Federal Savings Bank, Kirksville, MO; Final Action; Approval of Conversion Application

Notice is hereby given that on August 13, 1991, the Office of the Chief Counsel, Office of the Thrift Supervision, acting pursuant to delegated authority, approved the application of Kirksville Federal Savings Bank, Kirksville, Missouri for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1776 G Street NW., Washington, DC 20552, and Deputy Regional Director, Office of Thrift Supervision, 1401 50th Street, West Des Moines, Iowa 50265-1013.

Dated: August 15, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-20018 Filed 8-20-91; 8:45 am]

BILLING CODE 6720-01-M

Sunshine Act Meetings

Federal Register
Vol. 56, No. 162
Wednesday, August 21, 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).

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, September 12, 1991.

PLACE: Room 410, 1825 K Street NW., Washington, D.C. 20006.

STATUS: Open Meeting.

MATTERS TO BE CONSIDERED: Oral Argument before the Commission in—

Erie Coke Corporation
OSHRC Docket No. 88-0611

CONTACT PERSON FOR MORE INFORMATION: Mrs. Mary Ann Miller (202) 634-4015.

Dated: August 16, 1991.

Earl R. Ohman, Jr.,

General Counsel.

[FR Doc. 91-20093 Filed 8-19-91; 12:58 pm]

BILLING CODE 7600-01-M

Corrections

Federal Register
Vol. 56, No. 162
Wednesday, August 21, 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.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 166

[Docket No. 90-250]

Swine Health Protection

Correction

In rule document 91-18959 appearing on page 37827, in the issue of Friday, August 9, 1991, make the following corrections:

1. On page 37827, in the first column, under **SUMMARY:**, the fourth line should read "States that permit the feeding of treated garbage to swine and adding it to the list of States that prohibit garbage feeding."

2. On the same page, in the same column, under **EFFECTIVE DATE:**, "September" should read "August".

BILLING CODE 1505-01-D

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 354

9 CFR Part 130

[Docket No. 91-021]

RIN 0579-AA43

User Fees — Agricultural Quarantine and Inspection Services, Phytosanitary Certificates, Animal Quarantine Services, Veterinary Diagnostics, Export Health Certificates

Correction

In proposed rule document 91-18614 beginning on page 37481 in the issue of Wednesday, August 7, 1991, make the following corrections:

§ 354.4 [Corrected]

1. On page 37495, in § 354.4(e)(4), in the third column, the first paragraph designated "(vi)" should read "(iv)".

§ 130.9 [Corrected]

2. On page 37498, in the first column, in § 130.9, in the table, in the first column, in the third line, after "sumptive" insert "test".

BILLING CODE 1505-01-D

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 91-111]

National Boll Weevil Cooperative Control Program; Supplement to the Draft Environmental Impact Statement

Correction

In notice document 91-18365 appearing on page 37073, in the issue of Friday, August 2, 1991, in the 2d column, in the 12th line, after "(512)" insert "548".

BILLING CODE 1505-01-D

DEPARTMENT OF EDUCATION

[CFDA No.: 84.021A]

Fulbright Hays Group Projects Abroad; Inviting Applications for New Awards Fiscal Year 1992

Correction

In notice document 91-18805 appearing on page 37691, in the issue of Thursday, August 8, 1991, make the following correction:

In the third column, under *For Applications or Information Contact:*, in the third line, the telephone number should read "(202) 708-7283".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT-930-4214-11; MTM 012788, MTM 1171, and MTM 41610]

Proposed Continuation of Withdrawals; Montana

Correction

In notice document 91-17173 appearing on page 33304, in the issue of Friday, July 19, 1991, in the second column, in the land description, under T. 6 N., R. 3 W., in the first line, "Sec. 14, SW¼SW¼," should read "Sec. 14, SW¼SW¼".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY-930-01-4214-10; WYW 116382]

Termination of Proposed Withdrawal of Land; Wyoming

Correction

In notice document 91-17646 beginning on page 34071 in the issue of Thursday, July 25, 1991, make the following corrections:

1. On page 34071, in the third column, in the land description, under "Sec. 24," in the first line, "S½SW¼NW¼;" should read "W½SW¼NW¼;".

2. On page 34072, in the first column, in the land description, under "Sec. 12," in the first line, "N¼" should read "N½" each time it appears.

BILLING CODE 1505-01-D

federal register

Wednesday
August 21, 1991

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Final Frameworks for Early-Season Regulations; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018-AA24

Migratory Bird Hunting; Final Frameworks for Early-Season Migratory Bird Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes final early-season frameworks from which States, Puerto Rico, and the Virgin Islands may select season dates, limits, and other options for the 1991–92 migratory bird hunting season. These early seasons may open prior to October 1, 1991. The effects of this final rule are to facilitate the selection of hunting seasons by the States and Territories to further the annual establishment of the early-season migratory bird hunting regulations. These selections will be published in the **Federal Register** as amendments to §§ 20.101 through 20.106, and § 20.109 of title 50 CFR part 20.

EFFECTIVE DATE: This rule takes effect on August 21, 1991.

ADDRESSES: Season selections from States and Territories are to be mailed to: Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, room 634-Arlington Square, Washington, DC 20240. Comments received are available for public inspection during normal business hours in room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Thomas J. Dwyer, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, room 634-Arlington Square, Washington, DC 20240, (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 1991

On March 6, 1991, the Service published for public comment in the **Federal Register** (56 FR 9462) a proposal to amend 50 CFR 20, with comment periods ending July 25, 1991, for early-season proposals, and August 26, 1991, for late-season proposals. A supplemental proposed rulemaking for both early and late hunting season frameworks appeared in the **Federal Register** dated May 31, 1991 (56 FR 24984). On June 20, 1991, a public hearing was held in Washington, DC, as announced in the **Federal Register** of March 6 (56 FR 9462) and May 31 (56 FR 24984), 1991, to review the status of migratory shore and upland game birds. Proposed hunting regulations were discussed for these species and for other early seasons. On July 15, 1991, the Service published in the **Federal Register** (56 FR 32264) a third document in the series of proposed, supplemental, and final rulemaking documents which dealt specifically with proposed early-season frameworks for the 1991–92 season. This rulemaking is the fourth in the series, and establishes final frameworks for early-season migratory bird hunting regulations for the 1991–92 season.

Review of Public Comments and the Service's Response

As of July 25, 1991, the Service had received 32 written comments; 23 of these specifically addressed early-season issues. Early-season comments are summarized and discussed in the order used in the March 6, 1991, **Federal Register** (56 FR 9462). Only the numbered items pertaining to early seasons for which comments were received are included.

General

Council Recommendations: The Central Flyway Council supported the proposed regulations that were not specifically addressed by their other recommendations.

Public Hearing Comments: Mr. Ronnie R. George, representing the Central Flyway Council and the Texas Parks and Wildlife Department, recommended adoption of the proposed basic regulations for webless and waterfowl species not addressed by his other comments. Mr. Eric Frasier, representing the Wetland Habitat Alliance of Texas, supported the recommendations presented by Mr. George. Ms. Kirsten Burger, representing the Humane Society of the United States, called on the Service to close the hunting seasons on all migratory birds in light of the low population status of many species due to the drought conditions. She suggested that hunting has caused added pressure on many species. Mr. Charles Kelley, representing the Southeastern Association of Fish and Wildlife Agencies, expressed support for the regulations proposals presented at the public hearing.

Written Comments: A local organization from Massachusetts requested that shooting hours remain at one-half hour before sunrise to sunset for all species.

Service Response: The Service notes the support expressed for the proposed early-season regulations. Regarding hunting-season closures, although the population status of some species is below long-term averages, the Service believes the current status does not warrant such drastic action. Shooting hours provided in the following frameworks are one-half hour before sunrise to sunset.

1. Ducks

G. Special/Species Management

ii. September Duck Seasons

Council Recommendations: The Lower Region Regulations Committee of the Mississippi Flyway Council recommended that the States of Kentucky and Tennessee be allowed to continue the 5-day September seasons to harvest wood ducks.

Public Hearing Comments: Ms. Kirsten Burger, representing the Humane Society of the United States, asked that early seasons on wood ducks be prohibited because of the impact on populations and recruitment.

Service Response: In the March 6, 1991, **Federal Register** (56 FR 9462), the Service stated that no adverse impacts on wood duck populations are apparent, but the Flyway Councils and the three States involved (Florida, Kentucky, and Tennessee) are continuing efforts to evaluate these seasons. Continuation of these seasons beyond 1991 will be contingent upon the ability of the Flyway Councils and States to demonstrate significant progress in developing regional wood duck monitoring plans and evaluation and decision criteria for these seasons.

Note: In the above-mentioned **Federal Register** document, the Service also stated that the three States involved will be allowed to continue presunrise shooting hours during their September seasons under the condition that they conduct studies or provide information that demonstrate a negligible impact on species other than the wood duck. The States of Kentucky and Tennessee have submitted a proposal to study the impact on nontarget duck species, while Florida has submitted information that demonstrates the impacts on nontarget duck species are insignificant. Based on the information provided, the Service will allow presunrise shooting hours to continue during the Florida special season, without the need for further evaluation. In Kentucky and Tennessee, continuation of presunrise shooting hours is contingent upon the satisfactory completion of studies which demonstrate a negligible impact upon nontarget duck species during the one-half hour prior to sunrise.

iii. September Teal Seasons

Council Recommendation: The Lower Region Regulations Committee of the Mississippi Flyway Council recommended a 3-day September teal

season with a bag limit of 3 birds per day.

The Central Flyway Council recommended reinstatement of the September teal season at some reduced level of harvest pressure, but withheld specific recommendations as to bag limit and season length until a later date, pending receipt of data about this year's population level. The council remarked that the September teal season has been suspended since 1988 because of drought conditions on the breeding grounds and declining breeding populations of blue-winged teal. The Council believes that a reversal of this situation would warrant a return to a limited teal season.

Public Hearing Comments: Mr. Ronnie R. George, representing the Central Flyway Council and the Texas Parks and Wildlife Department, recommended reinstatement of the September teal season at a reduced level to include a 3-day season and a 4-bird daily bag limit during the first half of September, and that the special season be regarded as an integral part of the full duck season. Suspension of the early teal season in 1988–1990 resulted in reduced hunter interest in waterfowl hunting, reduced private-land waterfowl-habitat enhancement programs, increased disease problems for wintering waterfowl, and no measurable increase in teal numbers that could be attributed to the closed season. Resumption of the September teal season in 1991 with appropriate restrictions would help maintain enhancement of the Rice Prairie and Gulf Coast of the Central and Mississippi Flyways and better serve blue-winged teal and northern pintails in these areas. Mr. John M. Anderson, representing the National Audubon Society did not oppose a limited 3-day September teal season because of increases in this year's breeding population. Mr. Eric Frasier, representing the Wetland Habitat Alliance of Texas, contended that suspension of the September teal season, among other things, had adversely affected wetland protection programs in Texas. Habitats normally dry in September remain dry because there is no longer the incentive to flood these areas for September hunting. At least a 4-day season would be needed to justify costs of pumping water into most areas. He indicated that there had been one or more major disease incidents in Texas each September since suspension of the teal season, and suggested that the wetlands flooded with a reinstated season would alleviate those disease problems. Ms. Kirsten Burger, representing the Humane Society of the United States, asked that early seasons on teal be prohibited because of the impact on populations and recruitment.

Written Comments: A congressman from Texas remarked that the suspension of the September teal season has contributed to a significant reduction in the amount of available habitat for early waterfowl migrants, annual disease problems, and a declining number of private landowners who are willing to supply sufficient water for these migratory waterfowl. The Wyoming Game and Fish Department believes the September teal season should be restored if the population status were to improve. An individual from Texas requested reinstatement of the full September teal season framework, that the bag limit include blue- and green-winged teal, and that the season be offered this year and every year.

Service Response: The Service believes that continued improvements in population status and development of implementation criteria for September teal seasons are necessary prior to lifting the suspension, and reiterates that the implementation criteria and provisions for future review of September teal seasons should be developed cooperatively between the Service and Flyway Councils. The Service recognizes that the suspension will eliminate substantial portions of the harvest in some areas and this will result in some unmeasured amount of habitat that will not be provided. The Service encourages resource managers, including private-land owners to continue to provide habitat to benefit waterfowl at this time of the year.

2. Sea Ducks

Written Comments: A local organization from Massachusetts requested continuation of the 107-day sea duck season. They requested that the Service consider an increase in the bag limit of these birds, and to especially consider including mergansers in the sea duck season. They remarked that mergansers are included in the Alaska sea duck limit, and indicated that mergansers are an under-harvested resource and are causing adverse impacts on the fishing industry and feeding grounds for other waterfowl.

Service Response: These frameworks provide for the continuation of the 107-consecutive-day season with a 7-sea duck daily bag limit. The Service is not aware of any documented problems with mergansers impacting fisheries. If such problems exist, the problem areas should be delineated and the extent of the impacts determined. The Service doubts that including mergansers in the sea duck season is a proper or effective way to address localized depredations on fisheries. The Service has no information to suggest that the population status of any merganser species warrants additional harvest at this time. Frameworks for hunting mergansers are late-season regulations and will be deferred until that time.

4. Canada Geese

A. Early-September Seasons

Council Recommendations: The Upper Region Regulations Committee of the Mississippi Flyway Council recommended that the Service grant operational status to the experimental early-September Canada goose seasons in Illinois, Michigan, and Minnesota. Several modifications were recommended for the Michigan season, including another 3-year experimental season to include the eastern portion of the Upper Peninsula and several areas of the Lower Peninsula. The Committee also recommended that new experimental early-September Canada goose seasons be allowed in the northeast portions of Indiana and Ohio. Nuisance goose problems continue to increase in these areas and neck-collar observations and other data indicate that greater than 90 percent of the harvest will be composed of resident Canada geese.

The Lower Region Regulations Committee of the Mississippi Flyway Council recommended that the Service fully analyze data from existing special or experimental season before expanding seasons that might cause cumulative harvest on Southern James Bay Population Canada geese. Current special seasons should adhere to present criteria designated by the Service.

The Pacific Flyway Council recommended modification of the early September Canada goose seasons in Wyoming and Utah. In Wyoming, the modifications include reinstatement of the Eden-Farson Irrigation Project Area in Sweetwater and Sublette Counties and an increase from 115 to 150 permits. In Utah, the Council recommended that the framework dates be September 1 through September 15. The framework closing date previously was September 9. The Council added that early goose seasons have been successful in alleviating depredation problems and providing hunter opportunity.

Public Hearing Comments: The Michigan Department of Natural Resources submitted a written statement concerning their September

Canada goose to be included as part of the hearing record. They requested that the 1991 season include the expanded Upper Peninsula area from the vicinity of Escanaba and Marquette, east to the tip of Chippewa County. They remarked that the Michigan season for resident geese violates the harvest criteria (no more than 10 percent migrant geese) to a lesser extent than culmen and other measurements have suggested. They further stated that the harvest of migratory geese is most likely from the Mississippi Valley Population, which is in excellent shape and considered by some experts to be nearly beyond control by hunting.

Written Comments: A Member of Congress from Michigan requested that the proposed rule be amended to allow previously hunted areas of the Upper Peninsula to be available for the early September Canada goose season. The Wisconsin Department of Natural Resources commented that the criteria established for special early September Canada goose seasons need review based on the experience of the various States that have implemented the early seasons. They question the appropriateness of the dates of the season and the restrictions and controls required for this season. There local organizations in Michigan requested continuation of the early season for Michigan's Upper and Lower Peninsulas as operational and initiation of an experimental September 1 through September 4 season in Saginaw, Tuscola, and Huron Counties.

Service Response: The Service proposed revised criteria for early special Canada goose seasons and new criteria for late seasons in the July 15, 1991, **Federal Register** (56 FR 32264). Comments on these proposals are sought from interested parties and will continue to be accepted until the close of the late-season comment period on or about August 26, 1991. The Service recognizes the problems caused by increasing populations of resident Canada geese and the concern for the status of certain migratory flocks, and hopes that a prudent solution can be developed for this difficult problem—harvesting resident geese while protecting migrant geese.

The Service concurs with the recommendation by the Mississippi Flyway Council's Upper Region Regulations Committee to continue the September season in Minnesota's Twin Cities Metropolitan Zone on a nonexperimental basis and to initiate new experimental seasons in Indiana and Ohio. In Illinois, data gathered during the experimental period were insufficient to support conclusions about the proportion of migrant Canada geese in the harvest. Therefore, the experimental period is being extended for an additional 3 years to allow the State the opportunity to gather the necessary information.

In Michigan, results from the experimental period were mixed. Data in the final report indicate that on a statewide basis, the proportion of migrant Canada geese in the early-season harvest exceeded the allowable limit established in the Memorandum of Agreement (MOA). However, the proportions varied considerably among regions within the State. In most of the southern half of the Lower Peninsula the proportions were within the allowable limit. In the northern half of the Lower Peninsula, the limit was exceeded slightly, but data from this area were sparse. The areas where the MOA limit was exceeded the greatest included the Upper Peninsula and Huron, Saginaw, and Tuscola Counties in the Lower Peninsula. Collectively, these four areas contribute about 20 percent of the early-season harvest. The Council's Upper Region Regulations Committee recommended that the season in these areas be continued on an experimental basis, including a substantial expansion of the area open to hunting in the Upper Peninsula. However, the recommendation did not include any measures to reduce the proportion of migrants in the harvest in these areas. The season in the remaining areas would continue on a nonexperimental basis.

In recognition of the substantial nuisance problems caused by locally nesting Canada geese in Michigan, the Service believes the early season should be continued to the extent possible under the MOA criteria Consequently, the season in most of the southern half of the Lower Peninsula, where the critera have been met and where the bulk of the early-season harvest occurs, is being continued on a nonexperimental basis. In the northern half of the Lower Peninsula and in the existing portions of the Upper Peninsula, the season is being continued on an experimental basis for one year to gather additional information on the composition of the harvest. However, no additional areas are authorized for this special season.

These frameworks provide for the reinstatement of the Eden-Farson area and the issuance of 150 permits in Wyoming. In Utah, the framework closing date has been extended to September 15.

9. Sandhill Cranes

Council Recommendations: The Central Flyway Council recommended that Oklahoma be allowed to divide that portion of the State currently open to sandhill crane hunting, west of Interstate Highway 35, into separate north and south zones. The current 93-day hunting season cannot encompass the time period when sandhill cranes are present and provide hunting opportunity in both the northwest and southwest portions of the State. The Central Flyway Council also recommended continuation of the experimental sandhill crane seasons in southwestern New Mexico and Utah, and supported 30-day season lengths for special seasons throughout the range of the Rocky Mountain Population.

The Central and Pacific Flyway Councils recommended that the framework dates for the Rocky Mountain Population of sandhill cranes be expanded to include September 1 through January 31. Currently the closing framework date is November 30, except in the Hatch-Deming Area in New Mexico where the closing date is January 31.

Public Hearing Comments: Mr. Ronnie R. George, representing the Central Flyway Council and the Texas Parks and Wildlife Department, recommended continuation of the experimental sandhill crane hunts in Utah and southwestern New Mexico and zoning of Oklahoma west of Interstate 35 to permit optimum management of both migrating and wintering cranes in the State. Mr. John M. Anderson, representing the National Audubon Society, recommended that the Service work with the Central Flyway Council to ensure that the harvest of mid-continent sandhill cranes does not continue to exceed the established harvest objective of 25,000. He also commented that the Rocky Mountain Population of greater sandhill cranes is within population objectives and that harvest could be increased according to the approved management-plan guidelines.

Service Response: In regard to the Oklahoma request to zone for sandhill cranes, the Service notes that zoning for this species has not been permitted for any State. Implementing this harvest-management tool for crane hunting would needlessly complicate regulations and could potentially increase harvests. The 1990–91 harvest of mid-continent sandhill cranes exceeded the guidelines in the management plan. The management plan has served as a useful guide in regulating harvest, although the

Service recognizes that it may require updating. The Flyway Councils and States should take action during the next year to reduce the harvest of midcontinent sandhill cranes to levels that comply with the current management plan. If the harvest is not reduced sufficiently, the Service will propose measures to ensure that future harvests are in compliance with the management plan.

These frameworks include the provision to extend the closing date to January 31 throughout the range of the Rocky Mountain Population.

14. Woodcock

Council Recommendations: The Upper Region Regulations Committee of the Mississippi Flyway Council recommended that the framework dates be modified to September 1 through February 9.

The Lower Region Regulations Committee of the Mississippi Flyway Council recommended frameworks of September 1 through February 14, and stated that if the Service proposals is an effort to bring harvest in line with population indices, elimination of February woodcock hunting falls far short of achieving a significant and equitable harvest reduction. They recommended that a February 14 closing date would be sufficient to significantly reduce the changes of breeding or nesting hens being harvested.

The Central Flyway Council expressed support for the preliminary proposal of a January 31 closing date and recommended that February hunting of woodcock be eliminated.

Public Hearing Comments: Mr. Ronnie R. George, representing the Central Flyway Council and the Texas Parks and Wildlife Department, supported the proposed change in woodcock framework dates which eliminates February woodcock hunting. Mr. John M. Anderson, representing the National Audubon Society, supported a January 31 closure for woodcock populations in the Mississippi Flyway, but emphasized the importance of habitat efforts.

Written Comments: The Wisconsin Department of Natural Resources indicated that they do not oppose the proposed January 31 closing date, but suggested that the Service consider the recommendation of the Upper Region Regulations Committee of the Mississippi Flyway Council for a February 9 framework closing date for woodcock.

Service Response: A substantial body of published and anecdotal information is available to document the sexual maturity and breeding activities of woodcock in February throughout the South. In many years, woodcock are in advanced stages of the annual breeding cycle during some portion of February, and in some years southern woodcock are nesting during the hunting season. Winter weather conditions appear to determine the extent of sexual activity and nesting. In mild years, hunters often report shooting female woodcock with developing eggs in their oviducts and flushing incubating woodcock from nests during mid and late February. In colder years, no such reports are received. Additionally, harvest in the southern portions of the Central Region may adversely affect the Eastern Region breeding population. Although the impact of February hunting cannot be directly measured, hunting at this time of the year takes individuals directly from the local and migratory breeding populations. It is an additional source of mortality when viewed in relation to breeding stocks that have survived fall and winter.

The Service acknowledges that there may be some loss of recreational potential. However, a closing date of February 9 as opposed to January 31 would provide little additional recreational opportunity to mid-latitude States. Also, because woodcock arrive on their wintering grounds prior to December 1, a 65-day season ending on or before January 31 should provide sufficient recreational opportunity in southern States. The Service believes that the framework closing date of January 31 will protect nesting woodcock in all years, except those with extremely early springs.

16. Mourning Doves

Council Recommendations: The Central Flyway Council recommended that the number of mourning doves permitted in the aggregate daily bag limit during the Texas special white-winged dove season be increased from 5 to 10 birds. Texas noted that in 1984, concern about late-nesting mourning doves in South Texas led to restrictions in the daily bag limit. These restrictions were somewhat alleviated in 1989 and 1990 under the provision that Texas monitor the effects of this change. The recommendation to increase the number of mourning doves allowed in the aggregate daily bag limit during the special white-winged dove season is based upon the results of those studies.

Public Hearing Comments: Mr. Ronnie R. George, representing the Central Flyway Council and the Texas Parks and Wildlife Department, recommended that the number of mourning doves permitted in the 10-bird aggregate daily bag during Texas' special white-winged dove season southeast of Del Rio be increased from 5 to 10 as currently allowed northwest of Del Rio. Mr. John M. Anderson, representing the National Audubon Society, supported continuation of last year's regular hunting season for mourning doves, but indicated concern over the long-term gradual declines in the Western Management Unit and several states in the eastern tier of States in the Central Management Unit. He strongly supported the ongoing cooperative study in Missouri designed to help identify factors responsible for the Central Management Unit decline and help resource managers better understand the overall role of hunting in annual mourning dove population dynamics. He supported the Texas Parks and Wildlife Department's proposal for an increase from 5 to 10 mourning doves in the aggregate daily bag limit during the special white-winged dove season. Ms. Kirsten Burger, representing the Humane Society of the United States, urged that hunting of doves in September be eliminated. Mr. Charles Kelley, representing the Southeastern Association of Fish and Wildlife Agencies, expressed support for September mourning dove hunting, citing a large-scale cooperative study several years ago which indicated that the loss of nesting mourning dove due to hunting in September is insignificant.

Written Comments: The Texas Parks and Wildlife Department requested that the Service permit Texas to split the mourning dove season into not more than 3 segments under the 3-zone option. Texas remarked that the purpose of this proposal would be to permit greater flexibility in establishing hunting seasons consistent with anticipated migration patterns and population levels. This proposed change would also allow Texas to establish additional "opening days" and thereby create additional interest in dove hunting among Texas sportsmen.

A total of 12 letters (234 signatures) were received from individuals, primarily from South Carolina, who believe that mourning dove hunting in September should be discontinued. Several of these individuals requested that the season be delayed until October 15 and reduced to 30 days. A few of these individuals also requested that the season be discontinued entirely, or that no hunting be allowed on Sundays.

Service Response: The Service believes it is not appropriate to allow 10 mourning doves in the aggregate daily bag limit during the special white-winged dove season southeast of Del Rio. The study to assess the impact of hunting on nesting mourning doves in

September in the Lower Rio Grande Valley was conducted when only 5 mourning doves were allowed in the aggregate daily bag limit and did not address the issue of a larger bag limit. In addition to increasing mourning dove harvests, the added hunting opportunity likely would attract more hunters to the Lower Rio Grande Valley and possibly increase whitewing harvests as well, which the Service believes is not warranted at this time due to the depressed status of whitewings in the Lower Rio Grande Valley.

The Service allows some States with no more than 2 zones to use 3-way split-seasons for mourning doves. However, there are no States other than Texas utilizing more than 2 zones. The Service believes that 3 zones with a 2-way split season in each zone provides Texas sufficient flexibility in selecting mourning dove seasons.

The Service notes that the issue of September mourning doves hunting has been well studied. In the July 3, 1986, **Federal Register** (51 FR 24418), the Service listed a number of **Federal Register** documents in which it had responded to this issue. The results of an extensive study of mourning dove nesting published in 1987 found that only a small proportion of annual nesting attempts were exposed to hunting. There was no statistically significant difference in survival rates of eggs and nestlings in areas where hunting was permitted compared to areas where it was prohibited. This study concluded that dove hunting under current regulations has no detectable effect on recruitment of fledglings into the mourning dove population. The conclusions of this study and other evidence in the literature lead the Service to conclude that dove hunting in September has no significant adverse effect on mourning dove populations. However, as in past years, mourning dove seasons in the southern zones of Alabama, Georgia, Louisiana, Mississippi, and Texas may not open before September 20. The Service does not believe that a closed season (or closure on any given day of the week) is warranted.

17. White-winged and White-tipped Doves

Council Recommendations: The Central Flyway Council recommended that the number of white-winged doves permitted in the aggregate daily bag limit during the Texas mourning dove season be increased from 2 to 6 birds. In recent years, whitewings have expanded their range into other areas of the State. Texas believes that the 2-whitewing limit is overly restrictive, particularly in those local areas where whitewings now outnumber mourning doves.

Public Hearing Comments: Mr. Ronnie R. George, representing the Central Flyway Council and the Texas Parks and Wildlife Department, recommended reinstatement of the full 4-day special white-winged dove hunting season in Texas. Although the whitewing population in the Lower Rio Grande Valley is below the long-term average, habitat conditions are improving and whitewing populations elsewhere in Texas are increasing significantly. Continuation of the special season provides strong incentive for continued white-winged dove preservation and management on private and public land. Mr. George also recommended that the number of white-winged doves permitted in the 12-bird aggregate daily bag during Texas' regular mourning dove season be increased from 2 to 6 statewide. Mr. John M. Anderson representing the National Audubon Society indicated that caution should be taken for the proposed increase of 2 to 6 white-winged doves in the 12-dove aggregate bag limit during the regular mourning dove season. This action could adversely affect white-winged doves in the Lower Rio Grande Valley where populations have experienced a decline in recent years.

Service Response: Concerning the request for a 4-day special white-winged dove season in Texas, the Service notes that although the white-winged dove population in the Lower Rio Grande Valley demonstrated a limited increase between 1990 and 1991, it remains well below the long-term mean. Because of this, the Service believes the 2-day restricted season should be continued to aid this population's recovery.

In view of the increasing whitewing population in Upper South Texas, the Service concurs with the request for an aggregate daily bag limit to include no more than 6 whitewings during the regular mourning dove season. However, in a portion of the Lower Rio Grande Valley, the aggregate daily bag limit shall continue to include no more than 2 whitewings.

18. Alaska

Council Recommendations: The Pacific Flyway Council recommended that the experimental tundra swan season on Seward Peninsula be granted operational status.

Service Response: These frameworks allow for continuation of the tundra swan season on an operational basis.

Note: The season will be closed for Steller's and spectacled eiders due to declines in population indices. The Service notes that information about these species is scarce and recognizes that sport harvest, being exceedingly small, is not likely the cause of the decline in population indices. However, at these extremely low population levels, the Service is concerned about all sources of mortality, and, hunting mortality is a factor that can be regulated. The Service proposes to implement this conservation measure pending collection of more information.

On December 10, 1990, the Service received a petition to list Steller's and spectacled eiders under the Endangered Species Act. In response, on March 6, 1991, the Service rendered a finding that substantial scientific or commercial information had been presented to indicate that the listing of both species as endangered or threatened may be warranted. The Service is conducting a status survey and by December 10, 1991, will find that the petitioned action is warranted, not warranted, or warranted but precluded.

20. Puerto Rico and Virgin Islands

Public Hearing Comments: Ms. Kirsten Burger, representing the Humane Society of the United States, urged that hunting of waterfowl in Puerto Rico during January be eliminated and that the waterfowl hunting season in Puerto Rico should be shortened.

Written Comments: Puerto Rico requested that they be allowed to reopen Vieques Island to dove and pigeon hunting. Last year, they requested that this area be closed due to concern about the effects of Hurricane Hugo.

Service Response: The Service has no evidence that the curtailing of hunting seasons in Puerto Rico is warranted. The following frameworks allow for an open season on Vieques Island, while other frameworks remain unchanged from the 1990–91 frameworks.

NEPA Consideration

NEPA considerations are covered by the programmatic document, "Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14)", filed with EPA on June 9, 1988. Notice of availability was published in the **Federal Register** on June 16, 1988 (53 FR 22582). The Service's Record of Decision was published on August 18, 1988 (53 FR 31341). Copies of these documents are available from the Service at the address indicated under the caption **ADDRESSES.**

Endangered Species Act Consideration

On July 31, 1991, the Division of Endangered Species concluded that the proposed action is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of their critical habitats. Hunting regulations are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species and their habitats. The Service's biological opinions resulting from its consultation under section 7 are considered public documents and are available for inspection in the Division of Endangered Species and the Office of Migratory Bird Management.

Regulatory Flexibility Act; Executive Orders 12291, 12612, and 12630; and the Paperwork Reduction Act

In the **Federal Register** dated March 6, 1991 (56 FR 9462), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and Executive Orders. These included preparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publishing a summary of the latter. These regulations have been determined to be major under Executive Order 12291 and they have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. It has been determined that these rules will not involve the taking of any constitutionally protected property rights, under Executive Order 12630, and will not have any significant federalism effects, under Executive Order 12612. This determination is detailed in the aforementioned documents which are available upon request from the Office of Migratory Bird Management. These regulations contain no information collections subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980.

Memorandum of Law

In the **Federal Register** dated March 6, 1991, (56 FR 9462) the Service stated that it planned to publish its Memorandum of Law for the 1990–91 migratory bird hunting regulations with its first final rulemaking.

Memorandum of Law. Section 4 of the Executive Order 12291 requires that certain determinations be made before any final major rule may be approved. Section 4(a) specifies that the regulation must be clearly within the authority of law and consistent with congressional intent, and that a memorandum of law be provided to support that determination. Also, the agency must state that the factual conclusions upon which the law is based have substantial support in the agency record and that full attention has been given to public comments in general, and to comments of persons directly affected by the rule in particular.

The development of the annual migratory bird hunting regulations is provided under section 3 of the Migratory Bird Treaty Act (Act) of July 3, 1918, as amended (16 U.S.C. 701–711). The Act authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest, or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported, or transported. Such regulations for hunting have been promulgated annually since 1918. They appear in 50 CFR part 20, subpart K. Congressional support for the development of these rules and ancillary activities involved in their development are reflected in the Service's budget. Among these activities are biological surveys, hunter activity and harvest surveys, research investigations, law enforcement, and administrative costs associated with the development and publication of the proposed and final rules. Many other Service activities, such as the acquisition and management of habitats for migratory birds, indirectly assist in maintaining the migratory bird resource at levels which allow reasonable sport hunting harvest.

In developing its annual hunting rules for 1991–92, the Service has published three proposed rules for public comment and conducted one public hearing to facilitate public input into the rulemaking process. Four additional rulemakings and another public hearing are included in the remaining schedule for establishing the annual hunting regulations for 1991–92. Numerous public comments were summarized in **Federal Registers** listed in the preamble of this document. Many of these comments originated from affected State conservation agencies, while others were submitted by the affected public. Comments in support of the Service's initial or supplementary regulatory proposals are noted. Comments which do not support proposed Service action have been adequately addressed. Additional public comments are invited and will be addressed in subsequent **Federal Register** documents. The complete administrative record, including copies of public comments, is available for inspection at the Office of Migratory Bird Management.

Consequently, the Department has determined that it has fulfilled requirements of section 4 of Executive Order 12291 and the Migratory Bird Treaty Act in developing the 1991–92 migratory bird hunting regulations which are adequately supported by the Service's records.

Authorship

The primary authors of this rule are Robert J. Blohm and William O. Vogel, Office of Migratory Bird Management, working under the direction of Thomas J. Dwyer, Chief.

Regulations Promulgation

The rulemaking process for migratory bird hunting regulations must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed early-season rulemaking was published on July 15, 1991, the Service established what it believed was the longest period possible for public comment. In doing this, the Service recognized that, at the close of the comment period, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that the States would have insufficient time to select season dates and limits; to communicate those selections to the Service; and to establish and publicize the necessary regulations and procedures that implement their decisions.

Therefore, the Service, under authority of the Migratory Bird Treaty Act of July 3, 1918, as amended (16 U.S.C. 701–711), prescribes final frameworks setting forth the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and latest closing season dates, and hunting areas, from which State and Territory conservation agency officials may select hunting season dates and other options. Upon receipt of season and option selections from these officials, the Service will publish in the **Federal Register** a final rulemaking amending 50 CFR part 20 to reflect seasons, limits, and shooting hours for the contiguous United States, Alaska, Puerto Rico, and the Virgin Islands, for the 1991–92 season.

The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these frameworks will, therefore, take effect immediately upon publication.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

The rules that eventually will be promulgated for the 1991–92 hunting season are authorized under the Migratory Bird Treaty Act of July 3, 1918, as amended, (16 U.S.C. 701–711), and the Fish and Wildlife Improvement Act of November 8, 1978, as amended, (16 U.S.C. 712).

Dated: August 8, 1991.

Mike Hayden,

Assistant Secretary For Fish and Wildlife and Parks.

FINAL REGULATIONS FRAMEWORKS FOR 1991–92 EARLY HUNTING SEASONS ON CERTAIN MIGRATORY GAME BIRDS

Pursuant to the Migratory Bird Treaty Act, and delegated authorities, the Director has approved frameworks for season lengths, bag limits, shooting hours, and outside dates within which States my select seasons for certain migratory game birds.

All outside dates noted below are inclusive and all shooting hours are between one-half hour before sunrise and sunset daily, except as noted otherwise. These hours also apply to hawking (taking by falconry). Unless specified otherwise, possession limits are twice the daily bag limit.

Mourning Doves

Outside Dates: Between September 1, 1991, and January 15, 1992, except as otherwise provided, States may select hunting seasons and bag limits as follows:

Eastern Management Unit (All States east of the Mississippi River, and Louisiana)

Hunting Seasons, and Daily Bag Limits: Not more than 70 days with a daily bag limit of 12, or not more than 60 days with a daily bag limit of 15.

Hunting seasons may be split into not more than 3 periods under either option.

Zoning: Alabama, Georgia, Louisiana, and Mississippi may elect to zone their States into 2 portions as described later in this document. Within each zone, these States may select hunting seasons which may be split into not more than 3 periods. The hunting seasons in the South Zones of Alabama, Georgia, Louisiana, and Mississippi may commence no earlier than September 20, 1991. Regulations for bag and possession limits, season length, and shooting hours must be uniform within specific hunting zones.

Central Management Unit (Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming)

Hunting Seasons and Daily Bag Limits: Not more than 70 days with a daily bag limit of 12, or not more than 60 days with a daily bag limit of 15.

Hunting seasons may be split into not more than 3 periods under either option.

Zoning: Texas may select hunting seasons for each of the 3 zones described later in this document.

Hunting seasons in these zones are subject to the following conditions:

A. The hunting season may be split into not more than 2 periods, except that, in that portion of Texas where the special 2-consecutive-day white-winged dove season is allowed, a limited mourning dove season may be held concurrently with the white-winged dove season (see white-winged dove frameworks).

B. The North and Central zones may select a season between September 1, 1991 and January 25, 1992; the South zone between September 20, 1991 and January 25, 1992.

C. Each zone may have an aggregate daily bag limit of 12 doves (or 15 under the alternative), no more than 6 of which may be white-winged doves and no more than 2 of which may be white-tipped doves, with the following exceptions:

1. During the special 2-consecutive-day white-winged dove season in the South Zone (see white-winged dove frameworks).

2. Cameron, Hidalgo, Starr, and Willacy Counties may have an aggregate daily bag limit of 12 doves, no more than 2 of which may be white-winged doves and 2 of which may be white-tipped doves.

D. Except as noted above, regulations for bag and possession limits, season length, and shooting hours must be uniform within each hunting zone.

Western Management Unit (Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington)

Hunting Seasons, and Daily Bag Limits: Idaho, Nevada, Oregon, Utah, and Washington—Not more than 30 consecutive days with a daily bag limit of 10 mourning doves (in Nevada, the daily bag limit of mourning and white-winged doves may not exceed 10, singly or in the aggregate).

Arizona and California—Not more than 60 days to be split between 2 periods, September 1–15, 1991, and November 1, 1991–January 15, 1992. In Arizona, the daily bag limit is 10 mourning and white-winged doves in the aggregate, of which no more than 6 may be white-winged doves. In California, the daily bag limit is 10 mourning and white-winged doves, singly or in the aggregate.

White-Winged Doves

Outside Dates: Arizona, California, Nevada, New Mexico, and Texas (except as shown below) may select hunting seasons between September 1 and December 31, 1991. Florida may select its hunting season between September 1, 1991 and January 15, 1992.

Hunting Seasons and Daily Bag Limits: Arizona may select a hunting season of not more than 30 consecutive days running concurrently with the first segment of the mourning dove season. The daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate, no more than 6 of which may be white-winged doves.

Florida may select a white-winged dove season coinciding with the mourning dove season. The aggregate daily bag limit may not exceed 12 mourning and white-winged doves (15 under the alternative); however, for either option, the aggregate daily bag limit may include no more than 4 white-winged doves.

In the Nevada counties of Clark and Nye, and in the California counties of Imperial, Riverside and San Bernardino, the season will be concurrent with the season on mourning doves, and the aggregate daily bag limit may not exceed 10 mourning and white-winged doves.

New Mexico may select a white-winged dove season concurrent with the mourning dove season. The aggregate daily bag limit may not exceed 12 white-winged and mourning doves (15 under the alternative).

Texas may select a white-winged dove season coinciding with the mourning dove season. The aggregate daily bag limit may not exceed 12 mourning, white-winged, and white-tipped doves (15 under the alternative), of which not more than 6 may be white-winged doves and not more than 2 may be white-tipped doves; except in Cameron, Hidalgo, Starr, and Willacy Counties the aggregate daily bag limit may include no more than 2 white-winged doves and 2 white-tipped doves.

In addition, Texas may also select a hunting season of not more than 2 consecutive days for the special white-winged dove areas of the South Zone. In that portion of the special area north and west of Del Rio, the aggregate daily bag limit may not exceed 10 white-winged, mourning, and white-tipped doves, of which no more than 2 may be white-tipped doves. In that portion of the special area south and east of Del Rio, the aggregate daily bag limit may not exceed 10 white-winged, mourning, and white-tipped doves, of which no more than 5 may be mourning doves and 2 may be white-tipped doves.

Band-Tailed Pigeons

Pacific Coast States and Nevada: California, Oregon, Washington, and the Nevada Counties of Carson City, Douglas, Lyon, Washoe, Humboldt, Pershing, Churchill, Mineral, and Storey

Outside Dates: Between September 15, 1991, and January 1, 1992.

Hunting Seasons, and Daily Bag and Possession Limits: Not more than 16 consecutive days, with bag and possession limits of 2 and 2, respectively.

Zoning: California may select hunting seasons in each of the two zones described later in this document. The season in the north zone of California must close by October 7.

Four-Corners States: Arizona, Colorado, New Mexico, and Utah.

Outside Dates: Between September 1 and November 30, 1991.

Hunting Seasons, and Daily Bag Limits: Not more than 30 consecutive days, with a daily bag limit of 5 band-tailed pigeons.

Areas: These seasons shall be open only in the areas delineated by the respective States in their hunting regulations.

Zoning: New Mexico may select hunting seasons not to exceed 20 consecutive days in each of the 2 zones described later in this document. The season in the South Zone may not open until October 1, 1991.

Rails

Outside Dates: States included herein may select seasons between September 1, 1991, and January 20, 1992, on clapper, king, sora, and Virginia rails.

Hunting Seasons: The season may not exceed 70 days. Any State may split its season into two segments.

Clapper and King Rails

Daily Bag Limits: In Rhode Island, Connecticut, New Jersey, Delaware, and Maryland, 10, singly or in the aggregate of the two species.

In Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, and Virginia, 15, singly or in the aggregate of the two species.

Sora and Virginia Rails

Daily Bag and Possession Limits: In the Atlantic, Mississippi, and Central Flyways and Pacific Flyway portions of Colorado, Montana, New Mexico, and Wyoming, 25 daily and 25 in possession, singly or in the aggregate of the two species. The season is closed in the remainder of the Pacific Flyway.

American Woodcock

Outside Dates: States in the Atlantic Flyway may select hunting seasons between October 1, 1991, and January 31, 1992. States in the Central and Mississippi Flyways may select hunting seasons between September 1, 1991, and January 31, 1992.

Hunting Seasons and Daily Bag Limits: In the Atlantic Flyway, seasons may not exceed 45 days, with a daily bag limit of 3; in the Central and Mississippi Flyways, seasons may not exceed 65 days, with a daily bag limit of 5. Seasons may be split into two segments.

Zoning: New Jersey may select seasons in each of two zones described later in this document. The season in each zone may not exceed 35 days.

Common Snipe

Outside Dates: Between September 1, 1991, and February 28, 1992. In Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, and Virginia the season must end no later than January 31.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 107 days and may be split into two segments. The daily bag limit is 8 snipe.

Common Moorhens and Purple Gallinules

Outside Dates: Between September 1, 1991, and January 20, 1992, in the Atlantic, Mississippi, and Central Flyways. States in the Pacific Flyway have been allowed to select their hunting seasons between the outside dates for the season on ducks; therefore, they are late-season frameworks and no frameworks are provided in this document concerning common moorhens and purple gallinules in the Pacific Flyway.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 70 days in the Atlantic, Mississippi, and Central Flyways. Seasons may be split into two segments. The daily bag limit is 15 common moorhens and purple gallinules, singly or in the aggregate of the two species.

Sandhill Cranes

Regular Seasons in the Central Flyway

Outside Dates: Between September 1, 1991, and February 28, 1992.

Hunting Seasons: Seasons not to exceed 58 days may be selected in the following States: Colorado (the Central Flyway portion except the San Luis Valley); Kansas; Montana (the Central Flyway portion except that area south of I–90 and west of the Bighorn River); North Dakota (west of U.S. 281); South Dakota; and Wyoming (in the counties of Campbell, Converse, Crook, Goshen, Laramie, Niobrara, Platte, and Weston).

For the remainder of the flyway, seasons not to exceed 93 days may be selected in the following States: New Mexico (the counties of Chaves, Curry, DeBaca, Eddy, Lea, Quay, and Roosevelt); Oklahoma (that portion wes of I–35); and Texas (that portion west of a line from Brownsville along U.S. 77 to Victoria; U.S. 87 to Placedo; Farm Road 616 to Blessing; State 35 to Alvin; State 6 to U.S. 290; U.S. 290 to I–35 at Austin; I–35 to I–35W; I–35W to the Texas-Oklahoma boundary).

Daily Bag Limits: 3 sandhill cranes.

Permits: Each person participating in the regular sandhill crane seasons must obtain and have a valid Federal sandhill crane hunting permit in his possession while hunting.

Special Seasons in the Central and Pacific Flyways

Arizona, Colorado, Idaho, New Mexico, Utah, and Wyoming may select seasons for hunting sandhill cranes within the range of the Rocky Mountain Population (as described in a management plan approved March 22, 1982 (revised March 1991), by the Central and Pacific Flyway Councils) subject to the following conditions:

1. Outside dates are September 1, 1991—January 31, 1992.

2. Season(s) in any State or zone may not exceed 30 days.

3. The daily bag limit may not exceed 3 and the season limit may not exceed 9.

4. Participants must have in their possession while hunting a valid permit issued by the appropriate State.

5. Numbers of permits, open areas, season dates, protection plans for other species, and other provisions of seasons must be consistent with the management plan and approved by the Central and Pacific Flyway Councils.

6. All hunts except those in Arizona, New Mexico (Middle Rio Grande Valley), and Wyoming will be experimental.

Scoter, Eider, and Oldsquaw Ducks (Atlantic Flyway)

Outside Dates: Between September 15, 1991, and January 20, 1992.

Hunting Seasons and Daily Bag Limits: Not to exceed 107 days, with a daily bag limit of 7, singly or in the aggregate of the listed species.

Daily Bag Limits During Regular Duck Season: Within the special sea duck areas, during the regular duck season in the Atlantic Flyway, States may select, in addition to the limits applying to other ducks during the regular duck season, a daily limit of 7 scoter, eider and oldsquaw ducks, singly or in the aggregate of these species.

Areas: In all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, and New York; in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 1 mile of open water from any shore, island, and emergent vegetation in New Jersey, South Carolina, and Georgia; and in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in Delaware, Maryland, North Carolina, and Virginia; and provided that any such areas have been described, delineated, and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States.

In all other areas of these States and in all other States in the Atlantic Flyway, sea ducks may be taken only during the regular open season for ducks and they must be included in the regular duck season daily bag and possession limits.

Special September Wood Duck Seasons

Florida: An experimental 5-consecutive-day wood duck season may be selected in September. The daily bag limit is 3 wood ducks.

Tennessee and Kentucky: Experimental 5-consecutive-day wood duck seasons may be selected in September. The daily bag limit is 2 wood ducks.

Special Early-September Canada Goose Seasons

Atlantic and Mississippi Flyways

Canada goose seasons of up to 10 consecutive days in September may be selected by Illinois, Indiana, Massachusetts, Michigan, Minnesota, New York, North Carolina, Ohio, and Wisconsin. The seasons in Illinois; Indiana; Massachusetts; New York; North Carolina; Ohio; Wisconsin; that portion of Michigan including Oceana, Newaygo, Mecosta, Isabella, Midland and Bay Counties and all counties north thereof; and the Fergus Falls/Alexandria and Southwest Border zones in Minnesota are experimental. Outside dates for the season are September 1–10, 1991. The daily bag limit may not exceed 5 Canada geese. Areas open to the hunting of Canada geese are described later in this document and must be described, delineated, and designated as such in each State's hunting regulations.

Pacific Flyway—Areas open to the hunting of Canada geese are described later in this document.

Wyoming may select a September season on Canada geese subject to the following conditions:

1. The season must be concurrent with the September portion of the sandhill crane season.
2. Hunting will be by State permit.
3. No more than 150 permits, in total, may be issued.
4. Each permittee may take no more than 2 Canada geese per season.

Utah may select an experimental special season on Canada geese in Cache County subject to the following conditions:

1. A season not to exceed 4 days during September 1–15, 1991.
2. Hunting will be by State permit.
3. Not more than 200 permits may be issued.
4. Each permittee may take 2 Canada geese per season.

Oregon and Washington may select an experimental season on Canada geese subject to the following conditions:

1. The seasons in Oregon and Washington must be concurrent.
2. The seasons must not exceed 10 days during September 1–10, 1991.
3. Hunting will be by State permit.
4. Each permittee may take 2 Canada geese per day.

Final Frameworks for Selecting Open Season Dates for Hunting Migratory Birds in Alaska, 1991–1992

Outside Dates: Between September 1, 1991, and January 26, 1992.

Hunting Seasons: Alaska may select 107 consecutive days for waterfowl, sandhill cranes, and snipe in each of the 5 zones described later in this document. The season may be split without penalty in the Kodiak Zone. The seasons in each zone must be concurrent.

Closures: The season is closed on Canada geese from Unimak Pass westward in the Aleutian Island chain. The hunting season is closed on Aleutian Canada geese, cackling Canada geese, emperor geese, spectacled eiders, and Steller's eiders.

Daily Bag and Possession Limits

Ducks—Except as noted, a basic daily bag limit of 5 and a possession limit of 15 ducks. Daily bag and possession limits in the North Zone are 8 and 24, and in the Gulf Coast Zone they are 6 and 18, respectively. The basic limits include no more than 2 northern pintails daily and 6 in possession, and 2 canvasbacks daily and 6 in possession.

In addition to the basic limit, there is a daily bag limit of 15 and a possession limit of 30 scoter, common and king eiders, oldsquaw, harlequin, and common and red-breasted mergansers, singly or in the aggregate of these species.

Geese—A basic daily bag limit of 6, which not more than 4 may be greater white-fronted or Canada geese, singly or in the aggregate of these species.

Brant—A daily bag limit of 2.

Common snipe—A daily bag limit of 8.

Sandhill cranes—A daily bag limit of 3.

Tundra swans—In Game Management Unit 22, an open season for tundra swans may be selected subject to the following conditions:

1. No more than 300 permits may be issued, authorizing each permittee to take 1 tundra swan.
2. The season must be concurrent with other migratory bird seasons.
3. The appropriate State agency must issue permits, obtain harvest and hunter-participation data, and report the results of this hunt to the Service by June 1 of the following year.

Final Frameworks for Selecting Open Season Dates for Hunting Migratory Birds in Puerto Rico, 1991–1992

Doves and Pigeons

Outside Dates: Between September 1, 1991, and January 15, 1992.

Hunting Seasons: Not more than 60 days for Zenaida, mourning, and white-winged doves, and scaly-naped pigeons.

Daily Bag and Possession Limits: Not to exceed 10 doves of the species named herein, singly or in the aggregate, and not to exceed 5 scaly-naped pigeons.

Closed Areas:

Municipality of Culebra and Desecheo Island—Closed under Commonwealth regulations.

Mona Island—Closed in order to protect the reduced population of white-crowed pigeon (*Columba leucocephala*),

known locally as "Paloma cabeciblanca."

El Verde Closure Area—Consisting of those areas of the municipalities of Rio Grande and Loiza delineated as follows: (1) All lands between Routes 956 on the west and 186 on the east, from Route 3 on the north to the juncture of routes 956 and 186 (Km 13.2) in the south; (2) all lands between Routes 186 and 966 from the juncture on 186 and 966 on the north, to the Caribbean National Forest Boundary on the south; (3) all lands lying west of Route 186 for one kilometer from the juncture of Routes 186 and 956 south to Km 6 on Route 186; (4) all lands within Km 14 and Km 6 on the west and the Caribbean National Forest Boundary on the east; and (5) all lands within the Caribbean National Forest Boundary whether private or public. The purpose of this closure is to afford protection to the Puerto Rican parrot (*Amazona vittata*) presently listed as an endangered species under the Endangered Species Act of 1973.

Cidra Municipality and Adjacent Areas—Consisting of all of Cidra Municipality and portions of Aguas, Buenas, Caguas, Cayer, and Comerio Municipalities as encompassed within the following boundary: beginning on Highway 172 as it leaves the Municipality of Cidra on the west edge, north to Highway 156, east on Highway 156 to Highway 1, south on Highway 1 to Highway 765, south on Highway 765 to Highway 763, south on Highway 763 to the Rio Guavate, west along Rio Guavate to Highway 1, southwest on Highway 1 to Highway 14, west on Highway 14 to Highway 729, north on Highway 729 to Cidra Municipality, and westerly, northerly, and easterly along the Cidra Municipality boundary to the point of beginning. The purpose of this closure is to protect the Plain pigeon (*Columba inornata wetmorei*), locally known as "Paloma Sabanera," which is present in the above locale in small numbers and is presently listed as an endangered species under the Endangered Species Act of 1973.

Ducks, Coots, Moorhens, Gallinules and Snipe

Outside Dates: Between October 1, 1991, and January 31, 1992.

Hunting Seasons Not more than 55 days may be selected for hunting ducks, common moorhens, and common snipe. The season maybe split into two segments.

Daily Bag Limits:

Ducks—Not to exceed 3 ducks.

Common moorhens—Not to exceed 6 common moorhens.

Common snipe—Not to exceed 6 common snipe.

Closures: The season is closed on the ruddy duck (*Oxyura jamaicensis*); the White-cheeked pintail (*Anas bahamensis*); West Indian whistling (tree) duck (*Dendrocygna arborea*); fulvous whistling (tree) duck (*Dendrocygna bicolor*), and the masked duck (*Oxyura dominica*), which are protected by the Commonwealth of Puerto Rico. The season also is closed on the purple gallinule (*Porphyrula martinica*), common coot (Fulica americana), and Caribbean coot (Fulica caribaea).

Closed Areas: There is no open season on ducks, common moorhens, and common snipe in the Municipality of Culebra and on Desecheo Island.

Final Frameworks for Selecting Open Season Dates for Hunting Migratory Birds in the Virgin Islands, 1991–1992

Doves and Pigeons

Outside Dates: Between September 1, 1991, and January 15, 1992.

Hunting Seasons: Not more than 60 days for Zenaida doves and scaly-naped pigeons throughout the Virgin Islands.

Daily Bag and Possession Limits: Not to exceed 10 Zenaida doves and 5 scaly-naped pigeons.

Closed Seasons: No open season is prescribed for ground or quail doves, or other pigeons in the Virgin Islands.

Local Names for Certain Birds

Zenaida dove (*Zenaida aurita*)—mountain dove; Bridled quail dove (*Geotrygon mystacea*)—Barbary dove, partridge (protected); Common Ground dove (*Columba passerina*)—stone dove, tobacco dove, rola, tortolita (protected); Scaly-naped pigeon (*Columba squamosa*)—red-necked pigeon, scaled pigeon.

Ducks

Outside Dates: Between December 1, 1991, and January 31, 1992.

Hunting Seasons: Not more than 55 consecutive days may be selected for hunting ducks.

Daily Bag Limits: Not to exceed 3 ducks.

Closures: The season is closed on the ruddy duck (*Oxyura jamaicensis*); the White-cheeked pintail (*Anas bahamensis*); West Indian whistling (tree) duck (*Dendrocygna arborea*); fulvous whistling (tree) duck (*Dendrocygna bicolor*), and the masked duck (*Oxyura dominica*).

Special Falconry Regulations

Falconry is a permitted means of taking migratory game birds in any State meeting Federal falconry standards in 50 CFR 21.29(k). These States may select an extended season for taking migratory game birds in accordance with the following:

Extended Seasons: For all hunting methods combined, the combined length of the extended season, regular season, and any special or experimental seasons shall not exceed 107 days for any species or group of species in a geographical area. Each extended season may be divided into a maximum of 3 segments.

Framework Dates: Seasons must fall between September 1, 1991 and March 10, 1992.

Daily Bag and Possession Limits: Falconry daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during extended falconry seasons, any special or experimental seasons, and regular hunting seasons in all States, including those that do not select an extended falconry season.

Regular Seasons: General hunting regulations, including seasons and hunting hours, apply to falconry in each State listed in 50 CFR 21.29(k). Regular-season bag and possession limits do not apply to falconry. The falconry bag limit is not in addition to gun limits.

Zone Descriptions

Mourning and White-Winged Doves

Alabama

South Zone—Mobile, Baldwin, Escambia, Covington, Coffee, Geneva, Dale, Houston, and Henry Counties.

North Zone—Remainder of the State.

Georgia

North Zone—That portion of the State lying north of a line running west to east along U.S. Highway 280 from Columbus to Wilcox County, thence southward along the western bordern of Wilcox County, thence east along the southern border of Wilcox County to the Ocmulgee River, thence north along the Ocmulgee River to Highway 280, thence east along Highway 280 to the Little Ocmulgee River; thence southward along the Little Ocmulgee River to the Ocmulgee River; thence southwesterly along the Ocmulgee River to the western border of Jeff Davis County; thence south along the western border of Jeff Davis County; thence east along the southern border of Jeff Davis and Appling Counties; thence north along the eastern border of Appling County to the Altamaha River; thence east to the eastern border of Tattnall County; thence north along the eastern border of Tattnall County; thence north along the western border of Evans to Candler County; thence east along the northern

border of Evans to Bulloch County; thence north along the western border of Bulloch County to Highway 301; thence northeast along Highway 301 to the South Carolina line.

South Zone—Remainder of the State.

Louisiana

North Zone—That portion of the State north of Interstate Highway 10 from the Texas State line to Baton Rouge, Interstate Highway 12 from Baton Rouge to Slidell and Interstate Highway 10 from Slidell to the Mississippi State line.

South Zone—The remainder of the State.

Mississippi

North Zone—That portion of the State lying north of U.S. Highway 84.

South Zone—The remainder of the State.

Texas

North Zone—That portion of the State north of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to State Highway 20; west along State Highway 20 to State Highway 148; north along State Highway 148 to Interstate Highway 10 at Fort Hancock; east along Interstate Highway 10 to Interstate Highway 20; northeast along Interstate Highway 20 to Interstate Highway 30 at Fort Worth; northeast along Interstate Highway 30 to the Texas-Arkansas State line.

South Zone—That portion of the State south and west of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to State Highway 20; west along State Highway 20 to State Highway 148; north along State Highway 148 to Interstate Highway 10 at Fort Hancock; east along Interstate Highway 10 to Van Horn, south and east on U.S. 90 to San Antonio; then east on Interstate 10 to Orange, Texas.

Special White-winged Dove Area in the South Zone—That portion of the State south and west of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to State Highway 20; west along State Highway 20 to State Highway 148; north along State Highway 148 to Interstate Highway 10 at Fort Hancock; east along Interstate Highway 10 to Van Horn, south and east on U.S. Highway 90 to Uvalde, south on U.S. Highway 83 to State Highway 44; east along State Highway 44 to State Highway 16 at Freer; south along State Highway 16 to State Highway 285 at Hebbronville; east along State Highway 285 to FM 1017; southeast along FM 1017 to State Highway 186 at Linn; east along State Highway 186 to the Mansfield Channel at Port Mansfield; east along the Mansfield Channel to the Gulf of Mexico.

Central—That portion of the State lying between the North and South Zones.

Band-Tailed Pigeons

California

North Zone—In the counties of Alpine, Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tahama, and Trinity; and

South Zone—The remainder of the State.

New Mexico

North Zone—North of a line following U.S. Highway 60 from the Arizona State line east to Interstate Highway 25 at Socorro and then south along Interstate Highway 25 from Socorro to the Texas State line.

South Zone—Remainder of the State.

Woodcock

New Jersey

North Zone—That portion of the State north of State Highway 70.

South Zone—The remainder of the State.

All Migratory Game Birds in Alaska

North Zone—State Game Management Units 11–13 and 17–26.

Gulf Coast Zone—State Game Management Units 5–7, 9, 14–16, and 10—Unimak Island only.

Southeast Zone—State Game Management Units 1–4.

Pribilof and Aleutian Islands Zone—State Game Management Unit 10—except Unimak Island.

Kodiak Zone—State Game Management Unit 8.

Descriptions of Areas Open During Special September Goose Seasons

Massachusetts

Western Zone—That portion of the State west of a line extending from the Vermont line at Interstate 91, south to Route 9, west on Route 9 to Route 10, south on Route 10 to Route 202, south on Route 202 to the Connecticut line.

New York

St. Lawrence County—All or portions of St. Lawrence County; see State hunting regulations for area descriptions.

North Carolina

Early-Season Canada Goose Area—That portion of the State west of Interstate 95; see State hunting regulations for area descriptions.

Illinois

Northeastern Illinois Canada Goose Zone—McHenry, Lake, Kane, Du Page, Cook, Kendall, Grundy, Will, and Kankakee Counties.

Indiana

Early-season Canada Goose Area—Adams, Allen, De Kalb, Elkhart, Huntington, Kosciusko, LaGrange, Noble, Steuben, Wabash, Wells, and Whitley Counties.

Michigan

Lower Peninsula—All areas except Huron, Saginaw, and Tuscola Counties and the Allegan State Game Area in Allegan County.

Upper Peninsula—That area bounded by a line beginning at the Michigan/Wisconsin border in Green Bay and extending north through the center of Little Bay De Noc and the center of White Fish River to U.S. Highway 2, east along U.S. Highway 2 to Interstate Highway 75, north along Interstate 75 to State Highway 28, west along State Highway 28 to State Highway 221, then north along State Highway 221 to Brimley, then north to the Michigan/Ontario border.

Minnesota

Twin Cities Metropolitan Zone—All or portions of Anoka, Washington, Ramsey, Hennepin, Carver, Scott and Dakota Counties.

Fergus Falls/Alexandria Zone—All or portions of Pope, Douglas, Otter Tail, Wilkin, and Grant Counties.

Southwest Border Zone—All or portions of Martin and Jackson Counties.

Ohio

Early-season Canada Goose Area—*Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina, Portage, Summit, and Trumbull Counties.*

Wisconsin

Early Goose Hunt Subzone—That area bounded by a line beginning at Lake Michigan in Port Washington and extending west along Highway 33 to Highway 175, south along Highway 175 to Highway 83, south along Highway 83 to Highway 36, southwest along Highway 36 to Highway 120, south along Highway 120 to Highway 12, then southeast along Highway 12 to the Illinois State line.

Oregon

Early-season Canada Goose Area—Starting in Portland at the Interstate Highway 5 bridge, south on I–5 to U.S. Highway 30, west on U.S. Highway 30 to the Astoria-Megler bridge, from the Astoria-Megler bridge along the Oregon-Washington State line to the point of beginning.

Utah

Early-season Canada Goose Area—Cache County.

Washington

Early-season Canada Goose Area—Starting in Vancouver at the Interstate Highway 5 bridge north on I–5 to Kelso, west on State Highway 4 from Kelso to State Highway 401, south and west on State Highway 401 to the Astoria-Megler bridge, from the Astoria-Megler bridge along the Washington-Oregon State line to the point of beginning.

Wyoming—See State regulations

Salt River (Star Valley) Area in Lincoln County.

Bear River Area in Lincoln County.

Eden-Farson Irrigation Project Area in Sweetwater and Sublette Counties.

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–523–6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–275–3030).

H.R. 1047/Pub. L. 102–86
Veterans' Benefits Programs Improvement Act of 1991. (Aug. 14, 1991; 105 Stat. 414; 13 pages) Price: $1.00

H.R. 1448/Pub. L. 102–87
To amend the Act of May 12, 1920 (41 Stat. 596), to allow the city of Pocatello, Idaho, to use certain lands for a correctional facility for women, and for other purposes. (Aug. 14, 1991; 105 Stat. 427; 2 pages) Price: $1.00

H.R. 1455/Pub. L. 102–88
Intelligence Authorization Act, Fiscal Year 1991. (Aug. 14, 1991; 105 Stat. 429; 17 pages) Price: $1.00

H.R. 2031/Pub. L. 102–89
Rural Telephone Cooperative Associations ERISA Amendments Act of 1991. (Aug. 14, 1991; 105 Stat. 446; 1 page) Price: $1.00

H.R. 2506/Pub. L. 102–90
Legislative Branch Appropriations Act, 1992. (Aug. 14, 1991; 105 Stat. 447; 25 pages) Price: $1.00

H.R. 2901/Pub. L. 102–91
To authorize the transfer by lease of 4 naval vessels to the Government of Greece. (Aug. 14, 1991; 105 Stat. 472; 1 page) Price: $1.00

H.J. Res. 166/Pub. L. 102–92
To designate September 13, 1991, as "Commodore John Barry Day". (Aug. 14, 1991; 105 Stat. 473; 2 pages) Price: $1.00

H.J. Res. 264/Pub. L. 102–93
Designating August 1, 1991, as "Helsinki Human Rights Day". (Aug. 14, 1991; 105 Stat. 475; 3 pages) Price: $1.00

H.J. Res. 309/Pub. L. 102–94
Designating August 29, 1991, as "National Sarcoidosis Awareness Day". (Aug. 14, 1991; 105 Stat. 478; 1 page) Price: $1.00

S. 1593/Pub. L. 102–95
National Commission on Libraries and Information Science Act Amendments of 1991. (Aug. 14, 1991; 105 Stat. 479; 2 pages) Price: $1.00

S. 1594/Pub. L. 102–96
Terry Beirn Community Based AIDS Research Initiative Act of 1991. (Aug. 14, 1991; 105 Stat. 481; 2 pages) Price: $1.00

S.J. Res. 72/Pub. L. 102–97
To designate the week of September 15, 1991, through

September 21, 1991, as "National Rehabilitation Week". (Aug. 14, 1991; 105 Stat. 483; 2 pages) Price: $1.00

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